

Legal Education Vision of Visionaries

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Abstract

The Indian society of twenty-first century is tremendously changing in many respects affecting the life and well being of every human being. But there is dearth of positive transformation in every change. The Indian education system in general and the legal education in particular are lacking that charm and glory, whose foundation stone had been laid by the great visionaries of Indian education. Law has been treated as an instrument of social engineering and lawyers as social engineers (Pound, 1911), but now it seems that law and legal profession has lost its vision, mission and passion (Pillai, 2008). Therefore, the paper attempts to focus on vision of Indian visionaries on higher education in general and legal education in particular—nourished and cherished by some of India's most brilliant minds. Its culture, its spiritual and philosophical approach shall undoubtedly inoculate and inculcate those aspirations which are there for the welfare of whole world with an emphasis to reflect upon the ethical dimension so that the quality of education per se can be improved and legal education may play a vital role in social transformation.

INTRODUCTION

The background of the paper draws attention towards some critical areas of great concern like violence, terror, armed conflict, poverty, child abuse, sexual harassment, etc. In today's era we all are witnessing certain harsh realities. Now, technocrats are committing cyber offences,

syndicates are committing organised crimes, bureaucrats are committing political crimes, capitalists are committing economic crimes and the so called highly qualified technocrats are committing almost all the crimes, which could be defined in specific term. It can be confidently said that all such white collar criminals are

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highly educated and might be having legal education too.

The present paper is an attempt to discern the dissatisfaction with legal education, which is being felt as a chronic grievance (Pillai, 2008).

PRESUMPTIONS OF LEGAL EDUCATION

There are certain irrevocable presumptions of legal education viz; law is presumed to be an instrument of social engineering and lawyers are social engineers, ignorance of law is no excuse, law is governed with the principle of utilitarianism, in a democratic society legal education can play a detrimental role to lead a meaningful life. The core thematic perception of law should be disseminated to public at large. (Pound, 1911)

Generally law is perceived as a last resort or option to the society suffering from number of problems or conflicts. Law graduates are expected to assume such perceptions, attitudes, skills and sense of responsibilities which are motivated or dedicated to the cause of humanity. Legal knowledge should be disseminated for promotion of democracy and constitutional government. There are some concurrent curricular goals and roles for legal education (Menon, 1998). Formally the legal education is under the control of two authorities. First, University Grant Commission (UGC) that is the funding authority and second, Bar Council of India, the controlling authority. The present paper has deliberately excluded to analyse the

impact of such authorities on legal education because the institutes of law have no say regarding the control mechanisms. While getting themselves governed by the authorities what else could be thought for the betterment of legal education has been the major theme to discuss. Since laws and legal education play a significantly important role beyond the purview of legal profession and beneath the purview of social re-engineering. Significance of legal education is urgently realised and highly needed in almost every discipline and sphere of life.

GOALS OF HIGHER EDUCATION

There are mainly three goals of higher education i.e., the acquisition, conservation and transmission of knowledge and all the three goals are shared by law schools imparting legal education where it could mean knowledge about the law and its role in society. Indian legal education has to compete worldwide in an era of globalisation but it must contain values highlighted by the great education visionaries.

MAHATMA GANDHI ON LAW AND LEGAL EDUCATION AND LEGAL PROFESSION

As we all know that Mahatma Gandhi sailed for England on September 4, 1888, to study law and become a barrister. Gandhi practiced as a lawyer for over 20 years before he gave up the practice of the profession in order to devote all his time and energy

to public service. His experience as a lawyer and his message to others in the similar profession is worth mentioning for them to get inspired and do public service to some extent. He was of the opinion that society would be much cleaner and healthier if people resorted less to the law courts. He observed that justice in British courts is an expensive luxury. It is often 'the longest purse that wins'. Therefore, he advocated that a legal practice ought not to be a speculative business. The best legal talent must be available to the poorest at reasonable rates.

He on the basis of his experience asked the lawyers not to make the profession subservient to the interests of their purse, but to use their profession for the service of their country. He was of the opinion that the duty of a lawyer is always to place the case before the judges, and to help them to arrive at the truth, never to prove the guilty as innocent (Gandhi, 1923). For him a true lawyer is one who places truth and service in the first place and the emoluments of the profession in the next place only (Atri, 2007). He observed that facts mean truth, and once we adhere to truth; the law comes to our aid naturally (Maharajan, 2010). He recalled late Mr Pincutt's advice—facts are three-fourths of law (Gandhi, 1959).

Gandhi used to say that the institution of law is not only an external institution to settle the dispute but also an instrument to change the heart of litigants too.

The modern legal system has done little to develop and mobilise man's moral sensibilities and capacities for reflection and introspection (Pandey, 2010).

