



Clinical legal education and legal awareness in India

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Abstract

The idea of involving law schools in legal aid can be seen as the first attempt to introduce some type of clinical legal education framework in India. Clinical Legal Education has gained a strong foothold in legal education nationally. Clinical Legal Education and Legal Awareness can empower people to demand justice. Knowledge of law is power and helps self-reliance, India, the largest democracy in the world, has an emergent need for generating awareness of rights as knowledge so that people live in consonance with the true dictates of democracy and rule of law. Legal education / literacy are commonly understood as knowing the primary levels in law. When citizens, particularly marginalized or underprivileged groups, know what the law has to offer them, they can recognize and challenge injustices much more forcefully. Legal awareness is a process of self and social empowerment that moves women and children's and farmers and others not only to activate the rights they do have, but to redefine and reshape that inadequate ones as expressed in law and in practice. Legal Awareness of higher quality of life, universalization of aspirations, and enhanced senses of social justice, all together helped to articulate the feeling of inalienable human rights. Now people are thinking about the issues in terms of human rights perspectives. In this article I explore the connection between the continuing commitment of Clinical Legal Education and Legal Awareness to the profession of legal services to those unable to otherwise afford them and the nations of professionalism traditionally adopted by the organized legal profession. The paper attempts to through some light on importance of Clinical Legal Education and Legal Awareness of Law Colleges in society.

Keywords: 1) legal aid 2) need of clinical legal education 3) legal aid and law colleges and law schools 4) role of law students

Introduction

Education or awareness of laws, characterize the lawyers as 'Social engineers'. "...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.

India is one of the strongest democratic countries in the world. Some people who are exception to the mass, mould the law according to the own interests. Unstructured and disordered society is one of the factors for creating complexity in the system. Participation of every member of unstructured society in the system make it privileged. This is the peculiarity our system. Responsibility of deficiency in system lies in the hands of common man though powerful and influential class of society holds the reins of society. Common man can never be suppressed for illegitimate reasons because they are the one for whom system and law has been enacted. The fundamental rights and the directive principles are the humanistic principles by which the citizens of India may lead a comparable life. The purpose of the constitution is to provide politics, social and economic justice to the people of India. The part -III of constitution of India provides true justice to the people to maintain equilibrium among the citizens. The clinical professor's role is to prepare students and be available during courtroom appearances, if needed, the emphasis is on teaching every professional identity through reflection on each clinical experience. Law schools clinical legal education programs are another important way universities can engage with poor and marginalized groups ^[1]. In clinics, students act as advocates for a person or client who is typically from a different and often disenfranchised community, Some times that representation may involve more than one individual or, in other cases, a community. During the course of their clinical experiences law students often meet with their client in order to form a professional relationship.

Importance of Legal Aid /Awareness in Democratic Society like India

Law and social welfare are the twin objectives of any developing country as India. Unless there is due emphasis on and implementation of social welfare schemes to help the underdog in a democratic society, the Rule of Law cannot be a reality. In a democratic country like India, it is necessary to create legal awareness about the rights and duties among the people for the development of the nation, in monarchy system; the will of the sovereign is law. It does not depend upon the will of people. The most popular form of Government in the modern times is

Democracy. John Dewey argued that education is essential to democratic state. He emphasized the need for the democratic citizens to understand and consider the welfare of the society as a whole ^[2]. The goal of education should include the promotion of humane, people sensitive democracy dedicated to promoting opportunities of life, liberty and pursuit of happiness to each and every person ^[3]. Legal Awareness of higher quality of life, universalization of aspirations, and enhanced senses of social justice, all together helped to articulate the feeling of inalienable human rights. Now people are thinking about the issues in terms of human rights perspectives.

The Back bone of every democracy is its judicial system which connected with legal education ^[4]. Thus, the bedrock of any judicial system is the imparting of right kind of legal education as it is from the law colleges/schools that the lawyers and the judges emerge. The greatness and the hour of the legal relations lie in the code of its ethics governing the relations of lawyers between themselves and with others in their professional capacity ^[5]. Law has deal with problems of diver's magnitude and a student of law has to be trained in professional skills in order to meet the challenges of globalization and universalisation of law.

