

Transformation Of Legal Education In India Through Innovation.

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Abstract

Benjamin Franklin once quoted that “Change is the only constant in life. One’s ability to adapt to those changes will determine your success in life.”¹ This implies that change is constant and to adapt to these changes thus becomes necessary and inevitable. Here a question arises as to “How can we adapt to such changes?” and the answer to it is Innovation. Innovation simply means to make change in something established, especially by introducing new methods ideas or products.² Innovation is all about how you can use technology to help people become lifelong learners and change makers. However, in education innovation is more than just technology. New challenges are faced not only by the legal education system but also by all the practicing lawyers irrespective of them being big or small to bring about a change in the existing system of work. These challenges can also be overcome by innovation. Considering the current scenario of the worst hit pandemic of Covid 19 where all educational institutions have almost come to a standstill it’s only innovation that has served as the savior and protected education from a huge setback. This article explores the various modes of innovation which has played a significant role in the transformation of India into a Digital India. Accordingly “The Digital India Campaign” programme has been launched to achieve its objective of transforming the entire country into a digitally empowered society and knowledge economy. It is imperative that education will play a very important role in this process of transformation and this will be supported by technology bringing about various improvements in the educational processes and outcomes thus indicating that the relationship between technology and education at all levels are bidirectional. The New Education Policy of 2020 reflects this view and hence has made provisions for the formation of an autonomous body named NETF (National Education Technology Forum) to provide a platform to enhance the learning, evaluation, planning, administration, and other aspects of higher education with the use of technology and free exchange of ideas. According to the Global Innovation Index India has been remarked as the “Innovation Achievers” and also praised for attracting venture capital and funding for new start-ups.³ The continuous efforts of the government to establish a favourable atmosphere for fostering inventions and start-ups seems to be gaining momentum, which could result in India becoming a developed economy in the near future.

Keywords : Innovation, Education, Transformation, Clinical legal education, Lawyering Skills, Law School.

Introduction

Education the basis of development in any society is the most affected stream by the worst hit pandemic of Covid 19 which started around December 2019 and continuing till date. School, colleges, universities are operating virtual till date and there has been a paradigm shift from classroom teaching to online teaching. Though teachers initially found

¹ Available at <https://www.quotetab.com/quote/by-benjamin-franklin/change-is-the-only-constant-in-life-onesability-to-adapt-to-those-changes-will> last seen on 03/04/2021.

² Available at <https://dictionary.cambridge.org/dictionary/english/innovating> last seen on 03/04/2021.

³ Available at https://www.wipo.int/edocs/pubdocs/en/wipo_pub_gii_2020.pdf last seen on 06/04/2021.

it very difficult to adapt to the shift but now most of them are comfortable with the same. As it is rightly said that the necessity is the mother of invention, in the tough times of Covid 19 pandemic various innovations have been tried in the education system in India to keep this stream alive. Right from teaching pattern to the examination system and also the ways of evaluating the students have undergone a drastic change and the students and teachers are trying to accustom themselves to these changes. But these changes have taken place only through innovation. If it wouldn't have been for innovation the Education system not only in India but the entire world would have to face the worst set back ever.

This is what innovation can bring about. Innovation is not necessarily a costly or larger-than-life initiative; on the contrary, the nature of innovation lies in generating maximum value from a limited expenditure of scarce resources. Long term sustainability is thus depended on various types of innovations. A number of unpredictable and complex factors, such as the rapid depletion of the world's natural resources, increasing aspirations, income inequality, and the urgent need to improve the living conditions of millions of poor and disadvantaged communities across the world, have highlighted the importance of rapid, inclusive, and efficient innovation. Not only globally but locally i.e. for large countries like India the only way to overcome social and economic challenges is innovation. It has almost become a panacea for overcoming social and economic challenges worldwide.

Law can be considered to be an expression of the will of any State. It embodies the will of the people and represents the social and political needs of the country. Thus the study of law becomes imperative for every democratic structure. There is a need of good judges and lawyers who can understand and interpret the laws in the right way and offer legal assistance to the people.

