

**IMPROVEMENT OF THE QUALITY OF LEGAL EDUCATION  
BY INTER-LINKING AND INTER-RELATING LAW  
TEACHING AND LAW PRACTICE\***

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The present scenario in India is an era of turmoil, lack of stability and harmony coupled with a never ending chaos and confusion in politics. The recent attack on the various places in Mumbai has thrown up a lot of questions as to competency of the people manning the helm of the various departments. It is the intellectuals of the country who can solve these problems as they are the eyes of the people who are blind to the surrounding circumstances. The people who mostly fit in this class of intellectuals are the lawyers of the country with their knowledge of law and wittiness and cleverness. However, the lacuna in the legal education has deterred the production of the required quality of this class of intellectuals.

This pitiful and deplorable state of affairs was reiterated by the Law Commission way back in 1958 wherein it observed-

The so called teaching imparted at institutions of 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 or catechisms published by enterprising publishers....There are already a plethora of LL.B.'s 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...The law graduate produced by the University has to be a person who has a mastery of legal theory and legal principles.<sup>1</sup>

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1. Fourteenth Report of The Law Commission (16.9.1958) on "Reform of Judicial Administration", Volume 2, Page 455, Universal Law Publishing Co. Pvt. Ltd., Delhi

The above report of the Law Commission resulted in the passing of the Advocates Act, 1961 which, *inter alia*, provided for the setting up of the Bar Council of India as the apex body and the State Bar Councils. Under the Advocates Act, the Bar Council of India is assigned the function of promoting legal education and to lay down the standards of such education in consultation with the Universities imparting such education and the Bar Councils of the States<sup>2</sup>. Furthermore, it has been authorised to frame rules in regard to the standards of legal education to be observed by Universities in India and inspection for this purpose<sup>3</sup>. The Bar Council of India has recently adopted the Rules of Legal Education in order to revamp the whole system of legal education in India<sup>4</sup>. There has been mentioned the meaning of various centres of Legal Education<sup>5</sup> as well as setting up of a Legal Education Committee (LEC)<sup>6</sup>. The standards of professional legal education<sup>7</sup>; inspection, recognition and accreditation<sup>8</sup>; setting up of a Directorate of Legal Education<sup>9</sup> and the recognition of Degree in law of a foreign University has been provided<sup>10</sup>. The Schedule II of the Rules provides for a detail breakup of the academic standards and courses to be studied for the five year and the three year.

There are two views about legal education. The first view is that legal education should be treated as a part of liberal education and the other view considering it as a professional education. It is true that legal education is a professional course and should be segregated from other academic courses. The majority of the students enrol themselves as students to study law with an aspiration to become advocates, with a handful wanting to be judges and a meagre amount to be teachers in law. Keeping this in mind the course content of legal education should be linked and oriented in such a manner so that the students who pass out from the Centres of Legal Education (as called now) do not face much problem when they go for practice. However, the real state of affairs shows a different story which I would like to depict from the experience as seen.

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2. Section 7 (b) of the Advocates Act, 1961

3. Part IV of the Bar Council of India Rules, 1965

4. The Bar Council of India Rules, Part IV was approved and adopted by the Bar Council of India at its meeting held on 14th September 2008 vide resolution No. 110/2008.

5. *Ibid* Section 2 (iv)

6. *Ibid* Section 2 (xvi)

7. *Ibid* Chapter II

8. *Ibid* Chapter III

9. *Ibid* Chapter IV

10. *Ibid* Chapter V

The first day a newly enrolled advocate goes to the court with his senior is a chequered day in his life. The memories of the first day of an advocate remain with him as the first day in school/college/university or the first day when he receives a watch or a motorcycle or a car from his parents. However, the dreams of the advocate is shattered on the first day when he sees the crowd staring at him, waiting to hear what new he has to say and the judge taking him to be a new recruit who is going to waste his valuable time in disposal of the pending cases. The experience of the moot court seldom helps the new advocate and he comes home complaining to his parents never to go to the court. This fear psychosis in a new advocate is a result of the loopholes created in the system of imparting of legal education and its detachment from the real field of practice. During his period of studying law, the student was accustomed to the "chalk and talk" technique of the teacher and the teacher never ventured to make him aware of the real life of an advocate. The student thought that law practice was as easy as the teacher depicted the illustrations in the Bare Act and he was also happy with the marks he received at the end of the examinations.

