

Need Of Reform In Pedagogy Of The Legal Education In India

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Abstract

Many changes occur in society, but unfortunately, legal education dates back to the old teaching pattern. The post COVID situation highlighted the drawbacks and flaws in the pedagogy of legal education in India. We faced many difficulties in coping up with technology-based teaching. It is alarming for law colleges to develop and adopt new pedagogy that will equip the budding lawyers to render the service in society. Pedagogy is an essential phenomenon of the teaching and learning process. Young people i.e., students, are prepared by the professors to meet the new challenges for which pedagogy is used. The pedagogies should be reviewed and updated because the mentality of the society is not static, it keeps on changing. Unfortunately, in India, Universities or educational institutions are not keen and enthusiastic about updating the pedagogy. They are resistant but not aware of what kind of loss the students will face in the future. The legal institutes imparting legal education are no exception. In this article, I have tried to analyze the current legal education pedagogy and its flaws. In this article, I have highlighted the views of the Supreme Court, University grant commission, law commission report on the quality of legal education in India. In this article, I have discussed the importance of pedagogies in the career building of the students. In India, law colleges give rigorous education in analytical skills and emphasis on theoretical knowledge by which students learn the language of a lawyer instead can think like a lawyer. Still, education institutes fail to give him the practical knowledge he requires to play lawyer. The outer world is demanding practically trained and skillful lawyers. Unfortunately, maximum colleges do not have such teaching pedagogy to prepare their students to meet the demand. The quality of legal education will improve with good pedagogy, which will incorporate active learning practical-based legal education, group activities, outcome-based evaluation methods, innovative learning and writing tools, etc. The colleges must adopt the change to compete. The law teaching faculties should be given training through workshops and Faculty development programs where they will understand the need of society and the need to review the pedagogy.

Keywords

Legal Education, Pedagogy, reform, teaching-learning methods, practical approach, Law schools

Introduction

"To be able to read and write alone is no education" Lokmanya Tilak. These words of the Lokmanya Tilak are so relevant in the current education system. Our Indian Constitution has incorporated the right to education as a fundamental right to give free and compulsory education to every child in India. We must interpret these constitutional provisions from a different angle by which we will realize that the intention behind this provision is not only primary education but quality education. But unfortunately, our implementers are keen to and behind only to provide primary education and not quality education. We lag in understanding the concept of adapting unique pedagogy to cope with global education standards. This problem is with Higher education as well. The issue of outdated pedagogy is of measure concern and constraint in developing qualitative education in India. This paper will try to analyze the changing trends in teaching methods and the need for reforms in legal education pedagogy in India.

Law as a social institution is designed to regulate human relations-economic, social, political, and cultural. It cannot remain static when the primary conditions of society are rapidly changing; there is a need for changes to be brought

in the legal profession. Several changes have taken place in the community, and other disciplines, the legal profession in India and the legal education date back to the old pattern.¹

The rationale of legal education is of two folds: one view favoring that legal education should be treated as a part of liberal education the other view is it should be treated as professional education, legal education equips to play different roles in society and discharging various jobs, the range and scope of legal education are constantly expanding in the modern democratic society, e.g., administrators, policymakers, lawyers, law teachers, etc. Accordingly, it is realized in modern India that legal education ought to have depth, breadth & width².

Law and development are two sides of the same coin; national social development depends upon law and order. Arthur Von Mehren writes that In India legal profession and legal education have developed post-independence. After the independence Indian legal profession and teaching didn't play the expected role as per the western standard.³

Education is the medium through which knowledge is imparted and converted into skill. University education is the whole process of personal development. Therefore, it is said that the influence of education is not restricted to the classroom, but it impacts the person's life as well. When it comes to legal education, it is criticized by many scholars, academicians, and judges on several occasions. The renowned jurist V.R. Krishna Iyer remarked, "A study of the law becomes imperative if societies with their members, high and low, are to be civilized, stable and humanist. The profound significance of jurisprudence, which is but the science of law, finds its foundation in the excellence of legal education".⁴

The desideratum is that legal education should produce law professionals who can comprehend the social expectations and give effect to them through the legal process.⁵

This article will shed light on the need for change in pedagogy for law courses in India to cope with global standards.

