

# LEGAL EDUCATION IN INDIA: ISSUES AND CONCERNS

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## ABSTRACT

Legal education plays a crucial role in shaping the future of any country. The legal education imparted in various institutions helps to promote more awareness and civic sense in the citizens of any nation. In India, legal education helped in the proper and just development of Indian society. After the independence of India, various regulatory bodies involved in improving the status of legal education made several reforms, keeping in mind the needs of present stakeholders. In this research paper doctrinal approach is used to gain a proper understanding of current issues and concerns in legal education in India at higher education. The aim of the study is to highlight the importance of legal education in India. Furthermore, it also examines recent legal education reforms in the light of New Education Policy, 2020. Moreover, it also discusses various issues and concerns in legal education in India.

**KEYWORDS:** legal-system, multilingualism, multidisciplinary, socio-cultural, NEP

## INTRODUCTION

In a democratic nation, the significance of legal education cannot be sidelined. The well-organised and high standard of “legal education” in the

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educational institutes of a nation is the cornerstone of a sound legal and judicial system. Legal education is the interdisciplinary study of system of laws which seeks to produce lawyers and strengthen the legal and judicial system. "Legal education is an educational process which equips the future lawyer, judge, administrator, counsellor and legal scientist to fashion and refashion ways of peaceful and ordered attainment of ideals of human governance on the one hand and democratic right on the other."<sup>1</sup>

Legal education is crucial to achieve the intended objectives of justice and to shape the nation's legal system. However, in the present day, "legal education" produces more than just practising attorneys. Nowadays, the scope of legal education is very broad, as it affects every aspect of human existence. In modern developing nations, "legal education" and social welfare have become entwined because they seek to create a welfare state and promote social, economic and political development of individuals. Therefore, in recent times the "legal education" has served as an instrument for social change.<sup>2</sup> On one side, Legal education prepares law scholars for practising at the bar whereas on another side, it inculcates the notion of civic sense in those scholars. As a result, both lawyers and citizens have become more cultured and law abiding, having ideas of ethics and values.<sup>3</sup>

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<sup>1</sup> Curriculum Development Centre Report, Vol. I, U.G.C., New Delhi, 1990, para. 3.6 page nos.16 and 17

<sup>2</sup> Akilali A. Saiyed, Scenario of Legal Education in India (Chapter IV), in Public Private Partnership and Legal Education: A Critique Of Policies And Practices In India, With Special Reference To State Of Gujarat, available at [http://shodhganga.inflibnet.ac.in/bitstream/10603/68186/13/13\\_chapter%204.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/68186/13/13_chapter%204.pdf) (last visited on 26 January 2024).

<sup>3</sup> S. Sethiya, Legal Education: A Need for Streamlining, 1 AIR (Journal) 1 (2008)

## LEGAL EDUCATION: MEANING AND DEFINITION

It is not an easy task to define the term legal education as it assumes distinct connotations in varied situations considering the circumstances of society at the moment. One could refer to it as a discipline of rational science through which the quest for an equitable society needs to be carried out.<sup>4</sup> The idea of legal education is wide enough to include the legal profession as practised in the courtrooms of law, legal research, legal learning and pedagogy, and in any profession where legal studies are relevant, and all other pursuits that require and demand legal knowledge and expertise.<sup>5</sup>

The “Law Commission of India” defines “legal education” as “a science which imparts to students knowledge of certain principles and provisions of law to enable them to enter the legal profession.”<sup>6</sup>

Legal education is the interdisciplinary study of law which strive to produce lawyers and strengthen the judicial system. "Legal education is an educational process which equips the future lawyer, judge, administrator, counsellor and legal scientist to fashion and refashion ways of peaceful and ordered attainment of ideals of human governance on the one hand and democratic right on the other."<sup>7</sup>

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<sup>4</sup> P.L. Mehta and Sushma Gupta, *Legal Education and Profession in India*, Edition-I, 2000, page no. 16

