

## Challenges Upfront in the Legal Education Structure: Global Trends

\* Dr. C.P. Gupta

### Abstract

During ancient period education was considered as a thing to attain the element in the society and it is only used to gain knowledge. Now-a-days education is used as an tool to earn money. From the mode of service education is converted into a mode of business. Open to say that the standard of education in a country is dependent on the economic condition of the country. In the developed countries the standard of education is too high than compared to the developing countries. Legal education has not attained the particular position like of medicine and engineering. This article examines the extent to which the legal education has transcended the traditional model of legal education and the outlines of a modest agenda which guide further development in legal education over the world. Finally this article outlines the challenges to the traditional model, changes in legal education. It concludes by proposing a series of issues which might be addressed by law schools seeking to provide a learning environment in which students can actively engage in learning about law, in a framework that does not simply prepare students for private legal practice and it also deals with the current scenario of the legal education and the reformative methods that have to be taken for the upliftment of the legal education system all over the world.

**KEY WORDS:** Legal Education, Globalization, Bar Bench Relation, Legal Technology, Legal Profession.

### Introduction

'When I was a lad I served a term as office boy to an Attorney's firm. I cleaned the windows and I swept the floor, and I polished up the handle of the big front door I polished up that handle so carefully. That now I am the Ruler of the Queen's Navee!

This statement of Sir W. S. Gilbert would project the exact state of the Legal Education in U.K. in 17-18<sup>th</sup> Century. Absolutely, there was no formal legal education imparted through educational institutions. It was the training under the attorneys and lawyers practicing in courts made a person qualified to appear in the Courts.

In India, the formal Legal Education was introduced in 1857, in the Universities situated were in Bombay, Madras and Calcutta, where legal education was formally imparted as a subject for degree along with other subjects. In South India, the Madras Law College in Chennai was started as an exclusive institution to impart legal education on 2nd May 1891, in the Western part of the Madras High Court, buildings, Esplanade, And Prior to that law classes were conducted by George Norton, a leading barrister practiced at Madras, in his house. The conventional Law course had been conducted as a post degree course for duration of three years and earlier it was two years course and one year apprentice. Tamil Nadu is the First State in India to have introduced the new five-year scheme of legal education throughout the State in 1983

The legal education, in modern times is not confined to production of practicing lawyers alone. Today its scope and ambit has got widen up and its impact is felt in every sphere of human life. The law being a tool for the social engineering, legal education can be regarded as an instrument for the social design. The

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history of our own independence movement, if impartially written, will devote more pages to lawyers than to the votaries of any other vocation. It is well accepted proposition that the Profession of Law is a noble calling and the members of the Legal Profession occupy a very high Status.

#### **BAR BENCH RELATIONSHIP**

Tracing the avenues available to students of law, it was commented — ‘Therefore, among the various types of legal education, we can identify the type which is necessary for those who practice law, the type which prepares them to become researchers and teachers, the type which deals exclusively with academic subjects of substantive law, the type which deals with public legal education or para legal education, the type that prepares law graduates to deal with legal, regulatory and ethical issues in active sectors of domestic and international business and industry, and finally, the type which professionals in engineering, medicine, management and social work may require.’”

The truth about the products of legal teaching institutes is that the National Law Schools have been contributing less than 10% of its students as lawyers to Bar and Judges to the trial judiciary and higher positions. The placements drive at the campuses and the resultant recruitment has demonstrated that a majority of the National Law School graduates have been employed in corporate legal concerns, legal processing outsourcing companies and private players. Only the products of the Government Law Colleges enter the corridors of the court as litigators. It is a caveat that should be borne in mind, that the advocates are not just individual professionals but they are the officers of the court and bestowed with the task of assisting the court in rendering justice to the deserving justice Seekers. This importance of the law graduate was signaled as follows — “Upon the law student who emerges from the college depends the legal profession. Upon the legal profession depends the quality of the Judiciary? Once a lawyer practices for 3 years, he becomes eligible in most States to become a judicial officer at the level of a munsif (Now, the Supreme Court has said that a law graduate can straight-away go as a Judicial officer). With seven years’ experience, he becomes eligible — in most States — to be recruited as a District & Sessions Judge directly, who can deal with civil cases of unlimited pecuniary jurisdiction and who can recommend a sentence of death. Such are the high stakes involved. Therefore, there is need to make the curriculum stronger and lay a firm foundation. Legal Education has to be taken seriously and kept on a high pedestal.”

