



Impact of globalization on Indian legal education system: An analytical study

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Abstract

Development always comes up with some reformation that creates an epitomic shift in existing situation be it cultural, social, political or educational development. Globalization has raised so many challenges to developing countries like India but on the other hand the bright side of coin shows that it has produced many opportunities in every sector and one amongst them is legal education.

Many reforms have been made after independence in Indian legal education system but still a lot needs to be done to compete with international legal education. There is a dire need to revamp the legal education system of India in the light of globalization. The major challenges to be met out are related with teaching process, infrastructure of legal institutions, developments of practical skills to deal with various situations arising out of globalization. Indian legal education system requires some reformations with the quality of legal studies which can create spectacular lawyers to the society at global level. The reformations in Indian legal system should be such as to cope up with the growing demands of people and to handle the complexities of different issues because lawyers are considered to be the backbone of the society and they work as an engineer to build a better platform to provide solutions to the disputes among people. The Bar Council of India has proposed to amend the Advocates Act 1961. If implemented, the set of proposals shall surely help to renovate the legal profession in the country at par with Globalization. This process can introduce a drastic change in the entire thread of the Indian legal education system.

Keywords: globalization, legal education, reformation

Introduction

“You never change things by fighting the existing reality. To change something, build a new model that makes the existing model obsolete.”

R. Buckminster Fuller

The legal education in India is on the verge of dynamic shift of its long going set method due to globalisation and this dynamic shift is popularly known as transformation phase of Indian legal education. The law commission in its 184th report have discussed the issues of higher education as “revolutionary changes which have come into legal education by reason of developments in information, communication, transport, technology, intellectual property rights corporate law, cyber law, human rights, alternative dispute resolution, international business, comparative taxation laws, space laws, environmental laws etc. the very nature of law, legal institutions and law practice are in midst of a paradigm shift.”

Globalisation basically means reducing the barriers among the borders for the easy exchange of goods and services which include legal social service as well into its periphery. This phenomenon clearly shows that globalisation is the way through which developed countries can exchange their skills and knowledge and can even enter into the jurisdiction of developing countries for improving their global career growth.

Global legal education does not mean only to meet the international standard of education but in toto it aims to create trained minds who not even can practice in a number of jurisdictions but can also deal with the international global issues. Though the global developments have definitely encouraged the new opportunities in Indian legal

education system but it has emerged with the major challenges to the existing Indian legal education system, its curriculum and training programs and such challenges have created the dire need of reformation. The law is always dynamic in nature it can never be static. Like the needs of the society change with the time similarly changed needs require different rules and regulations with reformation in existing pattern. According to justice A.M Ahmadi “we have waited long enough to repair the cracks in the legal education system of this country and it is high time that we rise from our chair and start the repair work in right earnest.” Many businesses are growing borderless through collaboration, mergers, privatisation and this border free exchange activities demand the legal professionals who understand the subtlety of legal matters globally and are well versed with the technological and sociological developments going on. The globalisation can help in creation of Indian legal minds from an ordinary legal advisor to an active business advisor cum negotiator as well as policy regulator in various global legal issues arising out of the need of time.

As per the David E Van Zandt Indian legal education system was originally envisaged with the objective of producing lawyers for courts^[1]. Now the time has changed the objective of the legal study due to enlargement of scope of this profession. Globalisation has thrown up global objectives to be attained as the national international trade practices require innovative opinion, law strategies and advices which can be provided only when one has a comparative study of laws of different nations. To enlighten

¹ Global strategies for legal education: david e van zandt (36 u. tol. l. rev. 213)

the students with such multi-dimensional knowledge becomes the ultimate co-relative responsibility of universities and law teachers or entire legal society. Mere establishment of law universities and institutions will not help our legal globalisation, a reformative approach is necessary to reach at the international standard of legal education.

Scope of Study

“Be you ever so high; the law is above all”

Globalization has emerged as a dimension changing element and has thrown up many new challenges to the countries like India and their societies, culture and education system. Globalization is an add to the challenges faced by the legal education system in India and has provoked the thought process that whether the present legal education system needs reformation or status quo should be maintained.