A new advocate who goes to the court hears for the first time the name of "Civil Rules and Orders" in a civil court and "Criminal Rules and Orders" in a criminal court. He tries to recollect whether he had come across such while studying law but he fails to recall such. The fault is not with him because such Rules and Orders are not taught in law. As a judge, I had seen the value of the "Civil Rules and Orders" and "Criminal Rules and Orders" in every day working of the court. The rules relating to the vakalatnama, working of the various sections of the courts and the procedure regulating the working of the civil and criminal courts have been written down in detail in such Rules and Orders. But, the old as well as the new Rules laid down by the Bar Council of India has not incorporated such in their curriculum resulting in delinking legal education from law practice. As a result, the students who enter the court for the first time are taken unaware at the practice prevalent in the courts. The situation becomes much more dangerous when these students end up in teaching law, especially the procedural subjects. On 26<sup>th</sup> November 2007 while addressing the Supreme Court Bar Association on Law Day celebrations, Justice K.G.Balakrishnan has aptly remarked-

To improve the quality of lawyering, legal education has to be reformed.... Globalisation demands it and people deserve a highly independent and professionally competent Bar at all levels of the system<sup>11</sup>.

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11. Justice K.G.Balakrishnan, Law Day, (2007) 8 SCC (Journal) 10

When a student passes out his LL.B. and takes admission in LL.M. with an aspiration to clear the eligibility criteria of the UGC (University Grants Commission) and become a teacher to build up future advocates, he is a victim of the system of legal education which has not taught him the intricate details of law practice. He has to; however, answer the queries of his students who are ambitious to become advocates. The teacher is at a loss to answer the procedural details asked by his students and the students take him as a teacher who does not know much about law. The students do not realise the fault is not with the teacher but with the system of education that has been thrown upon the teacher, without his consent or choice. It must, however, be remembered that law is not purely a professional skill confined to courts and litigants but it is a social science reflecting the social ethos.

In order to remove this wide gap in law teaching and law practice, the Bar Council of India and the University Grants Commission should come up with a comprehensive curriculum. I would like to mention some steps which can be taken in this regard:

1. Legal education must be given the status of a professional course of study and steps should be taken to regulate its standards. Due importance should be given to the setting up of the content of legal education in order to make the student conversant with the real life of an advocate and develop his analytical skill. The subjects which are more practical oriented like "Civil Rules and Orders" and "Criminal Rules and Orders" should be taught at the LL.B. level also. Furthermore, the students should not only be taught the substantive and procedural laws but also exposed to the problems, social, economic and political of the modern times. More importance should be given on the compulsory clinical courses as detailed in Schedule II of the Bar Council of India Rules (Part IV).<sup>12</sup>
2. The curriculum in LL.M. can also include a term paper relating to the practice and procedure of the courts which will give the students a scope to improve their practical skills of law. Since the student has already passed LL. B., he can be asked to prepare a case and present

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12. Moot Court exercise and Internship is only allotted 100 marks throughout the five year or Three year legal education as follows: Moot Court (30 marks), Observance of trial in two cases (30 marks), Interviewing techniques and Pre-trial preparation, and Internship (30 marks) and Viva Voce (10 marks) in Part II (B) of Schedule II of The Bar Council of India Rules, Part IV which was approved and adopted by the Bar Council of India at its meeting held on 14th September 2008 vide resolution No. 110/2008.

the same in the court while maintaining the dignity and decorum of the court.

3. At the LL.M., every endeavour is made to improve the research skills of a student. Steps should be taken to improve the advocacy skills of the student which will help him to teach better when he is selected as a law teacher.
4. Most of the law teachers have no exposure or very little of it to see the law in actual practice. They talk and supposedly teach law effective only within the boundaries of the law schools but ineffective in the courts. A minimum period of exposure in the court should be made mandatory for selection as a law teacher. This will blend the quality of law practice with law teaching.
5. It is seen that the doctors working in Government hospitals are paid non-practising allowance (NPA) in addition to their salary under the UGC scales. The law teachers are not paid any such allowance. Steps should be taken to pay such allowance to the law teachers teaching a professional course like law. This will encourage the lawyers with the requisite qualifications of a teacher to enter the field of law teaching.
6. Steps should be taken to allow and encourage academic lawyers engaged in teaching to appear in law courts by regulating their practice through the concerned university where they are employed.
7. The provision for elevating law teachers as judges of the High Courts, which was repealed by the Constitution (Forty-fourth Amendment) Act, 1978 should be reconsidered and revived<sup>13</sup>. The appointment as a judge of a Supreme Court should be increased on the basis of Article 124 (3) (c) of the Constitution of India.<sup>14</sup>

In conclusion, it can be said that the teachers engaged in teaching law should get more exposure to some better teaching techniques which combine the practical and theoretical aspects of law. A platform should be developed where there is a frequent interaction of the law teachers with the practicing

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13. The Constitution (Forty-fourth Amendment) Act, 1978 omitted Article 217 (2) (c) of the Constitution of India which was inserted by the Constitution (Forty-second Amendment) Act, 1976. This clause made provision for appointing distinguished jurists as judges of the High Courts.

14. Article 124 (3)(c) of the Constitution of India lays down that a person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and is, in the opinion of the President, a distinguished jurist.

advocates and judges. The traditional universities engaged in teaching law should try to revitalize and restructure the practical training programme and ensure that they are effectively implemented. A blending of the skills of an advocate and researcher is the key to promote success in the field of law teaching which should be looked into by the University Grants Commission in hand with the Bar Council of India.