

“VALUE BASED LEGAL EDUCATION: THRESHOLD OF SOCIAL JUSTICE”

Dr. Manpreet Kaur Rajpal
HOD & Associate Professor,
Indore Institute Of Law

ABSTRACT

Man is inwardly a soul and a conscious power of the Divine and that the evolution of this real man within is the right object of education and indeed of all human life."

Sri Aurobindo

The gurushishya parampara has existed ever since vedic era making education an integral part of human development. It is education which ultimately results in shaping or transforming the whole society into a human civilization. Spiritually, it is believed that the life on the earth is regulated by the laws of the Lord or the Divinity. It is 'rule of law', that draws the essential difference between human society and animal world. It is the legal education that plays a pompous role in promoting social justice. Education or awareness of laws, characterize the lawyers as 'Social engineers'. Imparting of education has always been considered as one to the most noble profession. Legal education which is part of general education cannot be viewed in isolation. Today, legal education derives its impetus from the economic, social and political set up of the Society. My Paper throws light on the significance of Value based Legal Education. It elucidates that a well administered and socially relevant legal education is a sine qua non for a proper dispensation of justice. Giving legal education a human face would create cultured law abiding citizens who are able to serve as Legal professionals practising Social lawyering resulting in SOCIAL JUSTICE.

Keywords: Legal Education, Social Justice, Social Lawyer, Value based Education

INTRODUCTION

Law governs the world and its people and is the ultimate instrument of change. It has the potential to reform society and guarantees justice to its people. Principally, it is the basic element and facilitator of justice.¹ It serves as an important instrument for achieving socio-economic development in society. The primary function of law is to maintain peace and order in society while protecting individual rights and freedom and is, therefore, a basic element of society. The welfare of the society depends on the democratic nature of the country, which is further

dependent on the law. The law gives structure to the nation. It regulates protocol at various places of employment, ensuring that all employees are treated equally and ensures our protection, whether person or property, from any kind of injury or damages. Law is a part of every aspect of our daily lives and law regulates every action of ours.

LEGAL EDUCATION AND GENESIS

Education dispensed with the motto of creating awareness about Law can be termed as Legal Education.² There are different views regarding the origin of the legal system in India. The existence of legal education in India commenced from the dawn of the Aryan civilization. Legal education in India was initially a product of the concept of Dharma in the Vedic period. The Vedas are considered to be the original sources of law. The kings were considered as the highest Court of Appeals. The kings used to appoint several officials such as a ‘Vakil’ for maintaining peace, law and order in the kingdom. He was also advised by a Sabha which executed both advisory and executive functions. The Parishad was an expert committee comprising of ministers or officials, (generally Brahmans) who were authorities on the law and advised the King accordingly. In modern India, legal education came into existence in 1885.

LEGAL EDUCATION & IT’S ROLE IN THE CHANGING SOCIETY

The role of legal education in a democratic society cannot be over emphasized. Knowledge of law increases one’s understanding about public affairs. Concept of ‘Dharma’ in Vedic period also includes dispensation of justice by King who acquired specific legal knowledge. There was a time in the human evolution when law was a part of ethics and religion, of morals and values, of philosophy and consciousness. Ancient civilization particularly that of India, conceived a legal order based on the compendious Sanskrit expression “Dharma”.

The role of ethics and philosophy in explaining social problems and giving directions for social action is not adequately appreciated today. However, in making and interpreting law, no society can afford to ignore Ethics. One can say that law is an applied ethics. No civilized society can be structured without developing its moral fibred and consciousness through either law, religion, education or other instruments of social control.