<sup>5</sup> Gajendragadkar Committee on the Re-organization of Legal Education in the University of Delhi, 1964, page no. 5

<sup>6</sup> *Supra* 1

<sup>7</sup> *Supra* 1

In colloquial language, it can be called as a field of study that addresses the practical implications of the legislation of the nation and includes reading of laws, debates, or legal contentions on legal challenges and the presentation of cases.<sup>8</sup>

## **IMPORTANCE OF LEGAL EDUCATION**

It is duty of individual to be acquainted with the law, as “ignorance of the law is not a defence”. Consequently, legal education, apart from great lawyers, produces law-abiding individuals who respect human rights.

Legal education establishes the bedrock for the legal profession through imparting the moral principles, ethics, expertise, and abilities essential to legal practice. “Legal Education may help in developing the legal skills of analysis, organization, fact discrimination and presentation, argumentation, draftsman ship and legal planning counselling and negotiations.”<sup>9</sup> And since legal education educates the professionals who will provide legal help and represent individuals in the courtroom, it is crucial to guarantee justice access. It also encourages professional and responsible conduct among legal practitioners and judges which ensures that ethics of the legal profession is maintained and justice prevails.

Legal education is vital for furthering “rule of law” and “constitutional government” as it instils individuals with knowledge regarding the legal framework of the nation and their rights and responsibilities as its citizens.

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<sup>8</sup> Halsbury's Law of England, (1953), Vol. 3, page no. 3.

<sup>9</sup> S.V. Ramana “Legal Education in India” AIR (1968) page no. 75

G.S. Sharma rightly pointed that “Legal Education is to nourish the values and ideal basic to democracy and it has to serve the changing needs of the developing society set forth in the directive principles.”<sup>10</sup> Prof. Madhava Menon in his book argued that, “the legal knowledge is essential to promote democracy and constitutional government.”<sup>11</sup>

Legal education is crucial to pull off the intended objectives of justice and to shape the nation's “social” and “economic” structure as it makes it possible for everyone to comprehend and traverse the legal framework and to take part in the creation of laws and regulations. Moreover it can act as a tool for social transformation by educating the individuals on how to support and assist the underrepresented groups and to further the foundation of a more equitable society.

## **HISTORICAL EVOLUTION OF LEGAL STUDIES<sup>12</sup>**

In Vedic era, legal education was regarded as a subset of Dharma but there is nothing to put forward that there was any formal teaching of legal education. Kings themselves administered justice, and legal education was primarily autodidactic. However, sometimes individuals, having knowledge of dharma, were appointed to adjudicate the dispute. They haven't obtained formal legal education but were known for their morality, justice, and

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<sup>10</sup> S.K. Agarwala “Legal Education in India – Problems & Perspectives”, Journal of Indian Law Institute, Vol 19, 1977, page no. 339

<sup>11</sup> Prof. Madhava Menon, “Clinical Legal Education : Concept and Concerns”, Chapter 1, page no. 1

<sup>12</sup> For a concise history of legal education in India in general see Lovely Dasgupta, Reforming Indian Legal Education: Linking Research and Teaching, Journal of Legal Education, Vol. 59, No.3 (2010).

adherence to Dharma.<sup>13</sup> Under Mughal Empire, a system of courts with official procedures to decide both civil and criminal matters was formed. As a result, attorneys started to take a significant part in the administration of law. In religious matters, parties were allowed to resolve conflicts with their religious beliefs. Following the advent of English dominance in the nation, the British introduced the current model of legal education system in India. In 1857, the initial efforts were made in the inclination of teaching formal legal education when, three universities in the cities of Calcutta, Madras, and Bombay, were founded which officially introduced “legal education” as a subject for instruction.

Following that, a number of law colleges were founded in the various regions of India. But the nation's legal education set-up was not standardized. However, teaching law as a science or as a separate field of study was not the goal of university legal education.

