

## **The metamorphosis of legal education in India - Bane or Boon - A birds' view**

*Meera Mathew, Assistant Professor, Symbiosis Law School, NOIDA*

### **Abstract**

Law is one subject that touches upon all aspects of human dealings. Hence, life without law is unimaginable. Unlike the past decades, the demand for Common Law Admission Test (CLAT) law coaching and subsequent admission for law schools is also very high. Hence, law schools are progressively significant in imparting quality legal education and legal training. The last decades witnessed the metamorphosis of legal education due to the running of national law school system, with its unique teaching and research methods, the mooted and counselling schemes and the syllabus. However, only few affordable classes of the society that can avail of the law school teaching and the rest depend on traditional Central and State Universities. In this paper, the writer highlights the key differences in legal pedagogy and teaching methods at National Law Schools and traditional Law Universities. Further it focuses on the point that while teaching and imparting legal proficiency in law schools, the focus of the curriculum needs to be well-adjusted with the public's incontestable right to access to justice. When the prestigious law schools today aim at placements and high pay packages for the pass outs, what they really fail to inculcate the students is the research and encompassing basic laws and its practical application in research. With the new proposal by HRD Ministry and UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in universities and colleges and measures for the maintenance of standards in higher education, 2018) mandating a PhD degree to be essential for teaching positions in Universities from July 2021, this topic needs more deliberation. Indeed, this is a welcome step with the ultimate objective of improving quality of education. However, there are certain ambiguities pertaining to legal education and law school administration and those are to be taken care of, while this draft proposal is adopted. This paper, therefore, pulls attention to the issues that are encountered by the law students for varied issues pertaining to legal curriculum and legal education. The author opines that the legal education should be provided more of practical methods than mere doctrinal study so as to enthuse interest. The deduction of the paper is that unless the modification of curriculum does not happen immediately, the future prospects of legal education would be bleak, and the future will be at stake wherein students with good fiscal capacities will migrate to other jurisdictions for their education.

### **I Introduction**

“The portals of our law-teaching institutions - manned by part-time teachers - open even wider and are accessible to any graduate of mediocre ability and indifferent merits. It is not surprising that in this chaotic state of affairs in a number of these

institutions there is hardly a pretence at teaching ... This character is followed by law examinations held by the universities many of which are mere tests of memory and poor ones at that, which the students manage to pass by cramming short summaries published by enterprising publishers. The result is plethora of LL.B. half-baked lawyers, who do not know even the elements of law and who are let loose upon society as drones and parasites in different parts of the country.”

Simon Chesterman<sup>1</sup>

A well-functioning education system is essential to all modern societies. Legal education particularly has a pivotal role to play in the overall development of a nation. The law is central for a society for it aids as a norm of conduct for citizens. It was also made to provide for proper strategies and order upon the performance for all citizens and to endure the equity on the three branches of the government. It keeps the society running and hence life without law is inconceivable. When it was initiated, legal education designed at engendering advocates for the courts, and its content was then verbalized by the difficulties of legal profession. Nonetheless currently legal education has to encounter not only the necessities of the Bar but also of the new-fangled essentials of emerging regulations in contracts, business, arbitration, construction and export in the perspective of budding internationalization of the legal profession.<sup>2</sup> Further, it is very much obvious that whether in a developed or developing country, legal education activates in a specific socio-economic and administrative background that targets to satisfy the requirements of society by producing law graduates who are knowledgeable sufficient to take up a wide range of accountabilities as legal experts.

Examining the movement of legal education, it can be observed that just after independence, India had a dismal state of affair and the declining standards of legal education which led to depleting image of the legal profession. At that time the demand was high for medical or engineering degrees. Our first Vice- President Dr Radhakrishnan therefore commented that “our colleges of law do not hold a place of high esteem either at home or abroad, nor has law become an area of profound scholarship and enlightened

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<sup>1</sup> Simon Chesterman, “The Globalisation of Legal Education”, 66 *Sing. J. Legal Stud.* 58 (2008)

<sup>2</sup> B C Nirmal, “Legal Education in India: Problems and Challenges”, (2012) 20 *IJUMIJ* 139 at 147.

research....”<sup>3</sup> noting the state of affair prevailed then. This was in contrast with the role played by the great leaders like Mahatma Gandhi, Jawahar Lal Nehru, Subhash Chandra Bose and so on who all happened to be lawyers and had undergone the rigor of legal education.

