

[Legal Aid is Fundamental to Giving Everybody in this Country Access to Justice](#)

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ABSTRACT

"CLINICAL LEGAL AID VIS – A – VIS LAW"

"Legal Aid is Fundamental to Giving Everybody in this Country Access to Justice". This paper totally focuses on the various aspects of Clinical Legal Aid and its co-relationship with international law, Indian Constitution, and other aspects as well. If we talk in a layman language, Social Justice is a general perspective of a person that he/ she, as an individual, deserves equal economic, social, political rights and opportunities.

An individual must be aware about his/ her rights, and social justice is the base on which our law strives. The aim of the social workers is to open the doors of access and opportunity to everyone, especially those who are in need. Almost all the law colleges have their Legal Aid Societies, which work at the ground level, by providing free Legal Aid services to the nearby village people. The members of Legal Aid Societies, conduct various outreach programs wherein they cover almost all the nearby villages of their college and try to resolve all the issues as earliest as possible.

In India, Clinical Legal Education has been a significant part of legal education. The concept is fast expanding across the globe also. Clinical Legal Education is necessary to bridge a gap

between theory and practice. Various attempts were made in India, to have a sound and efficient clinical legal education program. But all ended in vain due to the lack of forethought by the authorities. The aim of this article is to know the various types of Clinical legal Education, its necessity in curriculum and current initiatives and practices in Indian Clinical Legal Education. Indian Constitution makers were well known for the use and minimality of various principles of justice. They wanted to search for such a form of justice which could fulfill the expectations of the whole revolution. Pt. Jawahar Lal Nehru put an idea before the Constituent Assembly "First work of this assembly is to make India independent by a new constitution through which starving people will get complete meals and clothes, and each Indian will get the best option that he can make himself."

KEYWORDS: CLINICAL LEGAL EDUCATION; CONSTITUTION; JUDICIARY; RELIGION; SECULARISM; INTERNATIONAL APPROACH

INTRODUCTION

"We can't solve problems by using the same kind of thinking we used when we created them."

In modern societies, law performs a variety of functions. The role of lawyers, in the old days, was only from a dispute settlement perspective. But today the concept was totally changed. It was looked upon as a policy instrument for the social, economic, moral and cultural development of the entire nation. Therefore, the relevance of legal education requires more attention to shape the future lawyers.

It is difficult to comprehend the dimensions of change and the demands of the legal profession in the coming century. The challenges that legal education facing now:-

- Because of the establishment of WTO and of the prospects for trade in service, we need to produce universal lawyers, comfortable with any other legal systems.
- Because of the growth of the communication and information technology, the style of advocacy of future lawyers to be proficient in managing all types of information, apart from statutes and judicial pronouncements.
- To address the issues of minorities and marginalized sections of society, the law syllabus should be expanded accordingly.

Nowadays the relevance of legal education is in its zenith. A lot of opportunities are there to accommodate and place every student of law in different areas of profession. And it is interesting to note that, the sanctity of legal education

History of Clinical Legal Education

During British rule, legal education in India followed the general colonial model of producing clerks, not managers or advocates. Its primary goal was to support the existing financial interests of England, certainly not to reform the local legal profession (Government of India, Calcutta 1930). After independence, legal education was expected to bring the legal system in tune with the social, economic, and political desires of the country. With 500 law schools and 40,000 law students graduating every year, law schools could play a pivotal role in promoting and providing justice, particularly through the field of legal aid.

But, until clinical programs entered the scene, skills training and social justice work were out of the legal education agenda. Legal doctrine dominated law school syllabi, with virtually all instruction offered through classroom courses dominated by traditional lectures in India. This concentration on “the law” pushed consideration of law practice to the background, to the point that any practical training seemed out of place in law school. The idea was that law graduates would learn about being lawyers once they entered practice. At various points, this policy has been implemented through required apprenticeships (Apart from clinical education, recent legal education “reform” in India has consisted mainly of efforts to replace one-way lectures with more effective.). Actual Clinical Legal Education in India emerged only in the 1960s with its roots in both the Legal Aid and Legal Education Reform Movements.

Need for Clinical Legal Education in Institutions of Law

Clinical legal education is a different approach to the learning of law; it encompasses experiential learning, or “learning by doing.” Practical training generates confidence in students as their success is determined by their own efforts rather than external factors. It gives opportunities for the knowledge to be applied, and also calls for reflection and self-examination, so that students will be self-motivated and highly committed to the work.

Further, Clinical Legal Education is based on a practical approach and hence it helps in acquisition of skills which are very much essential to an advocate. The skills may include Research skills, Communication skills, interviewing of clients and witnesses, Counseling, Drafting, Negotiating, and Problem Solving etc skills. A law clinic can help these skills along with developing a rapport between the law school and the society. It can offer advice and assistance to local people and help to reduce isolation. Also, the students can be able to understand the problems of different generations and backgrounds. This experience can add to

their understanding of the position of others in society and can increase their maturity and sense of responsibility.