A study of history reveals that in modern times shows that it is intellectuals alone who can give leadership to the nations. We can find that it was the lawyers who gave leadership to most nations. For example, during the great American Revolution of 1776, most of the American leaders were lawyers e.g. Thomas Jefferson, John Adams, James Madison etc. In the great French Revolution of 1789, about two-third of the members of the French National Assembly were lawyers, e.g. Robespierre, Danton etc. In the American Civil War of 1861-65, the American President who led the nation to victory over slavery was a lawyer-Abraham Lincoln. In the Russian Revolution of 1917, the leader of Russia was Lenin who was a lawyer. In our own

independence Struggle, most of the leaders during that period were lawyers e.g. Mahatma Gandhi, Motilal Nehru, Jawaharlal Nehru, Sardar Patel, CR Dass, Dr. Rajendra Prasad, Rajaji etc. The lawyers who gave leadership to the nations and not doctors or engineers or teachers or other professionals because of the reason those lawyers are intimately connected to the Society. Doctors deals with medical problems, engineers deals with technical problems, teachers deals with academic matters etc, but it is lawyers who deals with the entire society. Therefore, the relation between legal education and social justice is apparent.

INTERFACE : LEGAL EDUCATION AND SOCIAL JUSTICE

Change is a natural and continuous process. However, a change may not always be in the right direction; there may be changes that are undesirable and negative. The way law and state are organized says that both are supplementary and complementary to each other. The law attempts to control the process of change to give it a desirable direction. LAW holds numerous possibilities for advancing a social justice agenda in both professional education and practice. Legal institutions and the state are at the core of all social discipline. In theory the sovereign power, the ultimate, legal authority in a policy can legislate on any matter and can exercise control over any change process within the state.

Legal education focuses on developing good lawyers who are educated in human values and human rights, besides the law itself. After all, law functions within a society and not in a vacuum and a society are often value-based which makes cold hard logic difficult to apply in all situations. According to the changes in development and the cultural milieu, new laws are framed. The government lays down new policies and laws for certain issues like Gender quality, Women Empowerment, Equal wage for equal work etc, in sync with the forever-evolving consciousness of the society.

The Core function of law is to dispense Justice, which results in peace, and order in society. Law is meant for the welfare of society. Law for e.g. marriage, divorce, succession, governs every aspect of human beings life, property etc. And if this function of law has to be performed righteously we need to develop lawyers those who are good human beings, which could be done through imparting VALUE BASED LEGAL EDUCATION.³

Here, I emphasize the necessity of value-based education of future lawyers and Judges. In today's scenario, it is must to examine the issues and opportunities of the value of justice education. We need to understand that to ensure the rule of law and social sustainability, law cannot be taught separately from the education of justice and other values. In training future lawyers and Judges, not only the value of justice should be theoretically explored in the ethical and legal context, but also the attitudes and daily practices of the lawyers and Judges, which can lead to the implementation of justice, should be trained. For example, in a clinical legal

education program, debate among staff and students about whether to take on a particular case, or type of case, may lead to considerations of the ethical dimensions of denial of representation.⁴ It may also lead to discussion about the role of lawyers in society, and the nature of lawyer decision making and the possible influence of race, class, gender, and ability on that decision making.⁵

CURRENT STATUS OF LEGAL EDUCATION IN INDIA

After Independence, the situation changed completely. In 1950, we adopted a democratic form of government of which rule of law became the foundational doctrine. The Law Commission of India has taken preferable steps to widen the outreach of legal education, even to the remotest corners of our nation. Law colleges are given considerable importance and the criteria are fixed for the admission procedure.

But the stark contradiction is that with the march of time and progress of society the quality of legal education is degraded. Legal education is now totally devoid of ethics and values and this is the reason that there is mushroom growth of cases in the world. For fulfilling the selfish ends lawyers has converted litigation into profit earning business. Malpractices are often heard in Judiciary. It's time that the competent authorities may come forward and revise the legal education system. They need to ensure that such legal professionals shall be produced who understand their role in dispensing justice and abide the professional ethics.

SUGGESTION & CONCLUSION

Legal education is an investment which if wisely made will produce most beneficial results for the nation and accelerate the pace of development. Of late the role of a lawyer in a common law system is more than a skilled legal mechanic, he acts as a harmonizer and a reconciler. The law is the strength of our society and an essential medium of revolution. It is the only profession which deals with the society as a whole and its problems. Doctors deals with medical problems, engineers deals with technical problems, teachers deals with academic matters etc., but it is lawyers who deal with the entire society and its problems.