Subsequently, the Law Commission of India in its 14<sup>th</sup> Report on ‘Reform of Judicial Administration’, in 1958 did state as follows:- “In the period of about ten years which has elapsed since the publication of the Radhakrishnan Commission, the position in regard to legal education in this country has, it appears, definitely deteriorated.”<sup>4</sup> This gave the way to the enactment of University Grants Commission Act, 1956 to restructure the procedure of higher education in the complete field which eventually brought some optimism and infused dynamism. This piece of central legislation has been enacted pursuant to legislative authority under List I, Entry 66 of the eighth Schedule of the Constitution. The Act made provisions for the co-ordination and determination of values in universities and grants affiliation to the law colleges. The Act mandates the UGC as a regulatory body to put down the principles intending the harmonization of university education. It further aimed at progressing and maintaining some standard of teaching, examination and research in the universities.

However, the UGC only did not remain the regulatory authority in field of higher education rather subsequently; shortly another regulatory body came to existence- the Bar Council of India - under Advocates Act, 1961. One of the main roles of the Bar Council of India is to “encourage legal education and to lay down standards of such education in consultation with the universities in India imparting such education and the Bar Councils of the States”.<sup>5</sup> The Bar Council of India from occasionally come up with new rules and regulations that need to be fulfilled by practising lawyers. The current of one such was where it had stated that an advocate cannot start his or her practice in the Supreme Court unless they have at least five year practice experience in the lower and High court of India that was mentioned in Certificate of Practice and Renewal Rules issued in 2014 by Bar

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<sup>3</sup> A.S. Anand “HL Sarin Memorial Lecture: Legal Education in India- Past, Present and Future” 3 *SCC Jour* 1(1998).

<sup>4</sup> Report No. 14, Law Commission of India “Reform of Judicial Administration” (1958).

<sup>5</sup> *See*, Section 4 of Advocates Act 1961.

Council of India<sup>6</sup>. It is often criticised that Bar Council of India has been futile to put into practice the new alterations requisite in the Legal Education field. It is still engrossed with the vision that the solitary reason of legal Education is to produce litigating lawyers.

It took an innovative twist with the arrival of law schools, starting with the 'National Law School' at Bangalore. It was a trial that revolutionised the legal schooling in India. At present, in addition to the National Law Schools, there are numerous private law schools that have flourished in the last few decades, providing students to learn law with manifold choice and prospects. Even the perception of common man has also changed as regards the learning of law, and the opportunities it provides. It is no longer perceived as the 'last refuge'<sup>7</sup>. More and more students nowadays opt for law course as it is becoming increasingly lucrative *vis-à-vis* other professional courses in other streams or disciplines. One more reason for growing interest in law is that it gives wide choice- be it for litigation or for corporate lawyering or in pursuing research or academics or to involve in legal reporting as journalists or to get into Legal Process Outsourcing (LPOs). In addition to this, law schools are steadily becoming an imperative medium in imparting quality legal education and legal training.

## **II Innovative proposal for law schools and its teaching methods**

In India, first such reformatory step was taken in 1986 through the establishment of Law school at Bangalore with the aid and co-operation of 'the Judiciary, the Bar Council of India, the Karnataka Bar Council, the Bangalore University and the Government of Karnataka'. The motto was to improve legal education and to institute a centre of quality legal education

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<sup>6</sup> ET Bureau, "No direct entry into Supreme Court: Government to 'weed out' non-practising lawyers" *Economic Times*, Nov .11, 2014 available at: [http://articles.economictimes.indiatimes.com/2014-11-11/news/55990452\\_1\\_higher-courts-advocates-state-bar-councils](http://articles.economictimes.indiatimes.com/2014-11-11/news/55990452_1_higher-courts-advocates-state-bar-councils) (last visited on 26, Feb. 2016).

<sup>7</sup> Justice K G Balakrishnan spoke, "Until a few years ago, pursuing a law degree was seen as an inferior alternative to other professional courses such as engineering, medicine and management. In most of the universities, law departments were seen as breeding grounds for student-politics and the environment was hardly conducive for academic pursuits or meaningful scholarship. Large scale absenteeism as well as irregularities in examinations came to be frequently associated with legal education. While these problems still persist, the emergence of several National Law Schools has triggered a gradual shift in public perceptions." This was the speech he rendered in programme honouring Dr. N.R. Madhava Menon organised by Society of Indian Law Firms and Bar Association of India (New Delhi – September 4, 2009) available at : [http://www.supremecourtindia.nic.in/speeches/speeches\\_2009/award\\_for\\_dr\\_nr\\_madhava\\_menon\\_4-9-09.pdf](http://www.supremecourtindia.nic.in/speeches/speeches_2009/award_for_dr_nr_madhava_menon_4-9-09.pdf) (last accessed on Jul.20,.2016).

