

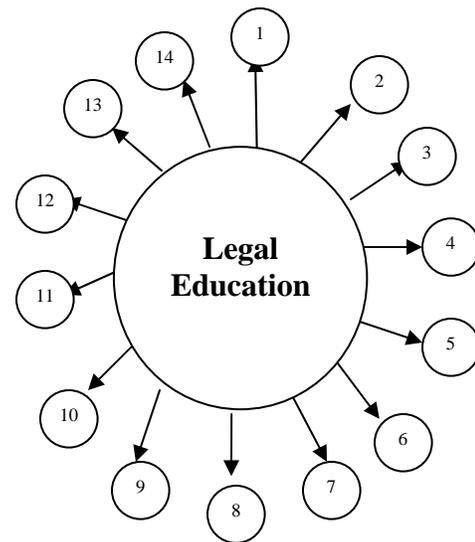
Challenges Facing Legal Education - Some Concerns

*Prof. Mrs. Srividhya Jayakumar
In charge Principal, VPM's TMC
Law College, Thane*

Bar Council of India¹ and the Universities principally regulate formal legal education endeavoring to produce lawyers in India. The problems and challenges facing legal education in India have been time and again studied. Law Commission of India 14th Report (1958) and 184th Report (2002) and National Knowledge Commission Report in 2007 are notable apart from the several High Court and Supreme Court Judgments.² and the various seminars and conferences held through out the country. Law Commission of India felt that "Legal Education is fundamental to the very foundation of the judicial system"³ and took up the study of legal education suo motto.

Legal Education is influenced by a multitude of factors like-

1. Governmental Policy
2. BCI
3. UGC
4. Affiliating Universities
5. Private Governing Body of Law Colleges
6. National Litigation Policy
7. Developments in Legal Profession
8. Developments in the Legal System
9. The kind of students who enroll
10. The Caliber and Commitment of the faculty
11. The Infrastructure available
12. Technological advancements
13. The Developments in other fields of Education
14. The Changes in the Society



This paper seeks to share with the other stakeholders of legal education a few concerns with a view to contribute a little towards improving legal education. The proposed All India Bar Exam⁴ reflects on the distrust BCI has on the law colleges and universities recognized by BCI, especially considering the fact that the syllabus for the exam is the same as that for the LLB course. In one open book examination for 3½ hours BCI proposes to decide on whether the law graduates shall be eligible for the certificate of practice. The Law Commission⁵, the National Knowledge Commission⁶ and the Supreme Court called for the reintroduction of the bar exam. All these show that all is not so well in legal education.

Law Teachers - call for a better deal

"Teaching profession is the mother of all professions" it is said. Part IV BCI rules on standards of Legal Education fail to effectively provide for the qualifications, conditions of service, selection, pay perks and promotions of law teachers and principals of law colleges. Even though BCI seems to permit judges and advocates without LLM to be teachers, this is confined to part timers and the full time teachers are governed by the UGC norms and guidelines because BCI has washed off its hands. Law teachers are put on par with teachers teaching arts, commerce and science for under graduates as if LLM is equivalent to MA, M.Com. and M.Sc. This is wholly unfair considering the fact the LLM is 3 + 3 + 2 / 5 + 2 years of study after 10 + 2 whereas MA/M.Com/M/Sc. is only 3 + 2 years after 10 + 2. No weight-age nor benefits accrue to law teachers on the following - completing LLM in first attempt, having university ranks, taking up post graduate studies in allied subjects like politics, economics, human rights etc. It appears that an Arts teacher may get a benefit for completing LLM.⁷

Full time teachers are barred from practicing Law under the BCI rules⁸ but the rules do not provide for non-practice allowance. These are the days when schoolteachers and college teachers demand non-practice allowance for not engaging in tuition classes.

NET/SET have become proud qualifications to be put after one's name along with university degrees acquired. Unfortunately NET/SET is not able to guarantee communication skills and a passion for teaching. It is the students who suffer when good teachers cannot be appointed only because they have not cleared NET/SET. BCI should study the NET/SET process, curriculum and evaluation and determine its desirability as a qualification for law teachers. It is pertinent to note that AICTE, MCI, Architects' Council of India and Nursing Council of India do not require NET/SET for teachers of their education.