Legal Aid Programme in India - An experiment in Reforming Legal Education

The first major report on legal aid came in 1973 from the Expert Committee on Legal Aid of the Ministry of Law and Justice, chaired by *Justice V. R. Krishna Iyer*. The Expert Committee was appointed to make recommendations for the creation and implementation of a comprehensive program of legal aid to the weaker sections of Indian society, including persons of limited means and socially and educationally backward classes. The Committee's report advocated creating networks of legal aid groups in various places such as courthouses, bar associations, law schools, community organizations, private and public agencies, and organs of local government. Recommendations ranged from establishing an autonomous national legal aid authority, to compulsory public service as a part of law school curricula, to giving priority to candidates' social sympathies in filling judicial and police posts. The Committee recommended introducing clinical legal education in law schools with a focus on socio-economic poverty. It opined that student exposure to real legal problems would benefit the students, the legal aid scheme, and the legal system as a whole. It also observed that students' encounters with the problems of poverty and exploitation would change their outlook when they become lawyers, and as a result they would not treat clients simply as facts but as living neighbors. On the benefits of involving law schools in legal aid programs, the Committee pointed out that law students would become an inexpensive and enthusiastic resource for providing meaningful legal aid to India's vast population. It recommended using law students to provide legal aid in two stages: first, in preparing a case at the preliminary stages, including interviewing clients and drafting documents; then, by appearing in court in petty cases, including examining witnesses and presenting arguments. Thus, the central idea of involving the law schools was not only to provide practical skills but also to secure adequate legal aid for the needy. (Expert Committee Report).

In 1977, the Juridical Committee was appointed to revise, update, reevaluate, and supplement the report of the Expert Committee, and its report concentrated more on the viability and working conditions of legal aid programs. The Juridical Committee expected law schools to play a pivotal role in providing legal aid and urged them to establish legal aid clinics.

It observed that student participation in legal aid would not only be helpful in acquiring the skills necessary in the legal marketplace, but would also provide an opportunity for the students to develop a humanistic perspective and a social orientation. Students would realize the social role of the law, and their participation in clinical projects would reduce the burden of legal services institutions. For the first time, this report expressed the need to develop clinical law teachers, to introduce subjects such as law and poverty and law and society, and to give academic support to law school clinics.(Juridicare Committee Report) in Kerala is not in an admirable position compared with the situations in other states of India. So, the entire academia is duty bound to produce quality outcomes to rectify this misunderstanding.

Concept of Clinical Legal Education

The Clinical Legal Education can be defined in various ways –

“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.” “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.”

It is a method of “learning through doing”. As we know, this concept is borrowed from medical education, where medical students learn diagnosis and treatment around sick patients in a hospital under the direct supervision and guidance of doctors. The unique aspect of the clinical method is the active participation of the students under faculty guidance and supervision.

In the context of legal education, it refers to any law school course or program in which law students participate in doing what lawyers usually do, including representation of clients under the supervision of lawyers/teachers. It also includes teaching and guiding students to look into issues from diverse points of view in order to understand the legal process in the context of social policies and processes. The formulation of an academically sound and professionally responsible clinical methodology for legal education must begin with an examination of the setting in which legal education takes place. The most important factor in this educational environment is the status and position of the learner. This status of law students is related to their desire to make their own decisions and facing the consequences to a degree much more than other college students.

Moreover, apart from litigation oriented activities, lawyers are involved at the professional level in the social, political and economic life of the country influencing the course of development and in turn

getting influenced by them. Students have to be exposed to the complexity and dynamics of this situation to make their own professional choices, skills and responsibilities in an informed and intelligent manner. The clinical method of law teaching seeks to accommodate each of these factors for maximizing educational opportunities for the student.

For this purpose the application form itself should specify the area of interest of the student, whether he is interested in corporate law, civil/ criminal advocacy, ADR settlement, counseling, teaching, judicial service, social action lawyering or any other innovative field. Then only the students can be trained accordingly with the help of some clinical legal education / finishing school.

Effect of Finishing School

If properly devised and implemented, the clinical method of law teaching gives law students a deeper and more meaningful understanding of law, the legal profession and lawyering process than would be possible if these same subjects were taught with traditional methods in the classroom. Moreover, the subject matter or contents of clinical legal education and the clinical method of law teaching should be separated. But in almost all law departments, there are legal aid clinics, But it is not effective as mentioned earlier. The object of the finishing school is to instill in fresh law graduates the confidence and courage to start a new career and provide all the support for them to kick start their new career path. At the finishing school provide the students with all the possible support and guidance to transform them into an unmatched professional in the field of their choice. A fresh law graduate is always apprehensive about his future; he is unsure about how and where to start and this could result in a lack of confidence and also could put him at a lower platform than others. For example, it is easy to construct a building using bricks, sand and cement, but not that easy to shape the building in a beautiful and desired manner according to the interest of the person constructing it. Some additional efforts and materials are required for shaping it. Likewise a student of law can be shaped with the help of a finishing school, and a suitable person fitted for the profession.