and research in India.<sup>8</sup> Thereafter, many such law schools were established emulating the experiment at Bangalore. This made the footing of five- year law studies in India just after the schooling, 12<sup>th</sup> standard unlike the previously prevailing three- year LLB after the graduation. The five- year course give a graduation degree after the third year be it – B.Com or BBM or B.A or even BSL<sup>9</sup>. The architect of law schools Prof. N R Madhava Menon opined once,

“The success of the National Law School experiment was indeed a turning point in Indian legal education, particularly in respect to academic excellence, social relevance and professional competence. It soon assumed the dimensions of a movement with every state in India seeking to establish a National Law School on the Bangalore model. India has fifteen National Law Universities at present which offer quality legal education to nearly 2000 students annually.”<sup>10</sup>

In no time, India witnessed the boom in legal profession that charmed skilful and competent students who get onto the legal arcade creating an impression, however trivial, in the domination of the first twenty per cent. It, bestowed trust to the outstanding middle and bottom divisions of the professional hierarchy that by working hard, they too could infiltrate the upper ranks of legal profession which were largely presumed to be earmarked for the kith and kin of triumphant attorneys and adjudicators hitherto. In the core of such drift and mediocrity, the world around including the legal environment changed and opportunities for legally trained persons grew astoundingly with the globalisation, technological upheaval and financial liberalisation. The advent of the National Law School movement and the Five-Year Integrated LL.B. programme became the benchmark of Indian legal education which enthused the policy makers to commence Common Law Admission Test (CLAT) exam and initiating national law schools in almost all the states. CLAT is defined as:

“non-statutory body created under a Memorandum of Understanding (MoU) for the convenience of the students seeking admission to various National Law Universities

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<sup>8</sup> See, [https://www.nls.ac.in/index.php?option=com\\_content&view=article&id=16&Itemid=15](https://www.nls.ac.in/index.php?option=com_content&view=article&id=16&Itemid=15), (last accessed on Feb.18, 2016).

<sup>9</sup> Indian Law Society, Pune, gives BSL degree that stands for Bachelor of Socio-Legal Studies.

<sup>10</sup> N R Madhava Menon, “The Transformation of Indian Legal Education: A Blue Paper”, *Harvard Law School Programme on Legal Education* (2012), available on [https://clp.law.harvard.edu/assets/Menon\\_Blue\\_Paper.pdf](https://clp.law.harvard.edu/assets/Menon_Blue_Paper.pdf) (last accessed on 21.02.2012)

in the country. An entrance test is conducted to provide a list of candidates on the basis of 'merit-cum-preference' to each University for admission to their UG/PG programmes, as per the eligibility, reservation and other criteria laid down under the respective statutes of the participating Universities."<sup>11</sup>

The papers in the CLAT has English, legal reasoning, current affairs and general knowledge for the five-year course. Though the law school reserve seats for rural students in their admission, the quality of CLAT question paper depicts that a student having good command over English and coaching can only avail the admission.

Thus, presently, there are twenty- one<sup>12</sup> "National Law Schools" all over India. These are ranked in the order of their year of establishment. Except National Law University, New Delhi, other forty-three law schools participate in, and choose students based on marks obtained in CLAT. The fact that students are selected through a common entrance ensures that they have the basic pre-requisites of studying law. The CLAT form provides the candidates with a preference listing of college. Each candidate fills up the preference list that marks the colleges he/she desires to join. On account of these choice and ranks obtained, candidates are allocated colleges.

Soon, there has been a paradigm shift as regards teaching methodology in some respects *vis-à-vis* tradition approach of teaching law in universities other than law schools. Moving adrift from the way law was taught customarily, law school teaching methodology focuses upon other aspects of imparting legal knowledge by way assignments, projects writing, field work and moot courts. When a student goes through these processes, s/he learns the

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<sup>11</sup> See, <https://clat.ac.in/>, (last visited on 20<sup>th</sup> Jul., 2019).

<sup>12</sup> The list of National law schools are: National Law School of India University, Bangalore (NLSIU);National Academy of Legal Study and Research University of Law, Hyderabad (NALSAR);The National Law Institute University, Bhopal(NLIU);The West Bengal National University of Juridical Sciences, Kolkata (WBNUJS);National Law University, Jodhpur (NLUJ);Hidayatullah National Law University, Raipur (HNLU);Gujarat National Law University, Gandhinagar (GNLU);Dr. Ram Manohar Lohiya National Law University, Lucknow (RMLNLU);Rajiv Gandhi National University of Law, Punjab (RGNUL);Chanakya National Law University, Patna (CNLU);The National University of Advanced Legal Studies, Kochi (NUALS);National Law University Odisha, Cuttack (NLUO);National University of Study and Research in Law, Ranchi (NUSRL);National Law University and Judicial Academy, Assam (NLUJAA);Damodaram Sanjivayya National Law University, Visakhapatnam (DSNLU);Tamil Nadu National Law School, Tiruchirappalli (TNNLS);Maharashtra National Law University, Mumbai (MNLU),Himachal Pradesh National Law University (HPNLU), Maharashtra National Law University, Nagpur (MNLU) and National Law University, Delhi.

intricacies of law and legalese but at the same s/he also learns the art of legal research and argumentation.