A teaching job may help a teacher but teacher training will help the students. The initial batches tutored by the teacher suffer and sacrifice in silence till the teacher wakes up and matures. Making attendance compulsory and sending untrained teachers to the class make both the teacher and the taught miserable. Teaching involves talking but teaching is much more than talking. Law teachers need training (before they start teaching) on teaching methods and sufficient practice in them because teacher has a great role in making education optimistic, enjoyable and mutually rewarding exercise. Teachers ought not to be paid just for their qualifications without effectively carrying out their jobs well. There should be a training period of 3-6 months during which the pay shall be a trainee pay and not on scale.

Law teachers need proper incentives. NKC is of the view that current UGC scales one not attractive. Appropriate rewards and promotional schemes reflecting performance and not influence shall be put in place. Academicians should get significant roles in judiciary and statutory bodies. Under the Constitution of India a distinguished jurist may be appointed as a Supreme Court Judge but not as a High Court Judge.⁹ This appears strange and requires a reconsideration. But government does not seem to see any

distinguished jurist for appointment. Should not the universities and BCI play a role in identifying the jurists? Universities should consider active participation of law teachers in law reform by organizing discussions on bills and amendment bills and forwarding recommendations.

Law colleges are not sanctioned enough number of full time lecturers. Considering the prevailing UGC norms on work load and the BCI norms on the number of lectures per subject, colleges requiring 16 full time lecturers are sanctioned 3 in Mumbai. The work pressure stands in the way of research and publications and the conduct of national and international seminars. Staffing pattern should be reasonable and uniform. BCI nowhere rules about CHB teachers whereas law colleges engage such teachers. The BCI rules stipulate teacher-student ratio as 1:40 but does not clarify whether part - time or CHB teacher is a teacher for this purpose.

UGC norm prescribing 5 hours daily work at college for fulltime teachers is insufficient. Out of 30 hours in a week 20 will go in lectures and hardly time is left out for other activities and research. Research and publication should be compulsory for fulltime teachers.

Education is the guidance of students from one level of knowledge to another. In this process the teachers play a crucial role. Role of the teacher is progressively being broadened from that of the expert who imparts knowledge to one that includes a mentor or guide, one who extends students' deep understandings and facilitates the acquisition of higher order thinking skills and creative problem solving skills- skills that are critical for the development of an innovative culture for tomorrow.¹⁰ Taking care of teachers by ensuring appropriate working environment and service conditions is inevitable in the path of improving any education.

Curriculum --- Whose responsibility?

Curriculum is an organized academic framework to facilitate the teaching - learning process.. BCI has listed 21 compulsory papers (30 under 2008 rules) and several optional papers. But syllabus is not framed by BCI. Syllabus is left to the universities and this accounts for the various different syllabuses for the same subject through out India. In the 2008 rules BCI has listed out about 85 optional subjects-to name a few- Foreign trade, Law on infrastructure development, agriculture, farming and cultivation. The rules were to be implemented from 2009-2010 batches. "Labor Law" may be just the I D Act or some 20 Labor Legislations! BCI should take on this more seriously.

BCI is silent about the vernacular medium. 2008 rules indicate that BCI is aware of the fact that many universities accept vernacular language as a medium of examination. The rules make English (100 Marks) Paper compulsory for universities which allow students to have vernacular language as medium of examination. NKC in its

report does not care to express anything in this regard. The difficulties in providing lectures in vernacular language, framing question papers/conducting moot courts and viva and assessment of answer books can be overcome. The real problem lies in the fact that references and authorities are not available in vernacular languages.