Current legal education pedagogy in India

The most popular form of Government in modern times is Democracy. The backbone of every Democracy is its judicial system which is connected with Legal Education.⁶ Therefore the foundation of any judicial system is solid and appropriate legal education because only lawyers and judges come forward.

Today we are giving legal education to law students that are not effective in preparing the students to face the new practical challenges while practicing law. Academicians need to reframe the teaching methodology and promote the systematic methods we offer and follow in current law schools. In the modern era, the world needs a lawyer or law graduate who is technically sound and expected in practical skills.⁷

When discussing India's current legal education pedagogy, we must understand that there are many definitions and meanings for the term "pedagogy," and it has different connotations across cultures. But we can consider here that pedagogy refers to repeated patterns or sets of teaching and learning practices that shape the interaction between teachers and learners.⁸

On various occasions, the Hon'ble Supreme Court raised their concerns about the need for change in teaching methods in law schools in India.

¹ <http://14.139.60.114:8080/jspui/bitstream>

² http://jspui/bitstream/123456789/12826/1/017_Legal%20Education%2C%20Research

³ Law and legal education in india: some observations Harvard Law Review Vol. 78, No. 6 (Apr., 1965),
<https://www.jstor.org/stable/1338927>

⁴ G. Mohan Gopal (ed), *Professor N.R. Madhava Menon's Reflections on Legal and Judicial Education* (Universal Law Publishing Co. Pvt. Ltd. 2009).

⁵ http://jspui/bitstream/123456789/12826/1/017_Legal%20Education%2C%20Research%20and%20Pedagogy-Ideological%20Perceptions%20%28606-628%29.pdf

⁶ Sushma Gupta, *History of legal education 2* (deep & deep publication (p) ltd., 2006).

⁷ <https://commons.law.famu.edu/cgi/viewcontent.cgi?article=1050&context=faculty-research>

⁸ [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=EDU/WKP\(2018\)8&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=EDU/WKP(2018)8&docLanguage=En) ⁹

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The Hon'ble Supreme Court of India, in the case of *Manu Bhai Vashi v. the State of Maharashtra*,⁹ mentioned that "The legal education should be able to meet the ever-growing demands of the society and should be thoroughly equipped to cater to the complexities of different situations."

It means the apex court also felt that the education or teaching pedagogy that law schools have today is not as per need of the time.

It is pertinent to note here that the composition or structure of professional legal education in India is changing in the past 20 years. In India 1987 Bar Council of India adopted a new concept of integrated double degree Courses to study law by establishing the National Law School of India University at Bangalore to match the traditional 3-year law degree Course. Later on, it was adopted at various state Universities as well as Private Universities in India. Now we have 23 National Law Schools in India. The idea behind establishing the National law Universities in India was to give exclusive practical and skill-oriented teaching pedagogy to the law students. It is clear that setting National Law University was to prepare the students to face the changing trends in legal services in the world, but law and society are not a static concept as they keep on changing as per the time. We need to add up in this is teaching pedagogy because teaching pedagogy should be changing as per the demand from the society. If we fail to adopt the change in pedagogy, our students will not compete in the world. Around the Globe, Law school are changing their teaching methods and giving importance to skill-oriented teaching-learning methods.

If we consider India, the pandemic Covid-19 has shown and highlighted drawbacks in our teaching-learning methods in all educational institutions. We were not ready to switch from our traditional chalk and board method to online platforms. We are still facing the issues of Covid result of which students can not come to educational campus, and we need to rely upon to take lectures on the social platforms like Zoom, Webex, GoogleMeet, teams etc.