Classroom teaching when supplemented with these novel methods, inculcate in students a legal acumen to encounter new challenges that a lawyer has to face in real life court rooms. Moreover, quite often, teachers in law schools exercise many other innovative means and measures to train the thinking process of law students.<sup>13</sup> The schemes like 'surprise tests' and random presentations persistently test the progress of students all through the semester. A significant part of law schooling mould a student for the varied types of challenges that s/he may have to face or the diverse role s/he may have to play in his or her professional life. However, a worldwide attempt is taking place to further improve the ways in which students should be taught in the law schools,<sup>14</sup> where much of the deliberation is done on focusing curricular modification initiatives that aspire to develop students' indulgence in knowing many laws, to move beyond adjudication and the courtroom, to set up broader types of information, and to enlarge a wider series of expertise. Many initiatives add new courses focusing on public international law, marine law, conflict of laws, and interdisciplinary perceptive of law and legal issues. Some schools have even decided to experiment by introducing students to these ideas in the very first year.

The five-year syllabus followed in the law schools has been "successful [in] blending of social sciences into the curriculum for the five-year law programme. There has been an age-old debate on whether law is an autonomous discipline where the instruction must be confined to the teaching of doctrines, the interpretation of statutes and the reading of precedents. However, in an ever-changing world where legal professionals must make sense of disputes in all kinds of settings, there is clearly a need for interdisciplinary training in legal education."<sup>15</sup> It is believed that "With the conceptual tools of disciplines such as history, politics, economics, sociology, philosophy and literature – today's law students will be in a much better position to respond to challenges in their professional lives."<sup>16</sup>

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<sup>13</sup> Howard E. Katz and Kevin Francis O'Neill, *Strategies and Techniques of Law School Teaching* (New York, Walter Kluwer, 2009)

<sup>14</sup> *Supra* note 10 at 517-518.

<sup>15</sup> *Supra* note 3 at 3

<sup>16</sup> B. C Nirmal, "Legal Education in India: Problems and Challenges", (2012) 20 *IIUMLJ* 139.

Moreover, moving adrift the traditional pattern of syllabus, there has been a continuous and sustained thrust in law schools upon introducing law students to the emerging areas that merit due consideration and research, especially in present era of globalisation, as the Law Commission of India in its 184th Report observed:<sup>17</sup>

“The emergence of new economy - globalisation, privatization and deregulation have thrown up new challenges. There are today revolutionary changes in information, communication and transportation technologies which require corresponding changes in the legal system. Many highly specialized areas of law like intellectual property, corporate law, cyber law, human rights, alternative dispute resolution, international business transactions, have to be introduced in all our law schools. The opening of trade and capital markets as a result of globalisation and the retreat of the State from traditional roles have raised new legal issues concerning ways in which poor and marginalized sections can protect themselves from further impoverishment. Special emphasis has to be made on criminal justice. The very nature of law, legal institutions and law practice are in the midst of paradigm shifts”<sup>18</sup>.

As a result of the sustained effort so made in law schools to inculcate a sense of deeper understanding as regards the diverse complexity of law, students are better prepared to see the problems of professional life in a more holistic manner. And, it gives them an edge over those graduating from other institutions. They are more adept at facing the challenges of professional life in law, both on the bench and the bar, besides excelling in other professional capacities.

However, the point is how far it is sustaining the actual objective of pioneering legal education. Prof. Susan Sturm and Prof. Lani Guinier examining the American legal education observed:

“Law schools breed a culture of competition and conformity. By culture [here][ it is] mean[t] the incentive structures and peer pressure, dominant rituals and unspoken

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<sup>17</sup> *Supra* note 17, para. 5.16

<sup>18</sup> *Ibid.*



habits of thought that construct and then define the interpersonal, institutional and cognitive behaviours and beliefs of members of the educational community.”<sup>19</sup>

Though it is on American legal education they had commented upon, currently it is very much applicable to India. The students once decided to take up law are these days sending to coaching centres that had mushroomed in every nook and corner akin to medical and IIT coaching centres. The effort is more on cracking the CLAT and ‘getting through’ the tag of law school so as to get them preference in any internships or placements.