In the years following India's independence, from 1947 to 1960, the number of law schools increased significantly. Tragically, there was no sensible strategy behind this and as a result even the most fundamental amenities such as library, permanent professor etc. was missing from these law colleges.<sup>14</sup>

## **LEGAL EDUCATION IN CONTEMPORARY INDIA**

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<sup>13</sup> Anand, A.S. J., H.L. Sarin Memorial Lecture: Legal Education in India — Past, Present and Future, (1998) 3 SCC (Bom) 1.

<sup>14</sup> Report of the Committee on Law Reform in Legal Education in 1980s, 16 All India Teachers Association. (DU Law Faculty, 1979)

In independent India, the field of “legal education” gained pace and significance. After India’s independence, many of its people lived in poverty and were uneducated. Reducing inequality and giving masses of people access to fundamental necessities were among the most important concerns. Legal education was supposed to align the legal system with the nation's social, economic, and political goals.<sup>15</sup> Consequently, the primary goal of the legal system during the early years of India's independence was to accomplish the ends outlined in the Constitution.

**i. Bar Council Of India (BCI)**

The Advocates Act, 1961 required the BCI<sup>16</sup> to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education. In exercise of the power provided in Section 49 Act the BCI framed “Bar Council of India Rules, 1965” wherein chapter- IV solely covers the minimal requirements for legal education. To elevate the standard of legal education in India these regulations have been revised on various occasions. Therefore, this Act gives the BCI the authority to specify the minimal requirements that must be complied for a student to admitted to a law course at any accredited university, as well as the standards of “legal education” that these universities must uphold.

The Apex Court in *BCI v Board of Management, Dayanand College of Law*,<sup>17</sup> examined the statutory authority conferred to BCI under the Act and

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<sup>15</sup> Supra 12

<sup>16</sup> The Advocates Act, 1961 was passed by the Parliament of India by virtue of powers under List I of the Constitution of India.<sup>18</sup> Under this Act, an apex body, namely, the Bar Council of India (BCI) was constituted at national level.

<sup>17</sup> (2007) 2 SCC 202

the regulations implemented thereunder and held that, “as the apex professional body, the Bar Council of India is concerned with the standards of the legal profession and the equipment of those who seek entry into that profession. The Bar Council of India is also thus concerned with the legal education in the country.”<sup>18</sup>

**ii. University Grants Commission (UGC)**

The UGC<sup>19</sup> is entrusted with supervising the coordination, formulation, and preservation of standards in higher education along with providing financial grants.

While BCI is authorized to advance the study of law and “to establish the minimum requirements for such education in consultation with state bar councils and universities”, the UGC has the authority “to take all required steps for fostering the advancement and coordination of higher education” as well as for establishing and maintaining standards for imparting knowledge, examination, and academic study in higher education.<sup>20</sup>

Law Commission in its report stated that the authority of BCI in promotion “standards of legal education” and that of UGC in establishing and maintaining “standards of education” are against one another, but must be interpreted in a harmonious way. By allowing for consultation between BCI and UGC, Section 7(1) (h) of The Advocates Act, 1961 promotes the idea

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<sup>18</sup> Ibid

<sup>19</sup> The University Grants Commission (UGC) was established as a statutory body in November 1956 under an Act of Parliament, the University Grants Commission Act, 1956.

<sup>20</sup> Jena, K.C., Role of Bar Councils and Universities for Promoting Legal Education in India, *Journal of Indian Law Institute*, 44(4) 2002; page no. 565



that the two statutory authorities have identical objectives when it comes to the regulation of professional legal education.<sup>21</sup>

Above analysis indicates that BCI and UGC have a blended obligation to regulate the standards of legal education. Therefore, it is evident that there is consultative relationship between BCI and UGC, which serves as the foundation for the check of legal education standards in India.