In a democratic country the administration of the country depends upon laws of the country. Therefore, if the citizens of the country are aware about the laws of the country it will help in the social, economic, cultural development of the country. By establishing the law colleges/ law schools across the country in state, district levels we can promote and crate legal awareness among the people which will help in the development of the country. Legal literacy of the citizens is a basic necessity in a democratic polity governed by rule of law. The Government of India as well as the State Governments has made vigorous efforts to provide legal aid to needy persons and have launched a nationwide legal aid programme. A new Article 39-A has been added in the Constitution of India by Forty-Second Amendment as one of the Directive Principles of State Policy which directs the State to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and should provide free legal aid by suitable legislation or schemes ^[6].

Legal aid is provided by the students with the help of trained practicing lawyers. Most of the law colleges have decided faculty for clinical programme. Legal aid is required in many forms and at various stages for obtaining guidance, for resolving disputes in courts, tribunals or other authorities. Legal education should be able to meet the ever growing demands of the society. Legal awareness is the empowerment of individuals regarding issues involving the law. Legal awareness helps to promote consciousness of legal culture, participation in the formation of laws and the rule of law.

Clinical Legal Education

Clinical Legal Education, thus aim at this short of teaching method in order to inculcate the sprit and zeal of public as well as social service amongst the law students. The objective of global legal education is not to create lawyers who can practice in a number of jurisdictions but it should have an incidental effects ^[7]. The use of the word "clinic" prompts the analogy of trainee doctors meeting real patients in their medical clinics. Clinical legal education is the only one way in which theory and practice can be brought together.

The term clinical legal education or law clinic traditionally refers to non –profit law practice usually that are in an underprivileged or exposed situation and lack access to legal system ^[8]. It is a term which encompasses learning which is focused on enabling students to understand how the law works in action ^[9].

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 setting which replicates at least in part, the world where it is practiced. It almost inevitably means that the students takes on some aspects of case and conducts this as it would be conducted in the real world.

Clinical legal aid is necessary to conduct awareness campaign on legal rights to provide basic and essential knowledge of fundamental legal rights to those professional people and also the law ethics of their professions. In a nutshell, the legal awareness campaign is required for all the professions such as legal practitioners, government servants, professors, security forces, Police Personals, doctors, engineers nurses, political leaders, women society leaders, churches leads, students, union leaders, youth leaders, women society leaders, club leaders, common man, all sections of society.

Clinical Legal Education and Legal Aid in India

In India, clinical legal education has been important part of legal education. Legal aid plans should make maximum use of non-traditional methods of dealing with conflicts such as mediation, conciliation and self-help. It also needs to be stressed that legal aid is an issue of extreme importance not just to the poor but also for other groups who are vulnerable such as under trials, those in preventive detention, sex workers and the mentally ill and many others. The clinical legal education is necessary to bridge a gap between theory and practice. Various attempts were made in India, to have a sound and professional clinical legal education program. Clinical legal education is essential in preparing law students to practice law effectively. 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 change in a much more constructive manner ^[10].

The change of role of the lawyers from litigator to justice provider requires new array of social skills. Reforming by Bar council of India legal education requires changes not only in the physical infrastructure but a considerable amount of resources need to be diverted towards development of human resources, developing socially relevant curriculum and teaching pedagogy, method of requirement, funding for clinical activities and management of colleges.

The term 'Legal Aid' in its ordinary meaning conveys the help given by the society to its poor members in their struggle to protect their rights, freedom and liberties, provided in the various laws and to see that these benefits and rights given back if rights are forcefully denied to them by the strong and rich members of the society.