This paper seeks to address the existing legal education system in India, the effectiveness of curriculum, training programs and reforms needed to keep pace with the era of globalization along with suggestions to improve the standard of legal education.

Challenges to Indian legal education system due to Globalisation

▪ Insufficient infrastructure

To create a strong base well-built infrastructure plays a vital role. In comparison to international universities law schools of India needs to be structured in such a way that a good training can be imparted to students and the resources can be made available to faculty as well as students to develop innovative analytical skills. Facilities like access of e-resources, library, e-labs, legal aid cells, legal language programmes and moot court rooms need to be upgraded. According to norms of BCI these are the essential requirements to run a five-year integrated law program. The above-mentioned requirements need heavy amount of money to spent on and this is why many legal institutions in India are not able to fulfil the basic requirement of infra and specialised law faculty. It creates a big challenge to compete with global legal practitioners and lawyers as they are able to groom themselves under the umbrella of learned law experts and well facilitated infrastructure which ultimately can help to create multi-faceted lawyers.

▪ Curriculum of legal education in India

In our Indian Constitution article 246 talks about 3 lists; central list, state list and concurrent list which prescribes the subjects on which centre, state or both has power to make laws. Entry number 66, 67, 78 of the central list prescribes the power to make law regarding professional legal education and therefore parliament has made two bodies to regulate this profession, first is Bar council of India and second is University grant commission. It was held by apex court that BCI is the highest body which regulates the standards for legal education [2].

All the issues relating to professional ethics of advocates and practice, admission and enrolment are entertained by BCI with the cooperation of State bar council [3].

If we go back to the era of 70s, the legal education at that

period was not qualitative. BCI tried hard to bring reforms in curriculum of legal studies by imposing strict regulations and rules but neither the professional quality improved nor the competitive ability of Indian legal education could raise their standard to stand in international market.

But finally in 1986 BCI took out a solution to deal with the problem of outdated study pattern and curriculum of legal education and decided to establish National law schools to bring reforms and this is how NLSIU came into existence and at present we have more than 18 national law schools at different part of country. But mere establishment of universities is also a half done task as the changes made were not sufficient to meet the challenges of globalised world. Globalisation demanded the curriculum by which students can learn the importance of comparative study, a study which can prepare the law learners to enter into the global market and to grab the opportunities produced by globalisation and to learn the laws of different nations.

▪ Foreign direct investment in education sector

Globalisation has changed the whole society, polity, and professionalism and has brought the era of transformation. Legal education has been changed dramatically in the last 30 years due to globalisation of trade and business. FDI in education sector is allowed at 100% rate by automatic route. Foreign investment is also made in India in legal education sector which has been proved to be a standard raising element as well as challenge giving element. To keep pace with the globalisation, developing countries like India is more concerned towards establishment of global curriculum and standardised legal education for the qualitative legal education. Undoubtedly, FDI has created one more threat to Indian legal professionals and raised a situation of cut throat competition. The call for the time is up gradation of Indian legal education system. Hence law institutions are not only focusing on teaching and research in Indian laws but also in international laws. Training programs are not limited to Indian law only. Law students of India are participating in national-international moot courts, seminars, conferences etc. The law faculties are also directed to widen up their knowledge by comparative study. To produce global legal minds is the tough challenge by globalisation to Indian legal education system.

▪ Continuous legal education and research-based approach to study law

As per Prof. Madhav Menon, Indian legal faculty lacks in practice of continuous legal education. CLE is a significant component in industry for professional development, better delivery of legal services and is also a measure of the accountability of the profession [4]. Any college can impart the knowledge and teach the students but legal profession is something which wholly depends upon the practice undergoing in the society. Observation and active participation of law learners is somewhere lacked in our Indian legal education system, this is another challenge to us to be in the race of globalisation. Today, even all can see the reality that theoretical knowledge can make you climb only few steps but to reach at the top one needs to have research analytical skills. A good research can help to improve teaching skills of law teachers and also can make the students to understand the current scenario by comparing

² U.P. VS. State of U.P (1973)

³ Sec.7 Advocates Act 1961

⁴ Menon (2012)

the historical era of respective law. If we look at the faculty profile of world's top law schools, we can easily find that there is a great emphasis on research and publication among academics. (Kumar, 2007) but in India it is still not at par with other global law schools. The need of the time for Indian legal education system is clinical teaching and it should become an integral part of legal education in India.