## **CURRENT ISSUES AND CHALLENGES**

- a) There is a severe lack of appropriate infrastructure in the higher education sector. Thus, this represents a roadblock in the government's attempt to increase access to higher education. As observed by several committees and commissions in their findings and recommendations, legal education is a regular component of higher education in India. As per data submitted to the Supreme Court by the BCI, about 90% of government-operated law institutions suffer from a severe paucity of infrastructure.<sup>22</sup> If universities lack the essential financial resources and actual foundations, there can be no guarantee of scholarly opportunity to think critically and contribute.<sup>23</sup>
- b) The faculties who teach law courses are among the more crucial components of the legal community. One major problem affecting law schools is the shortage of regular teaching staff. It is reasonable

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<sup>21</sup> 184th Report of the Law Commission of India

<sup>22</sup> <https://www.tribuneindia.com/news/nation/almost-90-of-government-run-law-colleges-lack-faculty-infrastructure-bci-tells-sc-386904> (last visited on 27 January 2024).

<sup>23</sup> Bajpai, Meghna, (2018), Legal education system in India, <http://www.legalserviceindia.com>. (last visited on 27 January 2024).

to state that most law schools, particularly public universities, lack enough full-time faculties. The absence of permanent instructors has a negative impact on both the educational institution and the students.

- c) The profession of teaching necessitates a specific skill set. Currently, individual who is appointed as a teacher is told to just "start completing courses." Seldom does a new plan or technique reach the teaching repertory of the concerned legal faculty without prior exposure. A synthesis of these concepts sees a student recruited as a faculty to deal with the crippling challenge of creating a sui generis teaching method, carrying out so without obtaining the necessary training in skills and without a sufficient and cohesive awareness of the ultimate goal - the very purpose and objective of legal education. In 2010, for the purpose of training of faculties in teaching and research The National Knowledge Commission and the National Consultation on Second Generation Reforms in Legal Education suggested to set up of four "Centres for Advanced Legal Studies and Research".<sup>24</sup>
- d) Legal education effectiveness is contingent upon a various variables, including participation in moot courts, internships, comprehensive research, and technical support. Large universities and National Law Schools have these resources, but other local colleges are not. A formal mentorship program for their moot court teams is absent at many universities. Nowadays, students compete in international

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<sup>24</sup> Report of the Working Group on Legal Education of the National Knowledge Commission, Chapter IV, Centers for Advanced Legal Studies and Research (CAL SAR)

moot competitions. It is, therefore, burdensome for law schools to prepare these students to compete with those in affluent countries.

- e) Before entering any field or place of employment, internships are essential. It helps the student build their professional skills and experience. While many lawyers want to contribute to the community by training and mentoring future lawyers, the vast majority of these lawyers refuse to hire interns. Reason behind this attitude is because most students lack the necessary research, foundational knowledge, and presentation skills.
- f) Owing to science and technology, the field of education has undergone substantial transformation. It is elicited that not many individuals employ technological advances, especially at institutions in rural towns. This has direct impact on the level of quality that legal education seeks. One major shortcoming of Indian legal education is the lack of technological innovation. Using professional teaching equipment and methods is essential, such as, "Grammarly", "Google Keep", "Turnitin", and advanced "Microsoft Word" and "Excel skills".
- g) Most colleges and universities lack standard books, periodicals, encyclopaedias, surveys of research, and other resources, which hinder the research process. Most of the literature found in university libraries is out-dated and unhelpful. Superannuated educational material is no longer viable in the cutthroat world of technological innovation.
- h) Another issue with the Indian legal education system is that current law schools have given a lower priority on academic

research and scholarly papers. Therefore, currently no intellectually stimulating environment is present. Research has the potential to significantly improve the quality of education and, more importantly, the resolution of several legal problems.

## **NATIONAL EDUCATION POLICY, 2020 (NEP) AND LEGAL EDUCATION**

NEP offers academic opportunities for every economically and socially marginalized learner, including those with gender and regional disadvantages, and thereby, it seeks to promote an inclusive and equitable education system throughout the nation.<sup>25</sup> In relation to “legal education” in India, it states that, “Legal education must be informed and illuminated with Constitutional values of Justice—Social, Economic, and Political—and directed towards national reconstruction through instrumentation of democracy, the rule of law, and human rights.”<sup>26</sup> On the surface, the NEP appears to reflect a reassertion of the constitutional spirit in study of laws, and thereby, it made a substantial change by incorporating these principles into the course of study while simultaneously acknowledging legal education's long-term objectives.

