



The Change Must Come From Within

Since the opening of India's economy, legal industry is trying to keep pace with the fast changing nature of the global business. How can we fulfill the raised aspirations of a young nation? How can the legal industry be the precursor of socio-economic growth? The answer to these questions is not far to seek — we need to reinvent the legal education system in the country to make it world class in every sense — the best that we deserve as a rising nation...

■ Bithika Anand

GEARING UP FOR CHANGES

Change is the precursor of growth. If we are to envision a nation where justice is not the privilege of a few and where entrepreneurs are not afraid to enforce contracts, then we must have a legal system that ensures quality legal professionals with high intellectual caliber. We are living in a revolutionary age. Information systems, communications and technology are changing so fast that corresponding changes in our legal system are not able to keep pace with them. Globalization has opened up trade and capital markets all over the world that calls for specialized services in newer areas of practice like intellectual property law, corporate law, cyber law, cyber crimes, human rights law and international commercial law. However, we need to ask ourselves whether our law schools, our autonomous educational councils and various Central and State universities are able to impart the required knowledge and skills to make India a world-class economy. Are our established legal luminaries, practicing advocates, judges, etc. able to develop the modern skills

required to handle complex legal issues arising from an increasingly globalised world? The answer is — although we are feeling the paradigm shift in our legal institutions, our educational policies and implementation methods, the shift is slow and plagued with challenges.

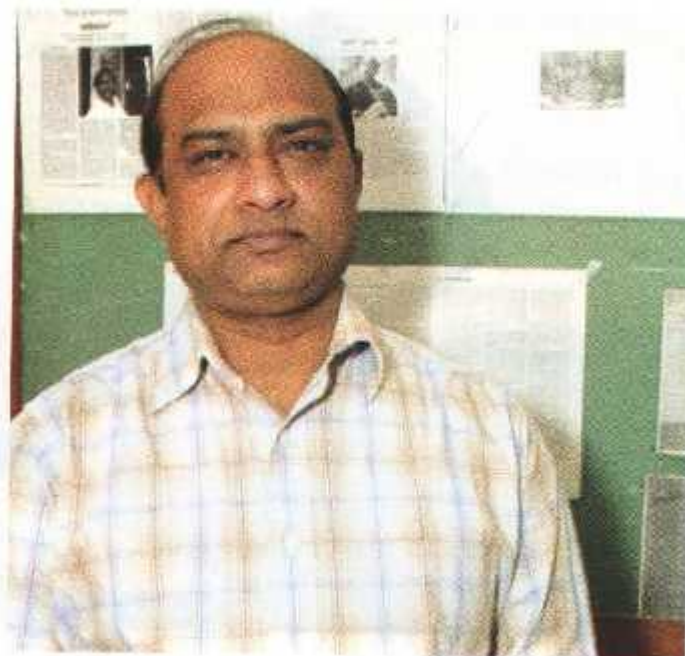


LEGAL EDUCATION IN INDIA: PRESENT STATE

Since 1926, Bar Council of India (BCI) is regulating the standard of legal education in the country. However, the Law Commission of India in its '184th Report on Legal Education and Professional Training' proposed amendments to the 'Advocates Act, 1961' and the 'UGC Act, 1956', to inject innovation into the country's legal system. BCI has done its bit to bring about effective changes in the legal education. Steps like doing away with 2-year LL.B. program, introduction of 3 year and 5 year LL.B. programs brought dramatic changes in the standard of legal profession in India. In 1980s, National Law Universities reshaped the way legal education was imparted in the country, but they continued and still continue to cater to the needs of a few, while the needs of the majority are still met by the private law schools.