Justice P.N. Bhagawati quoted that, "The legal aid means providing an arrangement in the society so that the machinery of administration of justice becomes easily accessible and is not out of reach of those who have to resort to it for enforcement of rights given to them by law. The poor and the illiterate should be able to approach the Courts and their ignorance and poverty should not be an impediment in the ways of their obtaining Justice from the Courts ^[11].

A new Article 39-A has been added in the Constitution of India by Forty-Second Amendment as one of the Directive Principles of State Policy which directs the State to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and should provide free legal aid by suitable legislation or schemes. The provisions of the Code of Criminal Procedure and the Code of Civil Procedure have also been amended for providing legal aid in Criminal and Civil cases, Growing realization and active participation by the judiciary, legal profession, law schools, social workers, etc., have given a further impetus to the legal aid movement in India. The parliament has passed the Legal Services Authorities Act, 1987, which is to be enforced by the Central Government in near future ^[12].

Right To Legal Aid: A Basic Human Right

Human rights are set of rights which are inseparable from the human being. There are certain rights which are born along with human beings called as Human Rights. The concept of democracy is rest upon the free enjoyment of rights and free access to justice. Dispensation of justice to all irrespective of one's social and economic status is the true test of Government as well as rule of law. It is necessary to prevailed rule of law for a peaceful and prospering society, not rule of some individuals. Law its underscores is useless a futile exercise of legislative power, unless actively effective and it is the machinery of justice that gives life to the law and makes it actively effective. The vital problem of Indian legal system is that the, vulnerable and weaker section of society cannot afford the cost of litigation and denied equal access to justice.

The duty of State is to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all. The right to have free legal aid is an integral part of just, fair and reasonable opportunity and procedure for person being tried for an offence. Therefore, access to justice to the poor is a command of humanitarian law and it should be transformed into a reality from a pledge and promise and should not be allowable to remain a teasing and elusive illusion.

The people who need the support of law most have the least access to it. A change must come through public legal education and mobilizing the disadvantaged people to demand their just rights through established legal procedures ^[13]. Legal assistance is not a legal right of the poor but it is an imperative duty of a modern welfare state. Dispensation of justice to all, irrespective of one's social ranking and economic status, is the true test of a government based on the rule of law. Justice is the highest virtue of the human spirit, which conceives fiat justices rural co elm, i.e. let heaven fall, justice has to be done, is the quintessence of all philosophies human beings have ever founded. The notion of justice is underlined in the maxim, sum clique tribuere, to render to each person his or her due. The notion goes back to the injunctions of ancient Egyptian or Hebrew law to administer the law impartially, 'to hear the small as well as great'. Equality of justice postulates - equality as a means of doing justice and as an end of justice. The dominant idea common to both the expressions is that of 'equal justice'. However, the first expression connotes the equality of access to the courts to 'receive a just and fair treatment within the legal system'. The concept of equal justice visualize a political and legal order in which justice will be brought within the reach of all, both, those blessed by their wealth and those depressed by their poverty.

Free Legal Advice Clinics

The universities and law colleges may be required to establish Legal Aid Clinics and clinical legal education may be imparted to them compulsory. Legal aid is provided by the students with the help of trained practicing lawyers Awareness of legal aspects pertaining to issues faced by women and atrocities against them should be aerated in public libraries for the benefit of young women and old age women, old age peoples, children's, etc., so that they can effectively tackle their problems in their day to day life. Law schools can also establish free legal aid advice Clinics in schools. In the clinic, the students and teachers can guide people in indentifying their problems and make them aware of reminds available. These services are invaluable not only because they save the time and money of the prospective clients but also because they can reduce unnecessary litigation.

The curriculum in deeded plays too impartment a role in the building of a proper legal system and defining the quality of a student from a legal field, there have been various discussions regarding this matter in the form of various committees and commentaries some by the CDC some by reports like the one headed by Upendra Bakshi and may other efforts by the 184th law commission report the 184th law commission report has besides the

enumeration of various committees has suggested that every law college has a liberty as to the setting up of the curriculum according to their resource and other factors that in a regulator manner with a set compulsory subjects but this has proved to be a point where the law colleges have set aside following the prescribe curriculum and prescribe the curriculum which is in efficient as to the building of a better law students ^[14].