▪ **Global programs and international experience**

Indian law schools need to consider innovation when it comes to the degree programmes offered by them. It will be useful to look at the experience of the United States and others in examining whether Indian law schools should consider offering the Juris Doctor (J.D.) programme ^[5].

▪ **WTO agreement and Globalization**

The World Trade Organization had come into effect from 1st January, 1995 with support of 85 founding member countries including India. India signed the agreement as one of the founder members. The General Agreement on Trade in Services (GATS) of WTO agreement consists of six parts, xxix Articles and 8 Annexure. GATS impose number of general obligations on signatory countries. All signatory countries are bound to abide by the rules of the WTO. GATS require nations to accord "most favoured nation" status. As per this agreement a member country must provide both market access and "national treatment" to other member countries. As a consequence, we cannot prevent the entry of foreign lawyers into India. If we do so that will amount to an infringement of the provisions of GATS and WTO. Globalization has brought a tough competition in educational service sectors. We are facing tough competition not only from within but also from outside the country. Internationalization and Globalization of the legal profession and the probable entry of foreign lawyers into India in the near future, possess a serious threat to the legal professionals in India. We have to compete with the knowledge of foreign lawyers. Globalization of the legal profession is likely to introduce a sea- change in the entire fabric of law teaching and legal profession in India. The profession of law, today to a large extent, requires lawyers to represent clients not only within but also outside national frontiers. After the establishment of WTO and India gets actively involved in trade liberalization, including trade in legal services (under GATS), there is no escape from allowing equal treatment to law persons from other jurisdictions. As a result of the unprecedented changes induced by technology and globalization, all professions including legal profession are forced to re- think their method of management and delivery of services ^[6]. In case of Bar council of India vs. Bonnie FOI Law College & others ^[7].

A 3-member committee on reforms of legal education was constituted which has discussed various challenges in legal education. The committee has submitted its report to Bar council of India with the following major issues-

1. Expertise & ability of BCI to address the demand of changing legal education in India & reform the legal

education system as per contemporary requirements in sync with information technology & biological and scientific developments.

2. Lack of funding in area as important as legal education which is keeping the infrastructural, adequate payment to faculties & technical requirements of legal education to back foot.
3. Loopholes in inspection and recognition of law colleges by BCI.
4. Separate accreditation system for legal institutions.

Our legal education system is facing challenges to be in the race of global arena but we are still on our way to change the landscape and grab the benefits by reformation of existing situation of Indian legal education. In 1958, when law commission voiced its concern at the deterioration in legal education, there were hardly 43 institutions in the country preparing about twenty thousand students for law examination. One notices a mushroom growth of law colleges in the sixties after enactment of the Advocates Act. This phenomenon continues unabated till date. The magnitude of mushrooming law colleges can be gauged from the fact that up till the early nineties, there were four law colleges in Bhopal whereas there are twenty-two law colleges. Same is true about U.P. and Rajasthan in this region. These colleges work as money spinners and has put legal education at the back seat. Admission to these law schools are easy as the eligibility for admission is the minimum marks prescribed for the qualifying graduation examination. These sub-standard law schools have neither adequate buildings nor the qualified faculty in the required strength nor any library. Most of these institutions have part time teachers. A student turns out a law graduate from such schools while sitting at home and without visiting the law school. As of today, about 101 universities and about 500 law colleges are churning out two lakh law graduates every year. The first step to check the rot in the legal education was to introduce the five-year law course after the plus two levels throughout the country. National law schools of India University, Bangalore is running exclusively a five-year law course from the time it was set up in the year 1988 and along with it several other law schools have established in various states of India. Like other professional courses in engineering, medicine, commerce, architecture, etc. a student now decides his career in law at the turning point of plus two levels. Introduction of a uniform five-year law course would go a long way in improving the standard of legal education in the country. Still there remain some loopholes within the system which actually become the hurdle to stand in this global education era ^[8].

