



---

## A CRITIQUE ON THE IMPACT OF VARIABLES ON LEGAL EDUCATION IN INDIA

**Prof. V. Sudesh**

Senior Professor

University Law College & Dept. of Studies in Law,

Bangalore University,

sudee68@bub.ernet.in

### **Abstract**

The paper examines the influence of various factors on the quality and effectiveness of legal education in India. It is widely accepted that the strength of a legal system is closely connected with the standards of its legal education. Traditionally, legal education in India evolved from an unstructured system to a regulated framework after independence. In spite of these advances, significant disparities persist among institutions. The study notes that although some institutions produce professionals for diverse sectors such as judiciary, corporate field and public administration, a significant number of institutions fail to meet international benchmark. The paper highlights on continuing challenges and affirms the urgent need to critically evaluate these influencing variables and implement comprehensive reforms. Such reforms are crucial to improve the overall quality, accessibility, and global competitiveness of legal education in India today.

### **Introduction**

It is now an accepted analogy that the quality and efficiency of a legal system depend upon the standards of legal education within a country. It is also an accepted fact that, the legal profession in India began without any formal system of education or training in ancient India to be highly regulated post- independence. The present scene of legal education has several content writers and directors. A general comment on the quality of legal education in India is that, it has some of the best to the worst institutions imparting legal education, producing lawyers catering to



the needs of the corporate sector, the courts, the executive and the judiciary etc. Several conferences and seminars have highlighted the problems plaguing legal education in India. Jurists, Professors and legal scholars have suggested remedies to reform the system. Notwithstanding the generational reforms introduced from time to time, there seems to be an opinion that legal education generally in India, does not match up to international standards. In this background it becomes imperative to critique on the variables in legal education in India.

## **Variables:**

Legal education in India is reflective of the impact of the working of various variables. These variables are the institutions created by law to regulate the role of the actors involved in shaping legal education. There are several variables playing a decisive role in shaping the legal education in India in terms of its quality and quantity. It is proposed to examine in this article the role of University Grants Commission (UGC), Bar Council of India (BCI), Universities (both public and private) in shaping the legal education to its present status.

### **A) The UGC**

The establishment of UGC came as big boost to regulate higher education in India. By laying down standards for recognition of Universities and colleges, the UGC is playing a proactive role in reforming higher education in general, in India. Grant of funds, recommendation of pay scales for teachers and others in Universities and colleges by the UGC, have created a positive impact on the teaching fraternity. The teachers and research scholars in Universities and colleges imparting legal education have greatly benefitted in improving their teaching standards and research skills. Many private universities imparting legal education are able to attract good teachers by paying UGC recommended pay scales and in some cases more than the recommendations. Though the UGC does not directly regulate legal education especially its LL. B programme, it does have overall power in supervising the universities and colleges academic standards. By granting funds for various research activities by colleges and its teachers the UGC has promoted major and minor research projects among the law colleges/universities. It is hearting to note that many law college teachers in Universities and National law schools are benefitted by the research grants of the UGC and thereby improving the qualitative performance of respective college/universities. Since the UGC lays down the



criteria for direct selection of teacher/professor and guidelines for career advancement, it may be said that, qualitative norms of teachers/professors in legal education meets the standards at least public/private universities and government colleges. The constant directive and guidelines issued by the UGC to the Universities/colleges have by and large established uniforms in academic standards. Law colleges and Law universities have positively benefitted from the UGC.

## **B) BCI**

The Advocates Act, 1961, empowers the BCI under its rules to lay down standards for legal education in particular for the degree of LL.B. As a result of the activities of BCI and suggestions given by various committees in this regard, it has been able to initiate several reforms in basic law education programme. The idea of a 5year LL. B programme was one such successful initiative of the BCI. There is no doubt that 5year LL. B programme in Universities attracted the best of students, many of whom today are usefully contributing to the legal profession either as litigating lawyers or as judges, not only in the trial courts but also in the High Courts. The establishment of National Law School by BCI trust in Bangalore may be considered as the game changer in so far as making legal education more competitive in India. Now, pursuing legal education was not the last choice but is the first preferred choice, attracting even students from the science background at the plus 2 level. The NLSUI model has been replicated by almost all states in India, some states having more than one law school. Further, the setting up of Directorate of Legal Education within the BCI was welcome step to monitor the inspection of law colleges. The conduct of All India Bar Examination is seen as another quality check process of law graduates before they are given the power to file vakalath.

Despite all the good work done by the BCI through its various committees, over the years it has come for sharp criticism by many in the legal education. The criticism ranges from being not competent under the Advocates Act, to its actual functioning. The BCI inspection of law colleges has come in for special criticism for not adopting uniform standards in granting permission or otherwise, to all those seeking establishing law colleges, especially in the private sector. As a result, we find today many law colleges flourishing without basic human resource and infrastructure. The recent order of the BCI on moratorium on the starting new law colleges may be seen as a step in the right direction.



### C) Universities

Public universities and government colleges have by and large played a bigger role in producing large contingent of lawyers, judges and policy makers who have shaped the legal system as it stands today. The universities and their affiliated colleges have a direct role to play in maintaining standards in legal education as mandated by the UGC and the BCI. As a result of private universities starting their own law schools, today we find different kinds of institutions imparting legal education with difference in standards.