It was challenging for the students, especially Indian students, as they were comfortable with the chalk and talk method commonly followed in India. It was complex for them to catch up with the new methods of active teaching-learning. Why did this happen to us? The answer is easy; we never gave a thought to changing the pedagogy. As we are now concerned about India's legal education, let us throw light on the same. In India, we have so many law colleges except the National Law Universities. Most of them are still teaching based on the bare acts & commentaries. Here we need to think that students have ample material to read on social platforms in virtual learning. There is no shortage of the study material, but they lack applying whatever is taught to them in class. So the need is to brief them on what laws say and then give them practical knowledge on how to apply it. Law is a professional course hence needs a more pragmatic approach than theoretical knowledge. When any course is developed, it should be giving information about prerequisites, if any, targeting students, course outcome by which students can understand why they should pursue this Course and what skill they will get after completing the Course. The syllabus should also be balanced. The Course should be a combination of theory and practical. For example, we have core law subject Indian Contract Act. Currently, we are focusing on all the sections from the bare act that should be added while drafting the syllabus. But the need is to blend it with practical approach and application of such sections while practicing law.

We still believe in the old valuation pattern i.e., to set the papers based on the books, and students need to answer them in a stipulated time. The reality is that professors don't want to stretch the brains to develop new evaluation patterns, which will be interesting, and students will apply their minds to conclude.

Till 2019 most of the law schools or colleges followed the old pedagogy of legal education while the other law universities from the world were thinking something out of the box to equip the law students to face the challenges in the legal fields once they become law graduates.

Effective reform 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. A few years back Indian institute of technology, Kharagpur, designed a new Course on law-related technology and computer. Such innovative ideas are expected in the modern era to give something different combination and integrated courses.⁹

Flaws in current legal education pedagogy

We must understand that the two foremost regulating authorities in India regulate legal education. Bar Council of India and University Grant Commission. The Bar Council of India is the sole authority to give sanctions to the legal education centers, i.e., Law colleges, to impart legal education. The UNIVERSITY GRANT COMMISSION regulates the essential aspects such as qualification and appointments of professors, pay scales, and other benefits. Notably, both authorities can control the teaching pedagogy. But BAR COUNCIL OF INDIA is the sole authority

⁹ <http://www.legalservicesindia.com/article/1977/Legal-Education-A-Need-of-Reform.html>

to decide which core law subjects are compulsory and minor. In their regulations, they list major and minor subjects necessary for any law university or College to incorporate in their Course Structure. The problem of defective teaching pedagogy starts from here only. As I mentioned above, Bar Council of India is the sole authority, and University Grant Commission has nothing to do with this bifurcation of subjects. They are concerned about standard and quality education offered at Universities across India. The Bar Council of India gives guidelines on the list of subjects supposed to be incorporated in the various integrated courses like B. A. LL.B, B.B.A LL.B, B.SC. LL.B, B.Com. LL.B and traditional three years LLB course.

The syllabus designing is left on the Universities while offering Courses as per the guidelines of Bar Council of India. The result of which is there is no uniformity in the syllabus designed in all the colleges offering Law courses in India. The teaching-learning methods are different. Exam pattern like internal, external marking scheme is different. Only National law universities are trying to keep the standard and quality in their syllabus, but other universities' syllabus is not that standard.

The other crucial flaw is about teaching faculties at Law colleges. The University Grant Commission has made it mandatory to qualify NET exam to become Assistant Professor at College. This applies to Law colleges as well. Therefore, Law graduate who completes the LL.M and wants to be an Assistant professor needs to qualify the NET exam. When Bar Council of India follows this rule, the authority forgets that Law is a professional course and requires a practical approach and theoretical concepts of law. The one who is having good subject knowledge and has ability to memorize the sections will comfortably pass the exam and can be appointed as Assistant Professor to teach students in law colleges even though he is not having any practical knowledge. Now it's easy to figure out that why we cannot develop a good pedagogy? The answer is the responsibility of syllabus designing and pedagogy of any legal education institution is given to such a person who is theoretically strong still, zero in practical aspects cannot develop effective pedagogy required to meet up today's challenges.¹⁰ The next problem is about the quality of question papers set for student's evaluation. Other than National Law Universities in India, all universities are not ready to adapt to change in the pattern of question paper setting. Hardly some universities have started preparing the question papers which are practical questions where students can apply their minds.

