

Conference on
Educating Lawyers for Transnational Challenges

“Legal Education to meet Transnational Challenges”

Rule of law is the Founding pillar of Democracy. Every person, irrespective of his profession or occupation, is under obligation to respect and promote the rule of Law. The members of the Legal profession have a special role to play in the society to ensure the enforcement of the rule of law and that justice is secured to all, in all the spheres-social, economic and political. Any deviation from the path of justice or an action leading to injustice has to be tackled by the members of the Legal fraternity- a 'holy sangam' (merger of three holy rivers of India, namely Ganga, Jamuna and invisible Sarasvati) comprising of Judges, Lawyers and Legal Academicians. The standard of the first two constituents in particular and all the three in general depends upon the quality of legal education imparted in the Law Schools. In India, the legal education, unfortunately, is given a very low priority, in the scheme to spread education and improve its standards. In India, during the ancient times (Hindu Period) study of ethics and norms in the society was part of the general education. During the Muslim period the study of Muslim religion including its rules and principle became part of the education. During the British regime, English law was extended to India but no steps were taken to impart legal education in the country. The disputes amongst natives relating to marriage, divorce, succession, adoptions etc. were adjudicated on the basis of law explained by Pandits or Kazis to the Court. Barristors from England were the only persons trained in English Law. Indians interested in studying law used to go to England. 'Ignorance of law is no excuse', but in practice, awareness of law is not imparted to the people. The Constitution of a country gives so many rights to the people, various socio-economic welfare legislations are enacted and administrative measures are adopted but all these remain only on paper. The poor, illiterate, down-trodden lowly placed species of human beings continue to languish in status quo and the others adopt a passive attitude of indifference to their sufferings. But now various steps are being taken in different countries to spread literacy including legal literacy particularly in the field of Human Rights, Consumer

Rights, Environment laws etc. But the steps which are being taken in various countries are not adequate. In India, no serious attempt has been made on a large scale to improve the standards of the legal education which may ultimately lead to better Judiciary and Bar. Nor any steps have been taken to make legal education relevant to the need of the society in general and legal profession in particular. The legal education must prepare the Law graduates – the future lawyers to face the transnational challenges as a result of globalization. There is no one body, entrusted with the responsibility. The legal education is imparted by or under the control of the universities; its standards are set by the Bar Council of India and funds are to be provided by the University Grants Commission out of the funds allocated by the Government of India. All the three acting as step-fathers and non owning the baby.

The *first* step which is essential, to give right direction to the legal education and enhance its quality, is to have a single body or institution governing all the aspects of the legal education. Multiple control over legal education without any accountability makes it an orphan.

Secondly, the legal education can not be isolated from the other subjects like science, humanities and social science. Study of sociology, psychological, life sciences, biotechnology, forensic science, chemical science is necessary. Knowledge of economics, political science, public administration, history etc is desirable for proper understanding & application of law. Thus legal education needs multi-disciplinary and multi-dimensional approach.

Third, legal education should be given the focus of professional education. It should be a full time course of study. Part time study or distant education approach is bound to fail in achieving its objectives as practical training & interdisciplinary approach is totally lacking in such a system.

Fourth, the nature of litigation at a particular time requires a different handling and for that competence of a special type on the part of the persons involved would be required. When litigation was of a private nature, it needed specialist in private law; when interest of society involving issues of public nature come to

focus, lawyers and judges need training in public law. Now, with globalisation and economic liberalisation, the world is turning into one economic zone, resulting in the movement of commercial players and others, directly or indirectly connected therewith, which is bound to create various legal implications and complications. To enter into commercial transactions, knowledge of each other country's laws is required. The question of conflict of jurisdictions of courts and application of laws will arise. The international treaties and conventions may also govern such matters and the decisions of WTO and other organizations may be relevant. Environmental impact of intercourse of goods and services may have trans-national ramifications. In such situations, knowledge of laws relating to environment protection, scientific subjects, polluting or degrading environment or protection thereof would be essential feature of the *kitbag* of knowledge of the lawyers dealing with such problems.

Fifth, the already spine-braking backlog of cases in the courts will be further increased with more litigation as a result of such trans-national interactions and dealings. The ways and means will have to be evolved to get such disputes resolved expeditiously. The lawyers must know the procedure and alternative mechanism in each other's countries to get quick relief for their clients. Any delay in disposal of cases having economic or financial implications would have crippling effect not only on the financial health of the parties but also on the market resulting in the slow down of developmental activities in the country.

Sixth, the new scientific and technological developments taking place in the world, have further exposed the quality of legal education in various countries, as the persons coming out of the law schools are found to be ill-equipped and incapable of handling legal issues arising out of the application or wrongful application of such developments. Lack of knowledge about these as well as of scientific investigative tools result in denial of justice and violation of Human Rights. The law school, must make endeavor to impart knowledge about such scientific developments & procedures.

Seventh, availability of standard, upto date teaching/study material incorporation latest developments in various disciplines also must be ensured.

Eighth, imparting knowledge of theoretical concepts or procedures is not enough to produce expert-lawyers, jurists, judges or academicians, Manthan (churning) of judicial concepts and of the principles and doctrines of allied disciplines along with practical training and development of research skills should be basis of legal education, if the young persons coming out of law schools are to meet the new challenges, emerging out of wide-open gates of trans-national interactions. The students must be imparted training in preparation and presentation of the case, skills of advocacy, court-room etiquette manners etc.

Ninth, the young law students must be sensitized to the societal needs, particularly the plight of the poor & down-trodden, so that they become good human beings, committed to the protection and promotion of the human rights.

Tenth, in order to have a proper balance between academic and professional teaching, leading to their integration, a competent and committed faculty, sound in academics with practical experience is the basic requirement.

Lastly, there is a need for frequent interaction and cooperation and academic exchange amongst the legal-educators in different countries so that their experiences may help in further improvements in the nature and standards of legal education in various countries to meet the requirement of transnational challenges.

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