Gandhi demanded equal pay for all the services. He said that if India is to live an exemplary life of independence, which will be the envy of the world, all the *bhangis* (sweepers), doctors, lawyers, teachers, merchants and others would get the same wages for an honest day's work. Indian society may never reach the goal, but it is the duty of every Indian to set his sail towards that goal and no other, if India is to be a happy land because there is no other royal road to true civilisation or happiness. He believed in division of labour but insisted on equality of wages (Pandey, 2010). If it is followed and observed then there will be no case of Durkheimian anomie (Emile Durkhiem, a French Sociologist, propounded the theory of Anomie, a condition of norm lessness in organic society) arising due to acute division of labour (Doshi and Jain, 1996). Gandhi said that there is a higher court than the courts of justice and that is the court of conscience. It supersedes all other courts (Gandhi, 1999).

VISION OF MADAN MOHAN MALVIYA ON EDUCATION

Pt. Madan Mohan Malviya envisioned education as a National Mission not profession. A duty oriented mission, rooted in all reforms. This is the true

spirit of legal education too. He was an exceptional figure of the history of mankind who received ever increasing sobriquets. At present, the education system in general and legal education in particular is suffering from Anomie i.e., a condition of normalness, a condition of transition. Since, he Ji was not only an educationist but also a lawyer too. Therefore, his observations on education are aptly suitable and applicable on legal education. Pt. Madan Mohan Malviya strived for those social problems, which are intended to be eliminated through various laws (Chawla, 2006). He has been an experimenting thinker in the field of education and founder of first national education policy.

Malviya's ideas and vision on education made him, realise not only its importance but also its necessity for removing backwardness from India. India became independent in the year 1947, but the independence was political independence only. It was neither intellectual nor cultural. Malviya envisioned cultural and intellectual independence through the establishment of Banaras Hindu University. He believed that the objectives of education are for complete liberation (*Sa Vidya ya Vimuktaye*). Only an independent man can get others liberated (*Muktsh Chyanyan Vimochyet.*) Malviya was an inspiration in his own. He envisioned producing more and more karmayogies dedicated to the cause of nation. For students, he used to mention that the University is like a training

school where they learn discipline, regularity and punctuality and also learn praying and chanting the Lord's name. Their lives are shaped, as enshrined in *Srimad Bhagavad Gita*, as a person "who is regulated in diet and recreation, disciplined in the performance of work" (Swarupananda, 2018).

Malviya began a well consolidated and condensed movement of 'nation building' through 'educational reorientation'. He made education the prime means of national awakening. His vision was to blend the best of Indian education called from the ancient centres of learning with the best tradition of Modern Universities of the West, though he added emphasis on value studies, moral education, yoga and meditation too. There are five core essences, primarily assimilated in the installation of BHU—universality, holism, integration, spirituality and indignity must be seen in today's legal education. His mission behind establishment of this great university was to educate 'pupils' to become 'righteous people'. He strived throughout his life for the cluster of virtues like self involvement, sensitivity, sanity, subservience, servitude, sacrifice, sermonisation, societal commitment, synergy, sustainability and salvation, etc.

The preceding elaboration is merely a synoptic proposition for understanding his pathway model of an ideal educational management and administration. Time has come

to re-engage ourselves to be the true followers of Pt. Madan Mohan Malviya's speculations and realise the motto of BHU.

DR SARVAPALLI RADHA KRISHNAN ON EDUCATION

Dr Sarvapalli Radha Krishnan was a great thinker and visionary especially in the field of education. He was of the opinion that our colleges of law do not hold a place of high esteem either at home or abroad, nor has law become an area of profound scholarship and enlightened research. 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 (Wilkins, Khanna and Trubek, 2017). Therefore, the responsibility of improving the quality of the polity is greater in legal fraternity in particular and in higher education system in general. Banaras Hindu University was called as living embodiment of inspiration of new India by Dr Radhakrishnan, the successive Vice Chancellor of BHU after Pt. Madan Mohan Malviya. While celebrating his 100th birth anniversary, a life size statue was unveiled at the BHU gate and Dr S. Radhakrishnan expressed that all those who study in this university and all those who enter in this university will look at the statue and will remember his fascination for patriotism, his insistence on purity, his adherence to the supreme for the

rational values of life-fearlessness, love and detachment. This great teacher had quoted that Pt. Madan Mohan Malviya realised that our country has suffered a lot on account of technical backwardness, lack of public spirit and inattention to our own great culture. To remove those defects he established this great university.

JAWAHARLAL NEHRU ON EDUCATION

Pt. Jawaharlal Nehru also represents the legacy of law, therefore, his views on education in general and legal education in particular becomes relevant from the point of view of introspection needed in the field of legal education. Jawaharlal Nehru was a passionate advocate of education for India's children and youth, believing it essential for India's future progress. His views on education are partly influenced by Karl Marx and partly by Gandhi's ideas. Nehru accepted that education was the most powerful means to social change. He believed that freedom from ignorance is as essential as freedom from hunger. Nehru, in his address to Allahabad University students, said, "A university stands for humanism, for tolerance, for reason, for the adventure of ideas and for the search for truth" (Chakraborty, 2015). He was of the opinion that the legal education should strengthen the socialist and democratic principles. It should bring gender neutrality and help in developing scientific temperament.