The NEP policy, in following words, stressed how important it is to include “socio-cultural” factors in legal education:

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<sup>25</sup> Key Highlights of NEP, INSIGHT IAS, <https://www.insightsonindia.com/social-justice/issues-related-to-education-sector/new-education-policy/key-highlights-of-the-nep/> (last visited on 27 January 2024).

<sup>26</sup> NEP 2020, 20.4

“The curricula for legal studies must reflect socio-cultural contexts along with, in an evidence-based manner, the history of legal thinking, principles of justice, the practice of jurisprudence, and other related content appropriately and adequately.”<sup>27</sup>

It mandates that educational institutions should incorporate the development of legal history, principles of fairness, jurisprudential practices, and other fundamental values into their curricula.

The NEP further recommends that all Higher Education Institutions (HEIs), including the Centres for Legal Education, should strive to become multidisciplinary establishments with the best possible use of available infrastructure. This will enable the establishment of dynamic HEIs that would boost the development of private as well as public institutions on an equal footing. NEP emphasizes that universities offering isolated legal education should strive for multidisciplinary approaches and curricula. The nation's NLUs should expand into fields like philosophy, criminology, economics, political science, and other related fields to offer their students a well-rounded education and to promote campus diversity. Introducing multidisciplinary programs just to promote diversity would be detrimental to these institutions' core objectives.

NEP further places a significant priority on multilingualism and multidisciplinary learning, promotes vocational education, and encourages more utilization of Information Communication and Technology (ICT). It encourages state colleges to offer multilingual legal education, having roots

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<sup>27</sup> Ibid

in the language used and the experience of local courts. Besides making legal education more widely and locally accessible, it would discourage rural and semi-urban residents from migrating to larger cities to study law.

Multilingual learning encourages everyone to participate in education, but for now, its execution in real life remains an idle goal. Multilingualism will be a significant obstacle for prospective attorneys when implementing legal education in court procedures or securing employment outside the state.

The NEP additionally emphasise that technological infrastructure, online teaching resources, and online education will make law schools more accessible to a larger audience. To meet the demands of its students, law schools must bridge the technological gap and ensure the use of cutting-edge technologies. Legal education must embrace innovation, and this need extends beyond science and technology.

The NEP is a vision statement with which law institutions may embrace the essential elements and effect a beneficial transformation in pedagogy that fulfils the demands of the modern world to become Centres of Excellence.

## **CONCLUSION**

Legal education is crucial to achieve the intended objectives of justice and to shape the nation's legal system. In recent times the legal education has served as an instrument for social change. Legal education is vital for furthering rule of law and constitutional government as it instils individuals with knowledge regarding the legal framework of the nation and their rights and responsibilities as its citizens. After independence, the number of law colleges increased significantly in every region of India. However,

numerous law colleges lacked most fundamental amenities such as library, permanent professor etc. even after recommendation of various committee and commission formed to improve quality of legal education.

The “Ministry of Human Resource Development's (MHRD)” newly introduced NEP encompasses numerous changes that the legal education industry requested for years. With the advent of multidisciplinary and multilingual undergrad programs, higher education organisations would get much needed transformation. The policy addresses several issues related to the educational system, and if implemented in a proper and comprehensive manner, the nation's legal education sector will grow significantly. Now that we have a progressive policy, the aim should be on putting it into action effectively.

However, some issues, for example, proper appropriate infrastructure in the higher education, the shortage of regular teaching staff, necessary training of faculties, standard books, online resources, quality library etc., which are mentioned above are not addressed under the NEP. There is a rapid demand to address the highlighted issue to law graduates sufficient experienced before they enter in any legal field.

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