Further, Bar Council of India in his new education Rules, mentioned that moot Court and internship are mandatory. But how many colleges take moots and internships seriously. It is, unfortunately, a mockery of the system. Due to this approach, the Course fails to provide and make students capable of standing and arguing in Court as they are not aware of ethics of practice. No doubt Professional ethics subject is part of their Course but only on paper.

One more issue can be addressed here, which is related to the Book library. How many colleges are following new techniques to update their libraries? How many Universities provide access to E-library to their students? Is there any check and balance for it? The answer is no. In the world of copy and paste, students are submitting assignments, and professors are not taking cognizance of the same as there is no control to improve this condition. Here we forget the essential skill which is necessary for a lawyer i.e. drafting. If students are not reading commentaries, not using E-library, how they can improve their vocabulary to draft excellent legal documents and improve their diction necessary for pleading before the Court.

The solution for all these issues is new, improved pedagogy for legal education. It should include a book review, case comment writing, analysis on current affairs, showing movies based on legal concepts and taking assessments. etc. Unfortunately, our legal education pedagogy is lacking in this.

While discussing all these flaws, we should remember that the professors should also be trained for such an active learning process. Still, many of them are stuck with the traditional method of teaching. All such professors faced problems in the post COVID situation because they are not trained to use the web as a source of education. Bar Council of India should take the initiative to train teachers through Faculty development programmes for active teaching methods.

At present, the world is facing radical changes in information, communication and transportation technologies. Therefore equivalent changes are expected in the legal system as well. Due to economic liberalization and globalization, new challenges are faced by lawyers while rendering legal services. Further, we all know cyber-crimes are growing fast. Other than that, crimes like Cyber Defamation, Data Diddling, Identity Theft, Salami attacks, cyber terrorism *etc.* are a great threat to Cyber Laws. Therefore, quality legal education must be achieved only with good teaching learning methods, which will make law students tackle these issues professionally.¹¹ Dr.

¹⁰ http://dSPACE.vpmthane.org:8080/jspui/bitstream/123456789/1643/1/Challenges_facing_LE.pdf

¹¹ <https://supremoamicus.org/wp-content/uploads/2018/07/A12.pdf>

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N.V Paranjape, in his book, mentioned that "Lawyers constitute a potential force to protect the rights and interests of individuals in society."¹² The law faculties worldwide should prepare the blueprints to include all the new techniques and skills necessary for a lawyer to meet the demand for legal service and do legal practice more effectively and competitively.¹³ In various judgments, the Supreme Court of India expressed their dissatisfaction and change in standard and quality of legal education. Like *Deepak Sibal v Punjab University*¹⁴ *Council of India v Aparna Basu Mallick*¹⁵ *Haniraj L. Chulani v Bar Council of Maharashtra*¹⁶

The need of an hour is to develop and design a multidisciplinary, creative, and versatile legal curriculum. The Supreme Court Justice Nariman, in one event organized at Harvard Law School Center on the Legal Profession and the Law School Admission Council, said that the standard of legal education would be improved only when the legal education curriculum will include cases that have more than one point of view, students should not read-only their subjects but also gain knowledge around them, and that professors must be rated by students. Education should stimulate the mind of students."¹⁷ The legal education pedagogy should be based on metacognitive strategies. It means the ability to regulate one's learning. There are many metacognitive techniques that we follow in the learning process, such as observing one's reading comprehension, evaluating the operation of one's knowledge, etc., but these are the best practices.¹⁸ Some suggestions and recommendations are given by the University Grant Commission¹⁹ and Law Commission report²⁰ for improving the standard and quality of legal education in India. But the directions are not studied and adopted in the true sense.