Steps taken to meet the global opportunity/challenges by Indian legal education system

According to Dyutimoy Mukherjee, "With the advent of multinationals in India as anywhere else, the task of lawyers would be highly technical and an imperative need would arise to have competent lawyers who would be trained in the right culture of Legal Education. This makes a sound case for introducing reforms in Legal Education.

The legal education system should run along with the global needs like improved infrastructure consist of various facilities discussed above i.e. revised curriculum, research

⁵ <http://www.jgls.org/global-legal-education.pdf>

⁶ Pradip Kumar Das, "Curriculum of Legal Education To Meet Challenges Of globalization".

<http://www.legalserviceindia.com/article/1321-Legal-Education-To-Meet-Challenges-Of-Globalisation.html>:

⁷ Order dated June29, 2009 and October 6, 2009.

⁸ <http://www.legalindia.com/legal-education-and-its-challenges>

based study, national international training programs etc. so that our legal education system can face the global challenges. Specialised study of a particular field of law can produce more cream in the form of legal brains but such study requires learned law faculty. This reformatory era of legal education demands committed and dedicated law teachers who can create innovative, skilful and hardworking legal minds be it in the form of lawyers, judges or jurists. The focus of the authority should significantly be on reformation of curriculum so that it can justify the present need of legal profession.

To achieve the heights and to cater this problem of insufficient facilitated institutions, national law school of India, Bangalore has established a continuous legal education chair for law students with the support of International Bar association, the Ford foundation and Menon Institute of Legal Advocacy to train the students as well as teachers under the guidance of Hon'ble Prof. Menon for professional development. This is a great initiative for elevation of the standard of legal profession in India.

The role of national law schools have been so vital to change the set pattern of legal studies and make it more comparative like international legal education system. These schools have started emphasising upon research programs to understand a particular issue and bring out with a unique solution. Even in *Manu Bhai vs. State of Maharashtra* Supreme court held that legal education should be able to meet the ever growing demands of the society and should be thoroughly equipped to cater the complexities of different situations^[9].

Supreme Court of India in *Mahipal Singh Rana vs. State of Uttar Pradesh*, wherein the Court had noted an urgent need to review the provisions of the Advocates Act dealing with regulatory mechanism for the legal profession. A three Judge Bench comprising Justice Anil R. Dave, Justice Kurian Joseph and Justice Adarsh Kumar Goyal had also requested the Law commission and Government of India to take appropriate steps in this regard^[10]. Major proposals are as follows.

Common law admission test

The proposal intends to statutorily provide the BCI with the power to conduct a Common Entrance Test for admission in the institutions imparting Legal Education in the country^[11].

Law firms and foreign lawyers

The proposed amendment defines Law Firms to include partnerships, limited liability partnerships (LLPs), private or public limited companies and any other partnerships which are not statutorily registered but are formed, nevertheless, for practicing law. The definition of the term 'Advocate' would also be amended to include a law firm and a foreign lawyer registered by the Bar Council of India under the Act. This proposal hence secures law firms and foreign lawyers with the right to practice before Courts and Tribunals in India, unlike the current law which only allows individual Advocates to do so. The BCI would regulate Law firms, individual Advocates and foreign lawyers through rules of professional conduct, as formulated separately for all three

categories. Law firms would be enrolled in a roll of law firms which would be separate from the roll of individual advocates. The recognition and registration of foreign lawyers for the purpose of law practice in India would be done on the principle of reciprocity. The proposed amendment empowers the BCI to formulate rules for periodical verification of antecedents, conduct, place of practice of Advocates and to make a data based web-portal of all the advocates. It would further be authorized to make rules for barring non-practicing advocates, and to bar them from voting in the elections to the State Bar Councils and to the Bar Associations^[12].