### **III Traditional Law Universities and its quality of teaching**

Indubitably India inhabits a significant strategic place in South-Asia and has developed so many edifying establishments. The survey report shows that more than 1600 law colleges are in India and all these colleges follow rules as set up by the Bar Council of India. This can be classified as follows:

- The traditional Law Colleges offering LL.B. which includes both Government and Private Law Colleges, which have courses at graduate level and at post graduate level. In private college category there are two streams, viz., aided colleges and unaided colleges.
- Department of law in the university offers LL.B along with their usual postgraduate course in law (LL.M).
- Exclusive Law University called National Law School which offers LL.B.
- Private Universities & Deemed Universities have Law Schools along with other courses.

Of which, the discussion regarding National Law Schools have been done already. Moving on to the teaching methodology and pedagogy of traditional Law Colleges that offers LL.B, it can be seen that it sticks to the syllabus as prescribed by the Bar Council of India<sup>20</sup>. Perusing

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<sup>19</sup> Susan Sturm and Lani Guinier, “The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity” 60 *Vanderbilt Law Review* 515, 520 (2007).

<sup>20</sup> See, “Standards of Legal Education and Recognition of Degrees in Law for admission as advocates” Rules under Section 7 (h) & (i), 24(1) (c) (iii) and (iiia), 49 (1) (af), (ag) and (d) of the Advocates Act 1961(As amended up to 30<sup>th</sup> November 1998).

through these subjects, one can comprehend that most of those are outdated subjects that has no legal relevance today. For instance, the Legal History Part I and Part II that extends to two semesters can actually be wrapped up in one semester. Likewise, the existing outdated Land laws and separate paper by name Indian Judicial Systems- Problems and Solutions as enumerated in the Meerut University syllabus need to be revisited. Same is the case with Pune University syllabus that has Indian Trust Act and Land laws dealing with Maharashtra land laws as compulsory subjects. Ironically the Intellectual Property laws or Insurance laws are provided as optional subjects! Many traditional Universities lack subjects like Banking laws or Cyber Laws or Alternative Dispute Resolution along with Clinical education or taxation as compulsory subjects.

The regular attendance in central or State University is necessary for getting admit cards for exam. Many universities show 70-75% attendance on record, but the reality needs to be checked! The professors don't have a direct command over the students since the internal assessment do lack in those universities. This is not the case with the deemed university or autonomous university having own syllabus and examination structure. There the accountability vests with the professors and students. Students' views on all teachers teaching skills are often taken into account by the academic councils that are set up in most of these sorts of Universities. Further, to evaluate students' performance, there would be compulsory attendance, assignments, moot courts, seminar presentations in addition to each semester exam evaluation that determine the overall grade.

In 1992, the US American Bar Association prepared a report acknowledged as Mac Crate Report of USA which was titled as 'Task Force on Law Schools and the Profession: Narrowing the Gap'. The report highlights eight legal skills, namely: (1) legal research, (2) factual investigation, (3) communication, (4) counselling, (5) negotiation, (6) skills required to hire or to counsel a client about the possibilities of litigation and alternative dispute resolution mechanisms, (7) the talent to identify the administrative skills indispensable to organize and accomplish legal work meritoriously and (8) lastly, the faculty of analyzing the expertise involved in distinguishing and determining moral predicaments. It is expected that students graduating from law schools should be having these qualities to lead a successful professional life as well as to serve the cause of legal profession purposefully. The Report also emphasised the importance of professional values which include (1) the value of

competent representation, analyzing the ideals to which a lawyer should be committed as a member of a profession dedicated to the service of clients, (2) the value of striving to promote justice, fairness and morality; the ideals to which a lawyer should be committed as a member of a profession that bears special responsibilities for the quality of justice, (3) the value of striving to improve the profession; explore the ideals to which a lawyer should be committed as a member of a 'self-governing' profession, (4) the value of professional self-development, analyzing the ideals to which the lawyer should be committed as a member of a 'learned profession'.<sup>21</sup> The National Law Schools and many autonomous Universities are said to have prepared a new curriculum in 2001 based on the Mac Crate and Harvard curriculum, with modifications suited for Indian conditions.<sup>22</sup> The Bar Council of India has not circular adopting the same and hence, the traditional universities follow the same similar pattern as existed from decades!

Dealing with the teaching methodology, the highly recommended ones are problem-solving strategies and Socrates teaching methods that is questioning and logical method of teaching. It is the need of the time to expose students to more of what advocacy involves, other schools offer expanded clinical courses and externships and develop transactional, theory-practice opportunities. Very lately, Harvard has decided to add new courses on policies such as "Legislation and Regulation", "Public International Law," "International Economic Law," that cop up with the current globalization and economic policies<sup>23</sup>.