Question paper pattern, marking criteria passing criteria, criteria for classes differ from university to university. Not all universities include Practical Training marks in the computing of class. Delay in results led to the intervention of the Mumbai High Court and a team was appointed to suggest a new pattern of question paper. The team came out with a 40 marks objective component including multiple-choice questions. It is humbly recorded that not all colleges were involved in this important change over. However this pattern thankfully remained in vogue only for a short span.¹¹

Regarding curricular, co-curricular and practical training activities of colleges there is no proper academic audit. Reporting procedure (to BCI) for practical training through yearly reports yield no benefits; there is no feedback or suggestions/ instructions coming forthwith.

While the society is reeling under sharp practices in the profession, the curriculum pays lip service to the inculcation of ethics and values. The professional ethics is merely a part of I year(3 yr course)/ III year (5 yr course) practical training. NKC has observed that Legal education must inculcate the need to observe the highest standards of professional ethics and a spirit of public service. Legal education has to catch up with this objective.

Curricular framework will be of no aid if the examination is not tough enough compelling (1) study of good books, references (2) updating (3) regular studies and discussions in the classrooms. Question papers are not creative and facilitate students to study a few topics from buzzer notes and pass with good marks also. We need to take care when we certify and hold out to the society that a particular person is qualified in law. Question papers do not adequately reflect the new topics, amendments included in the subject. Example: no questions are asked on lobbying, role of media, mediation, conciliation in administrative law and no questions appear on business self regulation or PIL on consumer protection in Mumbai University even five/six years after revision of syllabus.

It is the need of the day to segregate students who are seriously desirous of taking up legal practice and others who are interested in liberal education in law. Massey rightly observed that legal education has become mass education rather than a specialized training.¹² University shall offer a variety of courses in law. The lack of initiatives in this direction has been largely responsible for dilution of standards in professional legal education. NKC has observed that open university system must also cater to legal education.

Accreditation of Law Colleges

UGC National Assessment and Accreditation Council assesses and accredits the colleges and universities. State governments have made accreditation by NAAC compulsory although no action is taken for non-compliance. The oldest law college in the country is also not accredited. NAAC does not classify institutions and does not apply different criteria for accreditation of different classes of institutions. But some kind of accreditation is a must for law colleges, as this would facilitate periodical introspection into the quality of academic activities, infrastructural facilities and the student -institution relations.

National Knowledge Commission in its report has lamented that law institutions are far from standards. It has called for a rating system on criteria like facilities, courses, instructors, infrastructure etc. and for closing down legal education schools with poor standards. BCI has in the 2008 rules on legal education provided for an accreditation system/performance rating system by its Legal Education Committee on a voluntary basis. The performance analysis shall have three components- academics, administration and financial on the basis of past 5 years record. The accreditation will be valid for 5 years. BCI may do it self or may cause accreditation done through NAAC.¹³ The rating system will supplement the audit and make the institutions more transparent, law abiding and accountable.

Betterment of legal education is directly dependent on BCI's intervention through capable leadership, adequate audit and support, including financial. BCI may be replaced by a special Standing Committee on Legal Education to the Independent Regulatory Authority on Higher Education as recommended by the National Knowledge Commission. The new body, if it emerges, will kindle new expectations.

Notes and References

1. Section 7 (1) (g), Advocates Act 1961
2. See, V Sudheer v. BCI, AIR 1999 SC
Meerut Development Authority V Association of Management Studies 2009 (6)
SCC 71; Dr. Krishnamoorthy v. TN DA LU, 2009 3 MadLJ 1133
Indian Council of legal Aid and Advice v BCI, AIR 1995 SC 601
G.K. Chatrsth V BCI, AIR 2001 P & H 41
3. Law Commission of India, 184th Report 2002
4. Bar Council Notification dated 30 April 2010
5. 184th Report (2002)
6. 2007 report
7. Sixth Pay Commission Rules, Chapter 5.2.7
8. Part VI, Rule 49
9. Article 124 (3) Constitution of India
10. Hemlata Talesra, Scope & Trends of Research on Teaching, p.17, 2004 Authors press
11. 2005 (Second half) to 2007 (second half)
12. Dr. I. P. Massey, forward to Sushma Gupta, History of Legal Education, Deep & Deep Publications (p) Ltd. 2006
13. Rules 28-32

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