Start of the Legal education in India- A Historical trace

In the earlier times the holy books were in the nature of religious statues and were considered to be the source of laws worldwide. The Indian legal system dates back to thousands of years in the ancient Indian civilizations wherein the kings and the rulers were given teachings of the “Dharma” and “Nyaya”. The concept of “Vakils” evolved i.e. legal representatives of people during the Mughal regime in India. During the British rule it was only the British or Irish people were allowed to act as a Counsel. After the passing of “The Advocates Act, 1961” in India post independence, Legal education was offered as a three years graduate degree for which the eligibility criteria was a graduate from any of the fields i.e. Arts , Commerce or Science. The degrees offered then were LL.B (Bachelor of laws) and B.L (Bachelor of law).⁴

Around the year 1985 the Bar Council of India and the Law Commission came up with the novel idea of creating a National Law School at Bangalore which was meant to offer a multi disciplinary and integrated approach to legal education. It is after this that a five year law course was offered with the title of “B.A.LL.B (Honors)”, the eligibility criteria for which was 12th standard passed. Here it becomes imperative to mention the name of the person Prof. N R

Madhav Menon who has been credited for the creation of National Law School. After that till date many National law Schools and various law institutes have been started in our country imparting Legal Education in India. Till the year 2008, the National Law schools and many private institutes offering legal education in India used to offer admissions on the basis of the entrance exams conducted at their level, but after 2008 CLAT examinations were introduced for unifying the system of law entrance in India like in medicine and engineering. This step is welcomed and adopted successfully throughout the country providing an opportunity to the students to be a part of the best legal education institutes. It also offers opportunities to the institutes in ascertaining the best students for them. The University Grant Commission along with the Bar Council of India regulates the institutes offering Legal Education in India.

It is very important to note that the role of law and lawyers cannot be ignored in the olden times as well as in modern times. People from legal background have always played active role in most of the major changes or reformation that took place in the world, like the French Revolution,

American or Russian Revolution, India's fight for freedom. To name a few we have Lenin,

Abraham Lincoln, Thomas Jefferson, great freedom fighters of India Mahatma Gandhi,

Jawaharlal Nehru, Dr.Babashaeb Ambedkar, Lokmanya Bal Gangadhar Tilak and many more. These people have not only bought about a change but designed it and they all have inspired people worldwide. Thus we can see how legal education is important to a society.

⁴ Dr. Justice A.S.Anand, H.L. Sarin Memorial Lecture: Legal Education in India — Past, Present andFuture, (1998) 3 SCC (Jom) 1.

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Legal Education today is not limited to imparting legal knowledge but also training and preparing the students to be policy planners who provide the foundation not only to small firms, enterprises or a company but to the nation at large by being a resourceful citizen. And to catering to the needs of their clients effectively and efficiently.⁵

Innovation in the Legal Education

As a professional course, law necessitates pedagogical innovation and creativity. With a paradigm transformation from classroom to courtroom teaching, conventional to clinical, ICT to interactive, and case studies to situational approaches, there has been constant examination of novel methods of teaching, learning, interpreting and understanding laws. An ideal law school will try out various pedagogies and opt for the best which is now known as "Blended Learning." Blended Learning can be termed as a combination of two best training methods, first being the traditional classroom method and second being the e-learning technique. By using such a method of blended learning it is possible to involve all types of learners such as those who learn best in a formal environment with face-to-face contact with a teacher, and those who learn best with semiautonomous, computer-based instruction.

Blended learning can be beneficial to the learners in many ways as it provides learners with convenience and flexibility; they can set their own pace and learn from anywhere. Social learning is supported by blended learning since it encourages students to communicate with teachers and other students. Through various academic researches it has been found that blended learning helps students to achieve a more thorough understanding of course content.⁶ Education, like any other aspect of human life, has been influenced by technology. The availability of online legal database, MOOC (Massive Open Online Courses), ICT methods of teaching, e-learning, virtual classrooms, and e-justice through video-conferencing are the new applications of internet technology in education and the justice delivery system. Knowledge is accessible globally due to the Internet network, and law, as a profession of ideas, gains the most.

Teaching Lawyering Skills as a part of Legal Education

Only when a skill is combined with the ethical values to which the legal profession aspires, it can be properly defined as "lawyering skill." The aim of this type of instruction is to assist law students and lawyers in participating effectively in the present multifaceted legal profession and also contributing in enhancing the same. Roscoe Pond, an American legal scholar and educator and also the Dean of the University of Nebraska College of Law in 1903 was of the view that,

"Law Colleges could do more than what they were doing in training their students to engage effectively in the legal profession. He urged law schools to serve as catalysts for legal change. He advocated for what he referred to as a sociological approach to law. He emphasized that law students must understand how the legal system functions in society. He stressed values over rules and advocated for rules to be flexible enough to accommodate social, economic, and political change."⁷

Traditional courses must be combined with comprehensive practical skills programme which is based on a sound foundation and a stable understanding of the current legal tradition to provide a quality legal education. For a law student the teaching pedagogy is designed in such a way that their communication skills are developed enabling them to write clearly and speak persuasively. It will improve the analytical abilities, problem-solving skills, and alternative conflict resolution strategies of the students, as well as they will also learn how to assist clients in achieving their objectives by careful preparation. Litigation and preparation tracks are woven into the law school curriculum as part of the practical skills programme.