It is also pertinent to mention here the Ahmadi Committee Report in 1994 that dealt elaborately with the methods of teaching. It referred to the "case method" introduced by Prof. Langdell of Harvard University and to the "problem method" pioneered by Prof. Carl Llewellyn and Judge Jerome Frank and the Notre Dame Law School.<sup>24</sup> In India, Law Department , University of Delhi and Law Faculty, Benaras Hindu University follow the case

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<sup>21</sup> See, Law Commission of India, Report on the Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956 (2002).

<sup>22</sup> *Id.* at para. 5.8

<sup>23</sup> See, <http://hls.harvard.edu/dept/academics/programs-of-study/> (last visited on 26 September, 2019).

<sup>24</sup> Law Commission of India, One Hundred Eighty-fourth report on The Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956 (2002).

method. Now, some of the law schools also follow case method. Langdell believed that law is:<sup>25</sup>

“a form of natural science in that it consisted of a coherent system of rules derived from general principles that could only be discerned through the study of observable phenomena—the judicial opinions in which the principles were manifested.”

Similarly, the moot court is another area that is currently introduced in law syllabus. However, it is not compulsory in all universities. It familiarises students with real world lawyering in terms of court practise, drafting compliances and conveying oral arguments. The influence of mooting is then unswervingly replicated in the judicial system as law students opt to practice law at the Bar.<sup>26</sup> Many traditional universities still don't have any internal mooting competition and it only sends the 'interested students' to participate in state or national moot courts. As regard the reason behind introducing moot court as part of law school education was that there was need to bridge the gap between legal education that was only academic, and the needs of professional practice. It was felt that students should learn what lawyers do, and how they do it. That is, more than classroom learning, they should also learn how to integrate theoretical understanding with practical problems. Moot courts introduce students to the practical aspects of law practice.

In 1958, Shri M.C. Setalvad chaired the fourteenth Law Commission report which concisely dealt with the “particular roles of the Bar Council of India and of the Faculty”, and thereafter “constitutional and legal position was considered again in the Report of three-Judge Committee headed by Justice A.M. Ahmadi in 1994”.<sup>27</sup> The Committee in its report also recommended that “...this rule must be amended in a mandatory form and we should include problem method, moot courts, mock trials and other aspects in this rule and make them compulsory.” The recommendation of the committee had far reaching impact leading to moot courts being an integral part of legal education and culture in the law schools.

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<sup>25</sup> A. Benjamin Spencer, “The Law School Critique in Historical Perspective”, 69 *Wash. & Lee L. Rev.* 1949,1975 (2012)

<sup>26</sup> Shreya Atrey, “I Object Your Honour! The Moot Court Paradigm is Mootable”, 6 *NUJS L.Rev.* 301 (2013)

<sup>27</sup> Law commission in its 184<sup>th</sup> Report acknowledged that “The 14th Report of the Law Commission headed by Sri M.C. Setalvad is one of the best and elaborate reports on Legal education. It is something which every person must read. The UGC Curriculum Reports 1988-90 and 2001 must also be read.” *Id.* at para 5.1

#### IV Miscellaneous Issues

The recent proposal by Indian HRD Minister unveiling the draft proposal by UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in universities and colleges and measures for the maintenance of standards in higher education, 2018) mandating a PhD degree to be essential for teaching positions in Universities from July, 2021 is another stepping stone. Indeed, this is a welcome stride with the ultimate objective of improving quality of education. However, there are certain ambiguities pertaining to legal education and law school administration and those are to be taken care of, while this draft proposal is adopted.

The state of legal edification can be upgraded with the best law teachers who render magnificent classes to the students. Whether the attendance is compulsory or not if the classes are really interesting it is firmly supposed that students will definitely come and attend the classes. So, one of the key areas where the law schools need to be vigilant is the faculty recruitment. The blatant contravention arises in the employment of faculties. There are the titles such as Lecturers, Ad hoc-Lecturer and Research Assistants (without UGC- NET) rampant in these law schools. It is shocked to reveal that the lecturers holding such posts in the institutions conduct classes regularly and the blank formalities are being carried out in a superficial mode. This offensive inclination of recent origin has surely affected the worth of lawyers which are being churned out in thousands each year from these establishments including National Law Schools. It is again scandalous to observe that these newly found designations at National Law Schools are not only being low paid, but they are also not being engaged in the manners for which they are recruited *i.e.* Research.