Whereas, the colleges/departments of studies in law managed by public universities try to meet the basic standards in imparting legal education, the same cannot be said of the colleges affiliated to these public universities. While the problem of affiliated law colleges and government law colleges situated in rural areas may be understood in not meeting the standards to the full, due to backwardness of the area and financial constraints. Some of them may not be able to pay the teachers adequately due to low fee structure. It is only question of survival for some the private law colleges in rural areas. However, the same cannot be said about private affiliated colleges situated in urban areas, especially in capital cities. Low salaries, lack of adequate infrastructure including library and absenteeism marks the existence of the private affiliated colleges in urban areas. There have been cases where government employees and employees of the private sector have passed out of these colleges and enrolled for practising. This surely impacts negatively the quality of legal education in India. The mushrooming of private law schools though has attracted good student strength and teachers are paid on par with UGC scales. In some cases, the private universities have offered a salary package more than of UGC recommended to attract senior faculty serving or retired from state universities.

A significant aspect of mushrooming of law colleges is that, there are now numerous opportunities for students to participate in moot court competitions, law debates, seminars etc, thereby making the law faculty and law students active participants in legal education.

Over all the above variables have played their role in legal education reflecting the legal system as it stands today.



## Critiques

PadmaShri Prof. N.R. Madhava Menon, the man behind conceptualising National Law school in an article published by Harvard Law School, remarks the following on the status of legal education/profession in India,

*“One might ask about the outcomes resulting from the influence of the above factors and the future direction of legal education in India given the level of economic development and globalization. Never since Independence has legal education received the attention it receives today from society, government and the private corporate sector. This has resulted in better infrastructure, greater private participation and increased investment, though yet inadequate for quality legal education. India today has the largest legal profession in the world... If solo practice has been the dominant pattern in the past, the trend today is more towards partnerships and large firms involving multiple areas of specialization. Though the legal profession has been the monopoly of the male gender in the past, women are now joining legal practice in increasing numbers and are finding their places in the judiciary as well. The steady influx of people from the lower socioeconomic strata to legal careers is changing the composition of the profession, and strengthens democracy and rule of law in the country. Legal practitioners are finding lucrative ways to practice outside courts and litigation, compelling reforms in organization, management and disciplinary control of the profession.” ... “On the negative side, one must mention the paucity of competent teachers even in the best of law schools to guide the growing body of motivated students. There are vacant positions in every law school. Bright law graduates do not join post-graduate studies in Indian law schools nor are they attracted to teaching and research positions in them. Many of them migrate to U.S. and U.K. law schools for LL.M. education and either do not return to India or agree to take up teaching positions in India.”<sup>1</sup>*

---

<sup>1</sup> N.R.Madhava Menon, *The Transformation of Indian legal education, A Blue paper*, Harvard Law School Program on the Legal Profession, 617.496.6232 ☐ [law.harvard.edu/programs/plp](http://law.harvard.edu/programs/plp)



Probably, the above statement represents the factual status of legal education in India. It is admitted fact that none of the law schools of India find a place in the top law schools of the world as per any ranking.

On several occasion, the Supreme Court of India had to look into the role of BCI in particular and the Advocates Act, 1961 in general to issue directions to ensure quality legal education. The issue of pre-enrolment training and conduct of Bar Examination have occupied the minds of the Judges in some of the cases for e.g, in *V.Sudeer Vs. Bar Council of India*<sup>2</sup> & *Bar Council of India vs Bonnie FOI Law College and Ors*<sup>3</sup>.

Whereas, in *V.Sudeer's case* the Supreme Court merely said that the BCI could not have introduced pre-enrolment training as a pre-condition, without the Advocates Act, 1961 being amended by the legislature. Therefore, it may be presumed that training before enrolment as an advocate would be a desirable requirement (As suggested by the Ahmadi Committee Report, 1994).

The problems arising from non-inspection of law colleges by the committee of BCI, led the Supreme Court of India in *Bonnie FOI Law College case* to appoint a 3-member committee to reform legal education that led to the revitalization of Directorate of Legal Education and introduction of All India Bar Examination. It is pertinent to reproduce the observation of the court in this case to understand the seriousness of the issue of reforming legal education. The SC court observed as follows,

“The entire future of the legal profession depends on ultimate product of these Law Colleges. Looking to the gravity and seriousness of the matter, we request the learned Solicitor General and President of the Bar Association and the Chairman, Bar Council of India to look into the matter seriously and submit a report to this Court as expeditiously as possible. They would be at liberty to associate experts or any other person which they deem it appropriate.”

---

<sup>2</sup> 1999 (3) SCC 176

<sup>3</sup> SPECIAL LEAVE PETITION (NO.) 22337 OF 2008



---

## Conclusion

Thanks to the generational reforms in legal education, today India can boast of having world class infrastructure universities in the private sector imparting legal education. Today there is a variety of law schools and colleges both in the public and private sector to study law. Law as a course of study in the present day is the first choice unlike the previous era. As suggested by several experts in legal education, consistent efforts need to be made to bring quality education at the LL.M degree level. It is at the post-graduation level that the future teachers must be identified and trained. After passing the UGC-NET examination, the teachers must be trained in the art of teaching. Teaching with passion must be encouraged. The use of ICT in learning, research and teaching needs to be mandated by the UGC and Universities. A mandatory orientation for law graduates before they decide to enter the courts as lawyers must be mandated in order to ensure that the legal profession is free of absentee lawyers. Governments need to fund their universities and colleges for their infrastructural requirements. Academic interaction between faculty and students among National law schools at least within state needs to be encouraged to share the academic and infrastructure environment. In the context of reform process the variables who have to undergo the transformation are, students, teachers, law practitioners, researchers at the doctoral level.

Therefore, the performance of the various variables needs to be coordinated to have a holistic approach to take forward the reform process.

\*\*\*\*\*