Enrolment disqualification

Under the proposed regime, an Advocate suspended from the rolls would not be re-enrolled if he or she is disqualified due to his or her conviction for an offence of moral turpitude or has been removed in any way from a public office for corruption or for an offence of moral turpitude. In order to practice before the Supreme Court of India, fresh entrants would have to satisfy the following requirements^[13]:

1. Complete a three-month training course from a state bar council-affiliated training centre.
2. Pass the All India Bar Examination (AIBE).
3. Practice, for at least two years, before a district or a Sessions Judge and other subordinate courts of original jurisdiction.
4. Practice, for at least three years, before a high court and other appellate forums.

Checking strikes and boycotts

Making provision for controlling and checking the strikes, boycotts or abstentions from Courts by the Advocates, the amendments propose to include a six-year disqualification from contesting elections of any Bar Association or Bar Council^[14].

Directorate of legal education and legal education committee

The proposed amendment endows the BCI with the responsibility to establish a Directorate of Legal Education for continuing legal education for advocates in the country. For legal literacy the Bar is given a larger role in matters of rendering legal services and in spreading legal literacy, in order to share the burden with the Judiciary. The BCI would be given rule making powers for floating schemes and in making appropriate rules for rendering legal services to the poor and needy and also for spreading legal literacy for which part of the appropriate funds can be made available to it^[15].

The governing authorities like U.G.C. and BCI, state govt. universities has been playing an effective role to upgrade the standard of legal education in India. Latest techniques should be discovered by these authorities to provide great research tools for legal knowledge. The study should be

⁹ AIR 1989 Bom 296

¹⁰ <http://www.livelaw.in/bci-drafts-proposal-amendments-advocates-act-wants-regulate-foreign-law-firms-conduct-clat-etc/>

¹¹ <http://www.livelaw.in/bci-drafts-proposal-amendments-advocates-act-wants-regulate-foreign-law-firms-conduct-clat-etc/>

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¹⁴ <http://www.livelaw.in/bci-drafts-proposal-amendments-advocates-act-wants-regulate-foreign-law-firms-conduct-clat-etc/>

¹⁵ <http://www.livelaw.in/bci-drafts-proposal-amendments-advocates-act-wants-regulate-foreign-law-firms-conduct-clat-etc/>

scientific and experimental to solve a particular issue. One needs to understand that a liberated study pattern helps more than regulated one. No overnight solution can improve the practice going from long time in our legal education system but as rightly said “even Rome was not built in a day” efforts are needed to establish something impregnable but simultaneously adherence to narrow approach or old system of teaching and learning shall work like a slow poison in the days ahead. Small-small reforms can bring the change in the entire thread of education system as per the necessity of globalisation.

Conclusion

Every society has some legal demands which can be fulfilled only by respective laws necessary for human conduct regulation. Legal education should be imparted by taking into consideration the needs of the society and time. The challenges created through the globalisation can be met out only when our present legal education system choose multi-purposive and multi-disciplinary approach. A great lawyer does not know the law only but he also knows the politics, science, technology, societal needs behind that law. The need of the time from this profession is not only to produce lawyers but the lawyers who know the practical and global aspects of law through a comparative study. If we won't understand the meaning of global legal development which is going on at high pace in some place and leaving its impact on other place then our legal brains will be lagged long behind from the race and they will be replaced by the western minds who will certainly take over their profession and rule in global market. They will take our existing potential at low cost just like we were being ruled in colonial era.

Even national knowledge commission-2005 in its report on reform of the legal education system in India mentioned that we need-

1. The development of contemporary curriculum which is integrated with other.
2. The syllabus and curriculum must be based on multi-disciplinary body of social science and scientific knowledge
3. Curriculum development should include modernizing clinic courses.
4. With the advent of globalisation, it has become increasingly important to include international and comparative law perspectives.

We need to produce law professionals who are dedicated, hardworking, committed to work, having good listening and analytical skills along with well versed with the need of global legal environment and are adaptive to reformations. Hence, taking a wider view and multi-dimensional approach is the way by which we can fix our feet in global legal world. I simply want to buzz an alarm to legal society in this globalisation trend.

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