Conclusion

I agree with this statement because one who fights for the protection of the rights of others must have immense potential. Therefore to create lawyers of that potential and caliber, we must have a strong legal education system. It is the responsibility of all the Universities to improve the standard of education. The quality of education will improve when we will have unique teaching pedagogy. To improve that, we need to do brainstorming with academicians and education experts. These few simple things if we implement in our current courses we will see the difference immediately. Here I would like to give one example. In the final year, students have the subject Civil Procedure Code. The Professors are still happy in teaching the rules, orders, etc as per the manuals or commentaries because the syllabus expects the same. Therefore, if we want to improve the quality of education, we should have the pedagogy that expects students to be taught the calculation of court fee, suit valuation, etc. Then only students will understand it in the true practical sense. It is a fact that many lawyers are still unable to calculate the stamp valuation, court fee, etc. Then it's a failure of the education system as the system has failed to teach practical aspects to the lawyer. I always feel that the law that we read in books is different in court practice. Therefore, our pedagogy is not based on this approach; then, students will face many difficulties in practice. The faculty members must be encouraged for research work. Students must be encouraged to participate in research-oriented activities. No doubt the lecture method is essential. But it should be supplemented by active teaching learning methods such as case study method, role playing, workshops and seminars, Group discussion, project assignments, etc. The other change which we need to do in evaluation pattern. The professors are following the old questions and preparing questions. To what extent we will tolerate this. Universities should do question papers audit periodically. Unfortunately, our education system follows the wrong practices of setting the paper, which checks only the students' memory-based knowledge. There is significantly less scope to apply the mind. Unfortunately, we set the question papers to view that it should be difficult for the students to answer. But we forget the main objective behind the evaluation is that we take exams to check whether he /she has understood the concept. But it's going the other way round. When

¹² Dr. V.N. Paranjape, *Legal Education Research Methodology*, 61 (1st ed., 2011)

¹³ <https://www.ie.edu/law-school/news-events/news/globalisation-technology-key-shapers-legal-education-finds-ibalsgl-research/>

¹⁴ AIR 1989 SC 493

¹⁵ AIR 1334

¹⁶ AIR 1996 SC 1708

¹⁷ <https://www.bloomberquint.com/law-and-policy/justice-nariman-on-how-to-improve-legal-education-in-india>

¹⁸ <https://law.nirmauni.ac.in/redefining-and-reinventing-legal-education-through-transformative-pedagogy/>

¹⁹ <https://www.University Grant Commission .ac.in/oldpdf/pub/report/1.pdf>

²⁰ <https://lawcommissionofindia.nic.in/reports/184threport-parti.pdf>

professors teach core law subjects, they should develop problem-based or situation-based questions in exams to give students a chance to apply their minds and legal concepts taught to them in lectures. The only satisfactory thing is about the recent efforts and performances of some private and National Law Universities. Fortunately, some of these universities are trying to think out of box and get positive results. But this is not the case with other universities.

Here I would like to suggest that when a law is a uniform for all, then the teaching pedagogy needs to be uniform to achieve quality legal education. Bar Council of India is doing the work sincerely, no doubt, but there are limitations to them. There is one solution to this to bring uniformity as to rule and regulation, teaching pedagogy, etc. by constituting the authority at the National level who will monitor all these aspects, including teaching pedagogy because we don't have any authority that will regulate the teaching methods adopted by legal education institutions in India. It is shocking and disheartening to know that lakhs of lawyers are sitting jobless in District courts in India. Maybe the reason is colleges are running the legal institutes as industries where every year thousands of unskilled lawyers are produced. They are not trained to meet up the changing trends in the legal field. The unique pedagogy will be a booster for quality education in India, and we need to think about this on a serious note. But while doing this, we must accept that we need to gear up and get prepared for the world's global challenges. But it is also essential to stick to our values of justice, democracy, the rule of law, equality, etc.