

LEGAL EDUCATION IN INDIA

Ajay Ranga

Assistant Professor (Law), University Institute of Legal Studies, Panjab University, Chandigarh.

Abstract:

In a modern, civilized, democratic and political state like India, it is the law of the laws – the Constitution of India – which has conferred freedom on us and the right to live with human dignity and conscience. The constitution's widespread and deeply pervasive network of laws leaves hardly any human activity outside its net which is not governed by some law or the other. Birth, death and marriage have to be registered. There are laws on how to move or drive on the road, how to travel, where to smoke or not to smoke, what to eat and what not to eat, where to go and where to refrain from going and so on. The air that we breathe, the water that we drink, the food that we eat, and the house in which we live are all governed by law. From a little child purchasing an eraser or a pencil, to an adult travelling by air within or outside the country – all are subject to the law. Law determines the boundaries of human behaviour which determines the limits of transgression as well as compliance. Everyone is supposed to know the law and the ignorance of law do not excuse anyone (Chandra, 2008).

Key words: Legal Education , modern, civilized, democratic and political.

INTRODUCTION

Legal education is the education gained by individuals to become legal professionals or practitioners. Unlike other forms of professional education such as medicine and engineering, legal education is both professional as well as liberal. Legal studies are multi-disciplinary in character. Legal education should aim at promoting 'Justice' rather than just resolve disputes & improve relationship. The study of law in order to be meaningful has to be in the context of social realities (Murugesan, 2009).

History of Legal Education in words of Veerappa Moily, Former Minister of Law and Justice

During the shift from Mughal legal system, the advocates under that regimen, “vakils”, too followed suit, though they mostly continued their earlier role as client representatives. The doors of the newly created Supreme Courts were barred to Indian practitioners as right of audience was limited to members of English, Irish and Scottish professional bodies. Subsequent

rules and statutes culminating in the Legal Practitioners Act of 1846 which opened up the profession regardless of nationality or religion. (Bar Council of India, 2014). In India, legal education has been traditionally offered as a three years graduate degree. However the structure has been changed since 1987. Law degrees in India are granted and conferred in terms of the Advocates Act, 1961, which is a law passed by the Parliament both on the aspect of legal education and also regulation of conduct of legal profession. Under the Act, the Bar Council of India is the supreme regulatory body to regulate the legal profession in India and also to ensure the compliance of the laws and maintenance of professional standards by the legal profession in the country. To this regard, the Bar Council of India prescribes the minimum curriculum required to be taught in order for an institution to be eligible for the grant of a law degree. The Bar Council also carries on a period supervision of the institutions conferring the degree and evaluates their teaching methodology and curriculum and having determined that the institution meets the required standards, recognizes the institution and the degree conferred by it. Traditionally the degrees that were conferred carried the title of LL.B. (Bachelor of Laws) or B.L. (Bachelor of Law). The eligibility requirement for these degrees was that the applicant already has a Bachelor's degree in any subject from a recognized institution. Thereafter the LL.B. / B.L. course was for three years, upon the successful completion of which the applicant was granted either degree.

However upon the suggestion by the Law Commission of India and also given the prevailing cry for reform the Bar Council of India instituted upon an experiment in terms of establishing specialized law universities solely devoted to legal education and thus to raise the academic standards of legal profession in India. This decision was taken somewhere in 1985 and thereafter the first law University in India was set up in Bangalore which was named as the National Law School of India University (popularly 'NLS'). These law universities were meant to offer a multi-disciplinary and integrated approach to legal education. It was therefore for the first time that a law degree other than LL.B. or B.L. was granted in India. NLS offered a five years law course upon the successful completion of which an integrated degree with the title of "B.A., LL.B. (Honours)" would be granted. There after other law universities were set up, all offering five years integrated law degree with different nomenclature. The next in line was National Law Institute University set up in Bhopal in 1997. It was followed by NALSAR University of law set up in 1998. The National Law University, Jodhpur offered for the first time in 2001 the integrated law degree of "B.B.A, LL.B. (Honours)" which was preceded by the West Bengal National University of Juridical Sciences offering the "B.Sc., LL.B. (Honours)" degree. KIIT Law School, Bhubaneswar became the first law school in India in 2007 to start integrated law in three different streams and honours specialisation; i.e. BA/BBA/B.Sc. LLB (Honours).