So we can say that it has been a shared belief of every great visionary that education must fight injustice, intolerance and superstition.

Law graduates should take oaths to lead a purposeful and successful life. Two dimensional reforms in legal education can be proposed. First, at the institutional level containing minimum standard mechanism and secondly at the individual level containing maximum exposure mechanism along with a proposal for dissemination of legal education from the very beginning of school education depending upon the Intelligence Quotient level of the students.

Here, it could be submitted that one should always remember that change is the law of nature and law is the regulator of social change. It is sine-qua-non for the development of rule of law and for a sustainable democratic order. Therefore, quality legal education is to be imparted to the people, taking into consideration the changing needs of the society and in the changing era of globalisation.

NATIONAL KNOWLEDGE COMMISSION, 2005

Realising the urgent need of reform in higher education, the Prime Minister of India established the National Knowledge Commission (N.K.C) in 2005 to recommend and undertake reforms in order to make India a knowledge based economy and society.

The N.K.C. once again recognised legal education, as an important constituent of professional education. The Commission opined that the vision of legal education is to provide justice oriented education. The Commission emphasised over the aims of legal education and expressed that legal education must not only aim at preparing legal professionals but also to equip them to meet the new challenges and dimension of internationalisation, where the nature and organisation of law and legal practice are undergoing a paradigm shift. The need for original and path breaking legal research to create new legal knowledge and ideas that will help to meet these challenges in a manner responsive to the needs of the country and ideals and goals of our Constitution was also realised. The Commission has proposed 10 key reforms in Legal Education which include

1. Regulatory reform by creating a new standing Committee for legal education.
2. Prioritise quality and develop a Rating System.
3. Curriculum development
4. Examination system
5. Measures to attract and retain talented faculty
6. Developing research tradition in law schools and universities
7. Centers for Advanced Legal Studies and Research
8. Financing of legal education

9. Dimensions of internationalisation and
10. Technology for dissemination of legal knowledge.

On the point of curriculum development C. Rajkumar (Kumar, 2013) said that in the era of globalisation. One should pay attention on four important factors to improve the standard of legal education. These are global curriculum, global faculty global degrees and global interactions, with a brief note that he has to think globally but act locally. Apart from these reformative steps it has also been suggested that legal education must be socially engaged. This means that legal education programmes must compulsorily expose students to the problems of poverty, social exclusion, social change and environmental degradation through clinical legal education, legal aid programmes and through seminars and debates that sensitise and expose students to the issue of social justice. Further, the commission suggests that, in some countries, law schools are tying up or partnering with foreign law schools. For this purpose, an alliance of law schools has to be brought into being so that the domestic as well as the foreign law schools may mutually benefit and in such alliance, the cost is to be shared. The syllabi can be changed to have a common core of transnational curricula.

CONCLUSION AND SUGGESTIONS

In the concluding observation it is submitted that the Indian vision on education could become a catalyst to assure the quality and reach of legal education. Here it can also be submitted that legal education must be imparted as humanistic education so that it can be ensured that there is a degree of emotional identification with 'social pain' for the downtrodden, the poor and the ignorant. It requires first hand indigenous thinking, research and teaching on the Indian problems.

Therefore, it has been suggested in the paper that to ensure quality legal education two-fold attempts should be made as to set the objective of legal education and reconstruction of the structure of legal education.

So as far as the objectives are concerned, it could be classified in two parts i.e., Doctrinal objective and Empirical objective, and the Indian vision should be to achieve the empirical goals, and only then the desired purpose can be achieved. The structural change is concerned to assure the reach of legal education and it may be submitted that the syllabi of not only higher education but also elementary and secondary stage education should be changed in a manner which includes fundamentals of law. The entire process of socialisation should be changed in a way to sensitise the past, present and future generations, to bring equality in true sense, to abolish gender bias, to inculcate a sense of real joy

of one's own earnings to eliminate the problem of dowry, etc. What I mean to convey here is simply one thing that attempt should be made towards social legalisation vis-a-vis legal socialisation. On the basis of the suggestions given by N.K.C., it may be submitted that in addition to the prescriptions from regulatory bodies, universities and also the educational institutions should be given the required amount of freedom in the selection of teaching methodologies and syllabus suitable to the local needs and stuff of students.

At last it is submitted that the seven sins identified by Gandhi must be eschewed for the sake of enhancing the quality of legal education. The sins are wealth without work, pleasure, without conscience, knowledge without character, commerce without morality, science without humanity, religion without sacrifice and politics without principles and seven principles of standards in public life like selflessness, integrity, objectivity, accountability, openness honesty and leadership must be promoted to assure justice-oriented legal education. Such values should be preferred by every legal professional.

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