Etiquette and Manners

The finishing school aims to provide those finer points of a social life which is quintessential for every lawyer in the present age, keeping in mind both the Indian and Foreign tradition. The training in finishing school includes; Intensive guidance provided for raising awareness on how to conduct in a social or an official gathering and the rules to be followed in a formal gathering. Improving Communication Skills, Public Speaking, Non verbal Communication etc. Speech and body language are considered as the most important factors that enhance ones personality. Stress should be given on clarity of thought and speech. Non verbal Communication – This is what is called “Body Language”. The way a person presents himself is very important.

Being Self Sufficient in Key Areas Related to Legal Practice

A Lawyer has to be self sufficient. The position is that a fresher lacks experience in drafting a strong case and so, at the finishing school, provide assistance to further drafting capabilities, so that they are at par with the best in the business. Important Areas are:-

- Legal Research
- Legal Writing – Legal Drafting, briefing and argumentation
- Litigation skills – Trial advocacy & Appellate advocacy
- Fact investigation
- Client counseling skills
- Alternate Dispute Resolution
- Law office Management
- Ethical skills and values etc.

Moreover, a **GK Lab**- for the purpose of generating general knowledge in each student through which he can be a responsible citizen and that also will help the student struggling in competitive examinations.

Another preference is a **Language Lab**. The student of law can improve his knowledge in language and efficiency and eloquence in language which is very important to meet the professional requirements today.

Career cell, Public Interest litigation Centre, training in Alternative Dispute Resolution mechanism etc. should be attached to the finishing school. A smart classroom is a necessary requirement because they may get inspired by the visible examples and experience.

The training under these levels should start from third/fourth year onwards. For making it effective, the service of adjunct lawyers, retired experts in the concerned field etc. can be invited

as mentioned in the 184th Law Commission Report, (The Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956). In several law schools in the US, between 20% to 40% of the credit hours are allocated to the adjuncts, that is the practicing lawyers and judges. One of the important recommendations of the Mac Crate Report also relates to the need not only for permanent full time faculty but also to “make appropriate use of skilled and experienced practicing lawyers and Judges in professional skills”, and receive guidance from part-time adjunct teachers drawn from practicing lawyers and retired Judges.

Interdisciplinary Legal Education

Legal education must seek to serve distinct interdisciplinary knowledge domains – law and society, law, science and technology; law, economics, commerce and management. To that extent, certain new law subjects should be introduced in the five year course of LLB in the first and second years.

As Dr. N.R. Madhava Menon (a modern jurist in India) points out, the legal education should be interdisciplinary. Apart from B.A.LL.B and B.B.A.LL.B there should be B.Com LL.B, B.Sc. LL.B and B.C.A.LL.B etc. The purpose is that students should not be forced to study a subject in which they don't have any interest. Through that way, the legal education can be an interesting one. Moreover, for specialization in different fields it is very important. For example, a lawyer specialized in accounting can be a good manager and a lawyer specialized in computer application can be an efficient cyber law expert. Likewise the legal education can be molded effectively.

Problems in Initiating Legal Aid/ Clinical Legal Education

Even the law schools have not given much importance to these types of practical training to their students because of several problems. According to this UNDP study, the key problems in developing clinical legal education in India are that:

- (1) No credit is given to students who undertake these activities, which is a disincentive to students to conduct them and discourages them to follow through on their commitments;
- (2) There is no workload reduction given to faculty who are designated to supervise legal aid cells;
- (3) Communities are not aware that the law schools provide free legal services; and
- (4) Under the Advocates Act, full-time law teachers and students are not allowed to represent clients before courts.

Besides these problems, there are some other problems, which are listed below:

- a) The Integration of the clinic within the law school: There is a danger that the clinic will become an isolated outpost of the law school, and not absorbed within its mainstream activity.
- b) Resources: Extra resources must be allocated to the teaching and running of the clinic. This can be another cause of resentment for traditional academics who are less involved in skills teaching, and it is another reason why the support and involvement in the clinic of the law school is needed. The pressures created by the high caseload may badly affect the morality of both staff and students.
- c) Difficulties in supervision and assessment: Supervising students in the clinic is difficult task¹⁰.
- d) The dangers of public service: The idea of providing free legal advice is attractive but problems can develop if the public service aim takes precedence over that of providing a sound and well-rounded legal education.

Relationship with the local legal profession: Some may fear that a legal clinic offering free legal work will upset the law school's relation with the local legal professionals (Mohammad Ghouse, 1977).

CONCLUSION

For this purpose, a restructuring and reform in legal education from the very beginning onwards, especially from the stage of application and at the clinical level and at the finishing level etc. should be taken care of for the effective legal education to shape the future lawyers. Training must focus on building up the student, skills of analysis, language, drafting and argument etc. It must bear in mind that while most of the students may choose a professional career as a lawyer, some others may choose a judicial career or career as a legal consultant or law officer in government or an academic career.

"The Bar Council of India (BCI), under Section 7 (1) (h) of the Advocates Act, 1961, is empowered to promote legal education and lay down 'standards' of such education in consultation with the Universities imparting such education. The University Grants Commission, under Section 2 (f) of the University Grants Commission Act, 1956 (UGC Act) is also having power to exercise control over the Universities and affiliated colleges for prescribing standards of education. The BCI may prescribe standards of legal education in consultation with the universities.



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