Importance of Legal Aid and Legal Awareness

The legal aid means providing an arrangement in the society so that the missionary of administration of justice becomes easily accessible and is not out of reach of those who have to resort to it for enforcement of its given to them by law, the poor and illiterate should be able to approach the courts and their ignorance and poverty should not be an impediment in the way of their obtaining justice from the courts. Legal aid should be available to the poor and illiterate, who don't have access to courts. One need not be a litigant to seek aid by means of legal aid.

^[15] Legal aid Legal awareness is a vital limb of our constitution and becomes, for this reason, an interpretative doctrine reflecting the desired fulfillment of the basis objectives of equality. Equal justice is corrective of inequalities which create social imbalance without which justice in society cannot be established in truth ^[15].

Legal Aid is an integral part of administration of justice. The democracy, as a method of ruling or governance is kept on the system of equality of all citizens guaranteed with some liberties and freedom which can be exercised by the citizens only in a proper socio-economic situation, following the certain legal provisions desired at providing certain deprived rights; if any. Our Constitution guarantees equality before the law and equal protection of the laws. In the leading decision of the Supreme Court in Hussainara Khatoon v. State of Bihar ^[16], right to free legal aid services including the free services of a legal practitioner for down trodden people of the society.

The concept of legal awareness/aid is the very spirit of equality and its movement is dedicated to the principle of equal justice to the poor. Equal justice of fair treatment within the purview of judicial process implies an easy access to courts and other governmental agencies on the basis of equality. Equal justice requires a systematic approach in response to the prevailing inequalities and injustices existing in our society ^[17]. Legal aid is a vital limb of our constitution and becomes, for this reason, an interpretative doctrine reflecting the desired fulfillment of the basis objectives of equality. Equal justice is corrective of inequalities which create social imbalance without which justice in society cannot be established in truth ^[18].

The Role of Legal Awareness

The term 'Legal awareness ' in its ordinary meaning conveys the help given by the society to its poor members in their struggle to protect their rights, freedom and liberties, provided in the various laws and to see that these benefits and rights given back if rights are forcefully denied to them by the strong and rich members of the society.

Illiteracy is the bane of the Indian polity retarding progress all round. Lack of legal awareness complicates the problem further resulting the continued inequality Injustice and disempowerment. If law is equal for all, legal awareness should be universally available. If equal justice under law is to be a reality for the illiterate masses, there has to be equal access to justice irrespective of status and income. Law and justice, mainly serve the interests of the literate and affluent few who have the wherewithal to use the legal resources for protecting their rights and elements.

Social justice is a fundamental part of our constitution and is of paramount significance. As protected in our preamble India is a socialistic country for which social justice is imperative. One way to promote social justice is through Clinical education. Article 39 (A) of the Constitution of India entrusts the state with the responsibility of ensuring that the legal system operates in a mane which promotes justice based on equal opportunity. Legal aid is vehicle through which this constitutional pledge is fulfilled in both letter and spirit, and equal justice is made available to people who are most helpless, deprived and marginalized.

Legal awareness is the empowerment of individuals regarding issues involving the law. Legal awareness helps to promote consciousness of legal culture, participation in the formation of laws and the rule of law ^[19]. The preamble mandates not only of justice in its legal sense, but social, economic and political justice and equality of status and opportunity.

Social awareness is often contrasted with the individual awareness as something in common, that is contained in the consciousness of each person as a member of society. Social awareness is an integral part of the superstructure and expresses his spiritual side. In Soviet philosophy was especially stressed the idea that the public awareness active reflects social beings, i.e., converts it. Social awareness, adding up of awareness is a society of people, it is not simple sum, and has some system properties that are not reducible to the properties of the individual's consciousness. Identify different forms of social consciousness ^[20].