Further, it is very disgraceful for the leading academia at the helm of recruitment that they are not able to stimulate the students to adhere legal academics and further disparaging its values by not training them at post- graduation level. It is also a current fashion to observe that the Law Universities in conjunction with National Law Schools are engaged in enrolment of those graduates as their faculty – who had a certificate of LL.M. from abroad. This is converse to the authorized and statutory requirements that continue unaffected *i.e.* a mandatory requirement of LL.M. alongside UGC-NET. This has certainly damaged the capable ones who because of financial and economic constraint could not obtain a degree

from foreign law school but stay duly qualified as per Indian standards<sup>28</sup>. The glam of having a faculty member having foreign Master degree has certainly deciphered a pre-conceived discrimination in recruitment and selection process which are also in violation of minimum requirement of UGC & BCI respectively. It is not to get biased towards a group of graduates from India having LL.M. (NET) qualification – but this inherent mind-set and element of biasness should be eliminated. Unlike other subjects, the teachers of law need to develop such capacity among the law students to relate what they have learned from battalion of cases to new fact patterns and it has to be discussed from students' point of view. From theoretical perspective, the rules, maxims and principles are to be explained so as to apply in practical terms. The topics and teaching methods that stimulated one's interest as a student may not prove equally inspiring to your prospective students. One might be a good researcher and one might be a good lawyer but might fail as a teacher. How much ever hard work one puts in, the students would still find a teacher to be boring may be because subject is pure theoretical or teaching methodology is monotonous. The foregoing discussion does not safeguard all the faculty members of law. There are teachers who take the classes very inertly even the interesting subjects can turn out to be boring. Once these professors know that their job is secure, especially of those who are at State and Central University, they don't have to be worried on the teaching outcomes. Additionally, there are those lackadaisical faculty members who communicate in a monotone voice and read paragraphs upon paragraphs on a single PowerPoint slide, and then proceeds to read them all verbatim to "teach" the class, for which any energetic student goes completely zone out. It is a fact that faculty members have to put in lot of hard work and efforts and mind-learning does not happen in a vacuum. It is for this realization, the universities or law schools these days conduct the Faculty Development Programmes. It is the need of the hour to have a realization among the professors that teaching is a special calling, demanding high quality of scholarship and research and a commitment to the cause of legal education. Moreover, from the students' point of view, given the investment that students seek to join any University and their yearning to get high-quality teaching is the expectations would be high. Many students after doing the Common Law Admission Test (CLAT) coaching and joined the five-year integrated Under-Graduate Law Programmes have a fair idea of each

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<sup>28</sup> Mohammad Ashraf" Legal education in India: An overview" 44 *Civil and Military Law Journal* 11 (2008) .

subject in the syllabus. So, their outlook is to acquire anything new, stimulating and interesting from the professor. If they feel that the faculty member is just 'average' who has nothing new to bring in to teach, they would be least bothered to be attentive.

Hence it is a positive step that UGC mandated Academic Performance Indicators (API) points are no longer to be considered. It used to be the benchmark for promotion that assesses the teaching, research and administration skills of a faculty member on the basis of minimum hours of teaching, the publications in journals and the paper presentations done. These yardsticks had no further clarity where many faculty members had number of paid publications (having ISSN/ISBN numbers) or paid presentation certificates to their credit. The proposed regulation mentions about the development of research skills in faculty member however, this will also result in fiasco unless proper guidelines are brought in.

Now the question remains as to the proposed simplified teacher evaluation grading system by the students. In this regard, let me take the recent discontent protests initiated by the students of NUJS and also of CNLU towards Prof Ishwara Bhat's appointment as Vice Chancellor this year. Same happened last year to NLIU Bhopal director Prof SS Singh where he had to resign consequent to the students' boycott and protests. The demands of the students whether legitimate or not, the signal is today's students have that audacity to determine who would be their next VC or Professor or even the staff member. They might make memes; they might make fun of your looks, mannerisms, accent, teaching methodology, your delivery skills, and your incapability to retort to their questions (although many of these questions can be senseless ones). These series of incident raise concerns on the proficiency of teaching as well as administration capabilities of professors. Once these protests are happening due to any ethical or moral reasons, the academic contributions of these professors are tactfully forgotten. Many of these protests are initiated on personal grievances and these are later triggered by provocation from 'others' who have common interests. At this juncture, it is the time to mull over: Would the consumerism ingrained in education system fade away the teaching and research skills of teachers? Pity on those faculty members who get to teach the subjects that are not of their expertise area. 'What is given to you by the management, you are supposed to teach' cannot be prevailed. After this regulation, the teacher should be taught those subjects they have specialization in. The frustrating point is in a class, only 20% of students would only