#### **GLOBALIZATION & PROFESSIONAL WORK FORCE**

Globalization has increased professional workforce in India and this hold true for legal profession as well. A law professional’s work is no longer limited to filing suits or preparing briefs or analyzing judgments or arguing in law courts. It goes beyond litigation and diversifies into non-litigation works such as legal process outsourcing, arbitration, client interviewing, client counseling etc. This has posed a serious question on our legal education system and whether this system can compete with global standards. Globalization no doubt brings greater challenges but along with it provides us with new emerging opportunities in teaching law in law schools.

The very nature of law, legal institutions, law teaching and law practice are in the throes of a paradigm shift. Globalization has posed multiple challenges to the future of legal education in India but it has provided an opportunity to challenge the status quo, which is an essential condition for reform. One of the most challenging tasks in legal education in India is to strike a proper balance to ensure that students are taught a fair mix of courses that give them knowledge and training in Indian law, but at the same time prepare them for facing the challenges of globalization, where domestic legal mechanisms interact with both international and foreign legal systems.

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The Immediate task of a law teacher in this globalize world is to convert law students in to professionally competent lawyers in order to have a fair share in the 100 billion dollar trade in legal services and at the same time make them socially responsible and relevant. This paper discusses about the challenges faced by teachers teaching law in Indian Law Schools and the ways to meet them.

#### **DYNAMICS OF LEGAL EDUCATION IN INDIA**

Reforms in Indian legal education will not require energy, imagination, and devotion; nor can such reform alone resolve the dilemma in which the Indian legal order finds itself. The reforms in legal education cannot succeed unless the Indian legal order as a whole moves in a complementary direction. Indian economy is undergoing rapid transformation and the pace of change is likely to gather speed due to globalization. The law schools and the government have to frame suitable policies to frame our legal education to suit modern needs. Thereby the coming generation may fit in the new society that is envisaged. Legal education is an investment, which if wisely made will produce most beneficial results for the individuals and society.

#### **JUDICIARY AND LEGAL DOCUMENTS**

Artha Shastra and Manu Smriti are considered as significant treatises as far as the legal system is concerned. In ancient Indian societies, an independent school of legal practices existed. Some general principles in connection with the judicial proceedings state that in case of disagreement between two texts of Smriti, justice according to usage is to be followed. In case of conflict between a text of Smriti associated with the dharma and one relating to artha, the former prevails. The former one sets rules regarding things unnoticed or otherworldly, while the latter one is more concerned with everyday matters.

Judges were required to decide cases, criminal and civil, according to law (samyak, yathshastram, shastro ditena vidhina). This involved interpretation of the written text of the law- a task which created many problems such as the elucidation of obscure words and phrases in the text, reconciliation of conflicting provisions in the same law, solution of conflict between the letter of the law and principles of equity, justice and good conscience, adjustment of custom and smritis, and so on. This branch of law was highly developed and a number of principles were enunciated for the guidance of the Courts. The most important of them related to the conflict between the dharm-shastra and the artha-shastra.

Three systems of substantive law were recognized by the Court, the dharma-shastra, the arth-shastra, and custom which was called sadachara or charitra. The first consisted of laws which derived their ultimate sanction from the smritis and the second of principles of government. The border line between the two often overlapped. But the real distinction between the smritis and arth-shastra is uniformly secular, but that of the dharma-shastra not always so. In fact so remarkably secular is the arth-shastra in its approach to the problems of government that this has induced some writers to advance the theory that the artha-shastra (literal meaning: the science of 'artha' or pursuit of material welfare), did not evolve from the dharma-shastra but had an independent origin and developed parallel to it.

#### **CONCLUSION**

It was profoundly disturbing to the Indian masses that they set up these specialized Courts manned by people trained in law with so called independent judges. That itself was a cultural shock for the people of India, because till that time, if you look at the existing dispute resolution systems, typically at the village level, one had the Panchayat system. Panchas would be notables who would be known locally.

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The administration of Criminal Justice was not also well founded in India, the police can oppress with impunity. During British rule the visit of a police darogah (officer) to a native villager is a calamity. If a robbery is committed, the poor are afraid to complain; if anyone is wanted as a witness, he is taken for several days from his labor and treated as a prisoner; if a criminal, or suspected criminal, is arrested, he is at once presumed to be guilty, and is very probably tortured to confess.... The insecurity of property induces all who can afford it, to hire watchman, in fact, bludgeon men, of their own; and these, whenever occasion requires, are of course used as agents of any amount of violence and oppression.... The people sink under the weight of fear, and their natural cowardice is increased by a sense of hopelessness of resistance. Justice is to a large extent, practically denied them; the land-holders and the police are chief powers they know; and they are hunted by both, till they surrender themselves to servility, to despair. Even after 70 years of Independence Justice Administration of justice in India never satisfied the aspiration of people, this is because wrong selection of foreign made legal structure, application of discontent laws, discarding indigenous system of justice administration.

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