In addition to the theoretical aspects of law, legal education also includes other aspects such as the following

1. Follow up of Litigation Process: From the initial interview through the trial stage, the students are taught the expertise required to tackle a case. The aim of the educational institute imparting legal education is to graduate each student with the self-assurance needed to be a good litigator and thus includes the learning of interviewing clients, drafting of pleadings, engaging in oral arguments favouring their clients, examination of witnesses, drafting of appeals, petitions and performing other tasks involved in the litigation process.

⁵ Dr. Justice A.S.Anand, H.L. Sarin Memorial Lecture: Legal Education in India — Past, Present and Future, (1998) 3 SCC (Jom) 1

⁶ Available at <https://elmllearning.com/blended-learning-everything-need-know/> last seen on 23/03/2021.

⁷ Available at <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1554&context=nlr> last seen on 03/04/2021.

2. Planning Process: Law does not necessarily mean litigation, as such proper planning is taught to the students so that they can avoid unnecessary litigation and contribute towards a more peaceful settlement of matters at hand. This planning process may include counseling of clients, drafting and analyzing contracts, drafting wills and trust deeds and involving themselves in the mediation process.

3. Practical Skill Facilities: Nowadays institutes offering legal education has the state of the art facilities dedicated to practical skills development of the students. There are mock trial court or Moot Court rooms in such institutes equipped with cameras to enable the students to observe the proceedings at a later stage as the camera records the entire proceedings. All the students are encouraged to participate in moot court proceedings and engage in oral arguments as it is included in their curriculum. This also enables the instructors to judge the professional skills of the students.

4. Opportunities to compete: Law students are given ample opportunities to showcase their professional knowledge and skill through various competitions organised across the country. These opportunities include Moot Courts, Mock Trials, arbitration etc. The notifications of such competitions are usually floated online or through the use of emails and telephones thereby depicting the use of technology in Legal Education.

Application of Blooms Taxonomy in Legal Education

Bloom's Taxonomy is a system for categorising the various goals, objectives and skills that educators set for their students (learning objectives). Benjamin Bloom, an educational psychologist at the University of Chicago, proposed this taxonomy in 1956. There are six levels of learning which have been recently added to this taxonomy which are as follows

1. Remembering: Getting information out of long-term memory, remembering it, and recalling it.
2. Understanding: Interpreting, classifying, summarising, inferring, contrasting, and describing oral, literary, and graphic messages to create sense.
3. Applying: Execution or implementation of the understood knowledge.
4. Analysing: Differentiating, arranging, and attributing material into constituent parts and deciding how the parts relate to one another and to an overall structure or intent.
5. Evaluating: To judge or determine the significance based on criterion and principles through checking.
6. Creating: Putting elements together to form a logical or functional whole; reorganising elements into a new pattern or structure by generating, preparing, or developing.

Bloom's taxonomy, is hierarchical, which means that studying at higher levels is contingent on acquiring prerequisite information and skills at lower levels. It is very important to note that each level is based on the foundation of the previous levels.⁸

In order to face the practical world, the legal education trains its students so that they can apply what they have learned to enable them to be prepared for work (i.e. problem solving). To be very effective and good lawyers the students must also be able to synthesize the law and what they have learned. Finally, one of the most critical skills for law students is assessment or evaluation. The students must test their findings rather than simply accepting the first response. They must be able to predict what the opposing counsel would think or how he would act. Thus, Bloom's Taxonomy aids us in identifying flaws in legal education as well as potential reforms.

Clinical Legal Education

The Parliament of India makes laws governing professional legal education by referring to entries 66, 67, and 78 of List I (Constitution of India), which include two regulatory bodies; The Bar Council of India which is the apex body authorized under Section 7 (1) (h) of the Advocates

Act, 1961 to regulate legal education in India and the University Grants Commission under Section 2 (f) of the University Grants Commission Act, 1956 (UGC Act) as an umbrella organization to govern the functioning of all institutions of higher education. Clinical Legal Education is a concept that refers to learning which aims to help students understand how the law works in real practice. In the earlier day legal education was accomplished by the use of actual or replicated case work. Even though the casebook approach was gaining popularity at the time, it was not that it was not criticized. It was realized that the approach of first-hand experience will really help the law students to be prepared to face reality. If properly assisted clinical legal education aids in gaining knowledge. For

⁸ Available at <https://tips.uark.edu/using-blooms-taxonomy/> last seen on 05/04.2021.