The legal education granted at the law schools should be aligned to the conventional and contemporary needs of the legal profession. It must provide opportunities for the development of social consciousness and self awareness by students, and to examine and develop ethical and social values in relation to personal and professional responsibility; and in particular, to instill in the students a sense of social responsibility in the practice of law and the need for examination of social structures with a view to contributing to such changes as may ensure social justice. The Bar Council of India (BCI) is responsible for maintaining the standard and curriculum of legal education across law schools in India. The aim of law schools should be to identify the skills that define a lawyer and train them in such a manner that would satisfy the requirements of the legal fraternity and benefit the society.

END NOTES

1. The term “justice” is utilized in this paper in the Rawlsian sense, referring to fairness and equality in process and outcome in society’s distribution of goods, services, benefits, and punishments. *See generally* JOHN RAWLS’ THEORY OF SOCIAL JUSTICE (H. Gene Blocker & Elizabeth H. Smith eds., 1980).
2. AMERICAN BAR ASSOCIATION, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992). This ABA Report, widely known as the MacCrate Report, states: As a member of a profession that bears “special responsibilit[ies] for the quality of justice,” a lawyer should be committed to the values of: *Promoting Justice, Fairness, and Morality in One’s Own Daily Practice*, including:
 - (a) To the extent required or permitted by the ethical rules of the profession, acting in conformance with considerations of justice, fairness, and morality when making decisions or acting on behalf of a client;
 - (b) To the extent required or permitted by the ethical rules of the profession, counseling clients to take considerations of justice, fairness, and morality into account when the client makes decisions or engages in conduct that may have an adverse effect on other individuals or on society;
 - (c) Treating other people (including clients, other attorneys, and support personnel) with dignity and respect; *Contributing to the Profession’s Fulfillment of its Responsibilities to Ensure that Adequate Legal Services Are Provided to Those Who Cannot Afford to Pay for Them; Contributing to the Profession’s Fulfillment of its Responsibilities to Enhance the Capacity of Law and Legal Institutions to Do Justice.*
Id. at 213 (internal citations and section numbers excluded) (italics and brackets in original).
3. In the United States, this history is well documented in numerous writings. *See, e.g.,* Steven Hartwell, *Moral Development, Ethical Conduct and Clinical Education*, 35 N.Y.L. SCH. L. REV. 131 (1990); Robert D. Dinerstein, *Clinical Scholarship and the Justice Mission*, 40 CLEV. ST. L. REV. 469 (1992); Fren Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37 (1995); Minna J. Kotkin, *The Law School Clinic: A Training Ground for Public Interest Lawyers*, in EDUCATING FOR JUSTICE: SOCIAL VALUES AND LEGAL EDUCATION 129 (Jeremy Cooper & Louise G. Trubek eds., 1997). The Canadian context is explored in a number of articles published in Volume 35 of the *Osgoode Hall Law Journal*, in celebration of the twentyfifth

anniversary of Parkdale Community Legal Services. In particular, see Janet Mosher, *Legal Education: Nemesis or Ally of Social Movements?*, 35 OSGOODE HALL L.J. 613 (1997).

4. The Law Society of Upper Canada’s Rules of Professional Conduct require that lawyers “make legal services available” and exercise the right to decline a particular representation only when the probable result “would be to make it difficult for a person to obtain legal advice or representation.” RULES OF PROF’L CONDUCT R. 3.01 cmt. (2000) [hereinafter LSUC RULES], *available at* <http://www.lsuc.on.ca/services/contents/rule3.jsp>. It is unquestionable that clients who are declined service by a legal clinic would find it “difficult” to obtain other service—it is probably “impossible” in most cases.
5. Legal Assistance of Windsor, Mandate—Clinical Law Program (1977) (on file with the Washington University Journal of Law & Policy)