Need for Clinical Legal Education in Institutions of Law

In a democratic country like India, it is necessary to create legal awareness about the rights and duties among the people for the development of the nation, in monarchy system; the will of the sovereign is law. It does not depend upon the will of people. Clinical legal education is different approach to the learning of law; it encompasses experimental learning or learning by doing. Practical teaching generates confidence in students as success is determined by their own effort 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 ^[21].

With the Bar Council of India (BCI) in 1997 making legal aid a compulsory practical paper to be taught in the law colleges/schools over India, legal aid to the poor brought a new lease of life. Even though more than a decade has passed since the formal introduction of legal aid in law school curricula in India, there is no comprehensive study examining the functioning of law schools/colleges based legal aid in India ^[22].

Legal Aid and Law Colleges and Law Schools

The introduction of Clinical legal education programs in India legal institutions is a vital to teaching essential skills to law students and instilling in them the significance of social justice. Education is the main and primary aim of the law school. Therefore, its clinic has to serve as effective methods to provide legal education to the students. Legal aid is required in many forms and at various stages for obtaining guidance, for resolving disputes in courts, tribunals or other authorities. 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 the different situation ^[23].

The clinical teaching is a better substitute for traditional method of imparting legal knowledge to the students. Though clinic the students may get many opportunities, VIZ interviewing the clients. The education will certainly be socially relevant and promote multi-disciplinary approaches in legal field. The student trained in the clinic will prove himself as social engineer in balancing interests of various classes in the society. Setting up legal aid clinics in all law colleges and law universities and to encourage students to adopt remote village areas as their area of operation, for this purpose, the following strategies may be adopted:

1. The students may be divided into small groups and deputed to the adopted villages.
2. In urban areas, colonics and slum areas where economically and socially backward people reside may be chosen for setting up legal aid clinics.
3. Law students should be guided team of by a team of senior professionals/ lecturers including part time lectures. Report between the students and the people of the adopted area should be maintained throughout the year.
4. Law students shall identify the problems which require legal aid .they shall discuss the problem with the teacher-in- charge and if it warrants future free legal services, he matter should be brought before the legal services authorities/ committees concerned.
5. A student shall be encouraged to organize legal awareness classes for small groups of people. It should be more in the form of informal gatherings.
6. The students should aim at preventive and strategic legal aid.
7. In appropriate cases, senior students and postgraduate students who have already enrolled as lawyers may be entrusted with the filing and conducting of ht litigation in the courts free of cost.
8. No fee shall be collected from the beneficiaries of legal aid clinic.

The legal aid is a social service. Legal services comprehend not only legal representation and assistance in legislation but also such other things are legal advice, arbitration creation of legal awareness and assertiveness in the poor masses. Such actions can be accelerated if we utilize all possible human resources specially law students. The law students while learning in law school may render their services for the cause of the poor in the society, through legal aid clinics in law colleges/Law Schools/ Universities.

The Bhagawathi Committee on Juridicare (1977) has also recommended for the establishment of such clinics for implementing legal aid schemes. In India, where more than half of the population lives below poverty line, and where a large part of the legal need of the poor cannot be afforded by the state, the law schools can play an important role o make the legal awareness and legal aid programme successful by involving law students in its activities ^[24].

The creative use of law students in a country like India will be very significant for the success of legal aid movement. The easy availability of vast technical manpower in the hundreds of law schools in the country must stir the planners and Judicial Administration to mobilize these untapped human resources for the services of the poor and distribute millions of the country towards building up a democratic, secular egalitarian under the constitution ^[25].

The clinical programmes in the selected foreign countries are way ahead compared to the programmes in India. In most of these clinics, legal aid is provided by the students with the help of trained practicing lawyers, Most of the law colleges/schools have dedicated faculty for clinic programmes. Most of the clinics provide academic credit to the students involved in clinical programmes.