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law students clinical legal education is the best way in which both the theoretical and practical knowledge can be enhanced.⁹

The term 'Clinical Legal Education' can be defined in as follows: "Clinical Legal Education is essentially a multi-disciplined, multipurpose education which can develop the human resources and idealism needed to strengthen the legal system... a lawyer, a product of such education would be able to contribute to national development and social change in a much more constructive manner."(Richard Lewis)¹⁰

"A learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practiced. It almost inevitably means that the student takes on some aspect of a case and conducts this as it would be conducted in the real world."(N. R. Madhava Menon,1998).¹¹¹²

To facilitate practical legal education we have some types of Legal Aid Clinics . Though the goals and objectives of each category of clinic are similar in principle, legal clinics can be divided into three categories based on the actions to be taken:

¹³. Simulation clinic: Simulation here means replication. Negotiation drills, client questioning exercises, transaction exercises, and so on are examples of simulations. Students may benefit from a number of simulations of legal practice. Cases may be played out in their entirety, from taking initial orders to negotiating settlements or appearing in court. These sessions can be run as intensive courses or as weekly slots over the course of the academic year.

2. The In-house real client clinics: The name "real client clinic" comes from the fact that clients in this form of clinic need real solutions to their real problems. A member of the public may be chosen as the client. The clinic is housed in a law school in this model. In the law school, it is accessible, controlled, and monitored. The assistance may be in the form of only advice or both advice and assistance. Clients are interviewed, counseled orally or in writing, and assisted in the planning of their cases in this form of clinic.

3. The out-house clinic: It is a clinic that allows students to engage in legal practice outside of the classroom. These clinics can operate solely on the basis of providing advice. Trade union councils and other non-governmental organisations manage those organisations. Placements in lawyers offices or legal firms may be part of the clinic.¹⁴ Interdisciplinary studies have become increasingly common in legal education in recent years. These diverse fields of inquiry, when taken together, mean that legal educators and lawyers exist in a society where law is an integral part of the human order. There is hardly any part of business or human activity in our diverse, modern society that is free of legal implications. In order to provide qualified services, legal practitioners in this world must not only possess extremely advanced knowledge about the clients they serve and the subject matter they address, but they must also collaborate with professionals from non-legal backgrounds on a regular basis.

Conclusion:

The importance of legal education is at an all-time high right now. Today the role of lawyers is not merely restricted to dispute settlement but the concept has completely changed. It is looked upon as an instrument of social, economic, political change and development of any society. Thus, the importance of legal education necessitates a greater focus on shaping potential lawyers. As a result of the globalization and the establishment of the World Trade Organisation the potential for trade and services have increased manifold, thereby creating a need to produce universal lawyers who are not only conversant with the existing laws of the country but with laws of various legal systems around the globe.

Considering the current trend of constant change in the society, the legal profession also has to adapt to these changes. Therefore the challenge is faced by the legal educators in integrating technology in teaching the theoretical aspects as well as the professional skills. The curriculum of legal education has to be designed in such a way which would be able to meet up the demands of the diversity in population. Law schools should be able to create a distinct identity, develop a business niche, and refuse to merely adopt tradition or the crowd. Under the evolving model of

⁹ Journal of Education and Practice www.iiste.org ISSN 2222-1735 (Paper) ISSN 2222-288X (Online) Vol.4, No.26, 2013 , available on <file:///C:/Users/ACTSYS/Downloads/9866-12075-1-PB.pdf> last seen on 04/04/2021.

¹⁰ Available at <http://www.tjprc.org/publishpapers/--1396435425->

¹¹ <http://www.tjprc.org/publishpapers/--1396435425-.%20%20%20Necessity%20of%20Certain%20Reforms%20-%20full.Pdf> last seen on 05/04/2021.

¹² Available at <http://www.tjprc.org/publishpapers/--1396435425->

¹³ <http://www.tjprc.org/publishpapers/--1396435425-.%20%20%20Necessity%20of%20Certain%20Reforms%20-%20full.Pdf> last seen on 05/04/2021.

¹⁴ Journal of Education and Practice www.iiste.org ISSN 2222-1735 (Paper) ISSN 2222-288X (Online) Vol.4, No.26, 2013 , available on <file:///C:/Users/ACTSYS/Downloads/9866-12075-1-PB.pdf> last seen on 15/04/2021.

education, law schools should consider the possibilities of strategically collaborating with the private sector not just to bring skills training to the table, but also to support the costs of research, development, and education. Law schools must take academic, spiritual, and strategic leadership roles in the legal profession. In order to confront the future, the legal educators have to be vigilant. There is a window of opportunity for legal educators to make decisions about the future of practice and law schools, but if they do not act proactively many options will be closed to them.

The modern era of legal education in India has opened up new opportunities for law students in India, fully revamping the picture and structure of the legal profession in the country, which is no longer seen in the same parochial light as it once was. In addition to laws and judicial pronouncements, potential lawyers are able to adapt to handle all forms of information because of the advancement of communication and information technology. To survive their existence in the twenty-first century, law schools, law educators, law students, and practitioners are and will need to embrace innovation and technology to the fullest.