However despite these specialized law universities, the traditional three year degree continues to be offered in India by other institutions and is equally recognized as eligible qualifications for practicing law in India. Another essential difference that remains is that while the eligibility qualification for the three year law degree is that the applicant must already be a holder of a Bachelor's degree, for being eligible for the five years integrated law degree; the applicant must have successfully completed Class XII from a recognized Boards of Education in

India. Both the holders of the three year degree and of the five year integrated degree are eligible for enrollment with the Bar Council of India upon the fulfillment of eligibility conditions and upon enrollment, may appear before any court in India.

The University Grants Commission approved one-year LLM courses in India on 6 September 2012 and the guideline for the same was notified in January, 2013. “We have an immense problem with the faculty, especially with more than 900 plus law schools all over the country, we suffer for want of faculty. The curriculum needs to be regulated and we will have to gradually upscale and upgrade,” confessed erstwhile law minister.

Rajput, Director, NCERT has stated in one of his articles that the entire world is talking today of fighting against the terrorism of various kinds – social, racial, economic, colonial, and military. “The only right weapons and approaches would be information, knowledge and wisdom. All other weapons have outlived their utility. These are the days of mind power. Right education is the key to peace and prosperity.” Legal education has two purposes:

1. It shapes enlightened and responsible citizens of a democratic nation;
2. It equips an aspirant to enter a profession which is one of the highly respected and lucrative in the world.

Methods of Instruction in Legal Education

According to Chandra (2008), Legal education should be more skills-oriented, and here a brief reference is made to the role of clinical legal education and other skills important in legal education. Following are the various methods which are followed in Legal education process:

(a) Talk and Chalk Tradition

The dominant method of law teaching in India, which I call the talk and chalk tradition, involves a close analysis of the statutes and their interpretation given by the courts. Students are given lectures, sometimes supplemented by tutorials, introducing them to the broad principles of a particular subject with potted versions of leading cases, which they are then expected to follow up themselves. Lecturing, note-taking, memorizing, mugging and regurgitation in once-a-year examinations are the hallmark of the talk and chalk tradition. The yearly examination is changed to a semester pattern for both three-year and five-year integrated programs.

The talk and chalk tradition is, however, not indigenous: it is a mutilated form of the traditional English method of teaching law. But law in England was always regarded as a practical subject; it is still the case that a law degree is only a first step to qualification, for prospective lawyers must undergo an internship for a further period, completing professional examinations before they can be admitted to the bar. An important difference between India and England has been that the profession in India has never been able to establish its own training on a firm basis. The old apprenticeship did not work here for various reasons – seniors never had no time to supervise pupils, they interviewed and negotiated with clients, not the pupils, either no allowance or a very meager allowance was paid, and so on.

The talk and chalk tradition is not as un-intellectual as may sometimes appear, although learning tends to take precedence over thinking. The better teachers teach students the tools of legal analysis – thought, reasoning and the application of principles to new situations. Overall, however, this method leads to a form of legal training where teachers and students are mainly concerned with “chopping logic with judges and passing their opinions.” The line between legal and extra legal matters is carefully drawn, and the products of the talk and chalk tradition profess a strict celibacy when it comes to temptations like policy. Law teachers are completely devoid of practical training, though they often claim to combine both academic and practical training.