Role of Law students in Creating Legal Awareness

Law students can play a crucial role in filling the gaps in the legislation and its implementation. Impacting legal awareness is the first step towards ensuring prompt and effective access to justice. Keeping this mind the Bar Council of India mandated all law colleges and universities in India to establish and run legal aid center or clinics. The idea was to fulfill certain standards of legal education, but more importantly, it was also aimed at engaging the students in serving their community by promoting legal awareness through this legal aid clinics and programmes.

The availability of law students who are not partisan or party centered is a valuable resource to be used in law reforms. Law students through their legal aid cells or otherwise could undertake research in various areas maybe relating to the non existence of a law or non or improper implementation of law or even regarding the injustices perpetuated by law or perpetuated by the manner of implementation of law. The legal aid is very essential for the survival of healthy democracy which is founded on the equality, dignity and worth of man as many as live and available component of society. A society riddled with social and economic inequalities is undemocratic.

Legal aid in India has been immensely influenced by the contemporary legal developments in Anglo- American and European countries. The concept of legal aid has been defined very clearly. Its objectives are universally acknowledged and appreciated, and a definite result oriented mechanism has been created for it ^[26].

Therefore, in 1997, the Bar council of India recommended practical training in the curriculum and as a result the subsequent report made by University Grants Commission, emphasized need of teaching a verity of skills and sensibilities to develop legal education as a hermeneutical profession and also took some initiatives by constituting committee for development of curriculum in Law ^[27].

The common man does not have knowledge about the laws which do the frequent changes in the society. It is a known fact that the common man cannot understand the legal terminology and the activities going on the law courts. The universities and law colleges may be required to establish Legal Aid Clinics and clinical legal education may be imparted to them compulsory. Law students of final year may also be required to undertake legal aid work for which due credit may be given to them. Public library is free dissemination of the information in society. So, Law students should establishing legal aid clinics in all Gram Panchayaths at public places and health center engaging competent lawyers and like mind legal fraternity and as legal consultants in the clinics. Give wide publicity about the clinics with the help of local self-Government institutions.

The creative use of law students in a country like India will be very significant for the success of legal aid movement. The easy availability of vast technical manpower in the hundreds of law schools in the country must stir the planners and Judicial Administration to mobilize these untapped human resources for the services of the poor and distribute millions of the country towards building up a democratic, secular egalitarian under the constitution ^[28].

Conclusion

The Legal aid/ Awareness is very essential for the survival of healthy democracy, which is founded on the equality, dignity and worth of man as many as a live and valuable component of society. The Clinical Legal Education and Awareness in India has its line in both the legal aid and legal education reforms activities as part of an effort to improve the quality of law practice and to increase awareness among lawyers about professional and public responsibility. The Clinical Legal Education is something very important in today's Legal Education and access to justice is one of the most widely discussed subjects throughout the world. Clinical legal education should be given more emphasis, so that students can learn through experience and the role of law and legal in society along with acquiring professional skills. Even the Bar Council of India orders introducing practical papers. Law schools also have a vital role to play where a new generation of legal talent is being trained and enthusiastic students can be used to conduct legal literacy camps as is being done now. Though the legal aid camps, legal aid clinics and legal awareness programmes are being conducted regularly, we have still a long way to go in creating awareness on legal rights among public in general and actual ways of getting redressal through the legal system in particular It is necessary understand that it is these law colleges and law schools which can contribute in grater scale for curtailing or at least reducing such evils. There is urgent need to formalize clinical legal education and awareness programmes in Indian law schools both for purposes of enhancing the democracy as well as providing skill based training to law students, and much need legal services to the poor people in society and also I argued that clinical legal education and legal awareness promotes democracy. Indian universities are largely unrepresentative of the respective population demographics of the country. In clinics, law students brings this divided by understanding representation for people from different racial, caste, and income backgrounds than themselves. These exchanges generate empathy and knowledge among students about the challenges marginalized groups in the society face. Therefore, they learn to recognize other citizens as equals and to formulate policies that will enhance the welfare of society as whole.

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