want to listen, the rest might be sitting for attendance purpose and if the faculty member shows displeasure, the feedback session from students will be negative. Despite this, in each semester a new subject might be allotted to a faculty member on the basis of students' feedback too! The 'customer-student of a university expect the teaching to emphasize on the concrete and practical sessions over the abstract and theoretical perspectives that will prepare them for their chosen professions. Would the professors who are under the gun to improve their teaching by the students and management be ever driven to be a good teacher? Would the "ideal" faculty member imply that he or she needs to just please everyone and take classes at the behest of students' attitude? If that is the case, the result would again be, as envisaged by Setalvad Committee "a plethora of LL.B., half-baked lawyers, who do not know even the elements of law and who are let loose upon society as drones and parasites in different parts of the country resulting cracks in the legal education system of this country".

#### **V Conclusion**

As far as India is concerned, leaving behind the several legal education objectives that have already been described previously, absolutely the legal education in India is directed en route for producing graduates who hold legal aptitude and knowledge of the laws of the country. The issue that arises now is whether the organization of legal education in India has translated this into the implicit legal education objectives? Therefore, meticulously observing the legal system in India, there are five main weaknesses: explicitly, there is no apparent dissimilarity between academic and professional legal education, the credit semester scheme; deficient attention to bear infrastructure; and, the tough involvement by BCI not to update the curriculum in line with the changing legal trends. The legal pedagogy in India need to go an extensive way in developing an institutional culture that promotes and encourages research that has the capacity to foster many positive changes in society at large. After the graduation in law, a student should be equipped to realise his or her interest and accordingly shape them to choose what to pursue next. Hence, if the modification of syllabus does not materialize at the latest, the future opportunities of legal education are miserable and learners with good monetary capacities will travel to other jurisdictions for their education.



As an academician myself, the writer herein feels that today with escalating colleges in every nook and corner, more than enhancing the quality education, the colleges are chasing behind the ranks and accreditations. Everything is done more for a record to get the recognition and not merely for students or teachers' benefit. There is a dire need for Faculty Development Programmes, Research Programmes mandatorily done to make many rural la colleges understand the significance of teaching and research. More than anything it is also important to create sensitivity among the learners by involving them in community learning, taking classes to uneducated crowd, making them realize the benefits of State/National Legal services, the notion of social justice, the necessity of self-determination and autonomy principles. Also, is the importance of creating awareness to law students and academicians about the ethics and morals involved in legal research and writing. If one meticulously reads UGC Promotion of Academic Integrity and Prevention of Plagiarism in Higher Education Institutions) Regulations, 2017, there exists a very strict regulation on every publication that are released in the name of an author. It further states that "The core work carried out by the student, faculty, staff and researcher shall be based on original ideas and shall be covered by Zero Tolerance Policy on Plagiarism" This policy even makes the Professor under whom the researcher has worked liable for the student's unethical practices. This is really a welcoming step to encourage original writing and accountability in thesis/dissertation-guides under whom the learners work. However, the issue is about enforcement mechanism- how far this policy is strictly followed and applied!

The other way to improve legal education is to remove monotonous teaching method. It is believed that an average student can only concentrate for not more than 20 minutes class duration, after that it is necessary to involve if not the learner will lose the track of what has been taught. The reception level needs to be understood by the teachers and accordingly the methodology needs to be worked upon. The documentary screening on the pertaining section or subject, discussion, quiz or PPTs need to be used randomly to avoid repetitive lecture method. Also, it is necessary for Universities to give chances to teachers to evolve and grow academically. For this, more than involving in administrative works – filing, tabulation, invigilation duties- encourage them to come up with Research projects, joint articles, student- teacher combined article and so on. Appropriate rewards and promotions

have to be provided on such academic work and not merely on the administrative capabilities.

The existing law school replica developed in India does not sufficiently set up students to turn into efficient in the prospect generation. It can be seen that the syllabuses exaggerate mediation and mark down many of the significant judicial dimensions of legal practice. Law school has too petite activities to do with what lawyers essentially do and proffer very few capacities that good litigator requires. Further, the law curriculum today stands at juncture where it needs to be an active participant of social transformation that is sweeping the nation at the moment. It has to respond to the changes that taking place not only in India, but abroad also. They are the forerunner of imminent legal streamlining would cater to the needs of the deprived and disadvantaged populace and not just the privileged echelons of the society. The talent pool that the law colleges across the country have, if channelized properly, may change the destiny of administration of justice in India in the future. If the law colleges are provided proper support and guidance, they have the potential to retort every legal challenge that India may have in near future face!