(b) The Case Method

The case method was developed by the dean of the Harvard Law School, C.C. Langdell, at the turn of the twentieth century. Like the talk and chalk tradition, the case method focuses largely (and sometimes, solely) on only one aspect of law – the decisions of mainly appellate courts. Langdell took the view that law was a matter of studying the cases, just as scientists proceeded from the particular to the general, so the law student had to start with the cases and then to formulate principles. However, the case method took root as Harvard graduates multiplied and went on to populate American law schools. When in the early sixties, Indian law graduates and teachers began visiting and obtaining graduate degrees from United States law schools, rather than British Universities, they brought back to India the case method and the so-called Socratic technique of teaching it. They justified the case method on various grounds. Cases have always featured prominently in common law system, in contrast to the continental system where codes are pivotal. The expanding body of caselaw necessitates an emphasis on learning technique rather than on substantive knowledge, which is constantly changing. The Socratic method of case-teaching, whereby teacher and students engage in a joint examination of the principles of cases, is supposedly more satisfying and provides a greater intellectual challenge than methods where students sit passively noting down lectures which must then be memorized. Both the talk and chalk tradition and the case method have been adopted in Indian legal education one after the other, although many deficiencies crept into them in the process of adoption. The talk and chalk tradition, an inheritance from the British system, was followed without the essential fusion of academic and practical training. The case method came to India as cross-pollination from Americans universities. This is besides the fact that the British and the American methods are both deficient in that they focus largely on case-law. Cases are but one aspect of the law, and those prescribed and discussed are too often unrepresentative of those cases which actually go to trial. Not only do the law reports contain an unrepresentative sample of cases initiated (students therefore do not know about disputes settled informally), there are usually too few cases studied, and those that are studied are only from appellate courts. Law students thus become experts on the largely irrelevant and unusual penumbra areas of legal disputation without having much knowledge of the core of everyday legal activity.

(c) Skills Orientation

It is a sad fact that the talk and chalk tradition and the case method are both largely irrelevant to what the great majority of law students will eventually do as lawyers. Some of the brighter students might be of use to well established lawyers who practice before appellate courts, but others receive inadequate preparation for the average lawyer. Most lawyers spend a great deal of time in interviewing clients and negotiating with other professionals, but when a fresh law graduate goes to the court he literally lands, like a man coming down in a parachute, in a foreign country with its new and exotic environment that requires a high degree of specialized knowledge and experience. Training is also absent in other essential skills like investigating facts, drafting documents, conducting a trial, and legal research.

(d) Clinical Legal Education

It is obvious that skills cannot be taught in the abstract by academics. Thus, clinical legal education needs to be introduced in Indian legal education. Students can only truly appreciate law if they carefully observe what goes on in court rooms and lawyers' chambers. Clinics will get students out in the real world to see and learn how lawyers actually operate. They will learn to see the interaction of society and the work of its courts and lawyers. It is earnestly hoped that a clinical program in law schools would correct certain undesirable tendencies in contemporary legal education. For instance, it will serve as a half-way house between prolonged isolation in the classroom and the outside world and contribute to the development of realistic values. If clinical education is to be justified, then, we must go beyond the skills argument to the deficiency in legal services in the community.

It is in meeting the legal needs of the poor that legal education through clinics has its vocation. Despite recent efforts to develop legal services for the poor, the demand for legal services is still largely unmet.

Academic degrees in India:

A student can pursue a legal course only after completing an undergraduate course in any discipline. However, following the national law school model, one can study law as an integrated course of five years after passing the senior secondary examination. *Bachelor of Laws (LL.B.)* - The LL.B. is the most common law degree offered and conferred by Indian universities which has duration of three years. Almost all law universities follow a standard LL.B. curriculum, wherein students are exposed to the required bar subjects. Integrated undergraduate degrees - B.A. LL.B., B.Sc. LL.B., BBA. LLB., B.Com. LL.B. These degrees are mostly offered in the autonomous law schools having duration of five years.

Master of Laws (LL.M.) - The LL.M. is most common postgraduate law degree which has duration of one/two years.

Master of Business Law –

- Doctor of Philosophy (Ph.D.)
- Integrated MBL-LLM/ MBA-LLM. -Generally a three years double degree integrated course with specialisation in business law.

REFERENCES:

1. Bar Council of India. (2014). "Brief History of law in India" Retrieved September 01, 2014 from <http://www.barcouncilofindia.org/about/about-the-legal-profession/legal-education-in-the-united-kingdom/>
2. Chandra, K. (2008). "Legal Education and Legal Profession in India", *International Journal of Legal Information*, 36 (2). Retrieved September 01, 2014 from <http://scholarship.law.cornell.edu/ijli/vol36/iss2/9>
3. Murugesan, D. (2009). "Importance of legal education". *The Students Endowment for legal education and charitable trust 1975 (SELECT 75)*. Retrieved September 01, 2014, from <http://www.select75.org/02.html>
4. Rajput, J.S. (2009). "Role of Education in Preventing Terrorism through Creation of Awareness and Educating People". *Journal of the National Human Rights Commission*, 8, 31- 48.

Websites Referred:

5. http://en.wikipedia.org/wiki/Legal_education_in_India