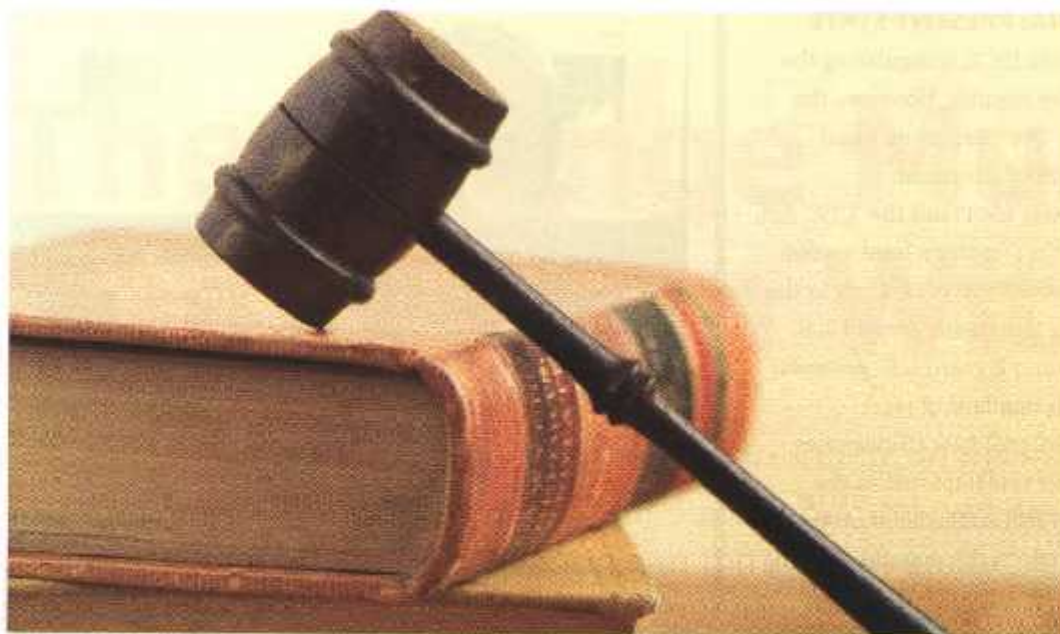
Although, the Government has awoken to the fact that the legal education sector needs a complete overhaul soon, but the manner in which it is being done raises serious concerns. Currently, there are three Bills proposed or open for discussion in public domain — the Foreign Educational Institutions (Regulation of Entry and Operation) Bill, 2010; the National Commission for Higher Education and Research Act, 2010; and Higher Legal Education and Research Bill, 2010.

The Foreign Educational Institutions Bill is all set to open up the legal education sector for foreign universities. Under the Bill, a Commission, which has strength of 3 permanent members and 3 part time members, will regulate foreign universities imparting legal education in India. The HRD Ministry has come up with the National Commission for Higher Education and Research Act, 2010, which envisages the setting up of a National Commission for Higher Education and Research. This body will provide for the determination, co-ordination, maintenance of standards and promotion of higher legal education and research in the country. The Commission will consist of a chairperson and six other members. It is also proposed to replace BCI as the regulator of legal education in the country, subject to amendments in the Advocates Act, 1961. Similarly, a draft Higher Legal Education and Research Bill, 2010 proposed by the Law Ministry calls for creation of a National

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"The Indian legal education system should be able to take care of issues specific to India. Copying curriculums from foreign law schools will not help improve legal education in India. A world-class legal education should be able to address our socio-economic needs and our aspirations. While countries like Sri Lanka spend 6-7 per cent of its GDP on improving educational standards, India spends only 0.49 per cent on higher education. If this is the state of the entire educational sector in India, then one can imagine the state of legal education in the country."



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Commission to regulate and improve legal education in the country.

Although, all these proposed legislations aim to improve the quality of legal education in the country, they are in conflict with each other in many spheres, leading to more confusion and chaos in the legal education sector. Promotion or regulation; inclusive or exclusive; excellence or institutionalized mediocrity—given India's present situation vis-à-vis the world economic order—the choices are not so difficult to make. Yet, in the Internet age, speed and precision are the 'obvious' not 'choices'.

WORLD-CLASS LEGAL EDUCATION SYSTEM: INGREDIENTS

A graduate or post-graduate degree in law does not necessarily impart the requisite 'skill set' and grooming to the budding lawyers. A mechanism needs to be developed to analyze the existing skill gaps to meet the challenges, keeping in mind the present as well as future skill requirements of various industries. Besides, there must be a proper feedback channel between educational institutions and industry stakeholders. The role of the government should be to ensure that the right environment is created to affect the changes. According to Dr Vivek Kumar, Associate Professor, Centre for the Study of Social Systems, Jawahar Lal Nehru University,

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The quality of legal education imparted in private institutions differs widely from institution to institution and there is a need to ensure that certain minimum standards are maintained by all private law colleges. "In private law schools, merit is compromised. We therefore, need to fix benchmarks for curriculums, quality of faculty, physical infrastructure, etc., to ensure that legal professionals coming out of these law schools are of certain quality and standards," says Professor Kumar.

Professor Mool Chand Sharma, Vice-Chancellor, Central University of Haryana, speaking at the International Conference of Jurists 2010, said, "Fixing of context is very important. Legal education in India needs to be rooted in our aspirations. A world class legal education must take care of IQ (Intelligence quotient) as well as EQ (Emotional quotient). We are doing experiments in higher education sector in the country, but I would say try to put 6 per cent of the GDP in education, and see the difference."

According to Rohit Kumar, a final semester student of Gujarat National University, more interaction between industry and students is also an important component for developing core competencies in specific areas of law. "The world is moving towards a knowledge-based economy. We are



part of the TRIPS Agreement where legal education is defined as a service. Thus, entry of foreign universities in the legal space cannot be stopped. But, it is a double-edged sword. We have similar opportunities to enter other countries and impart legal education. All we need to do is to make the learning

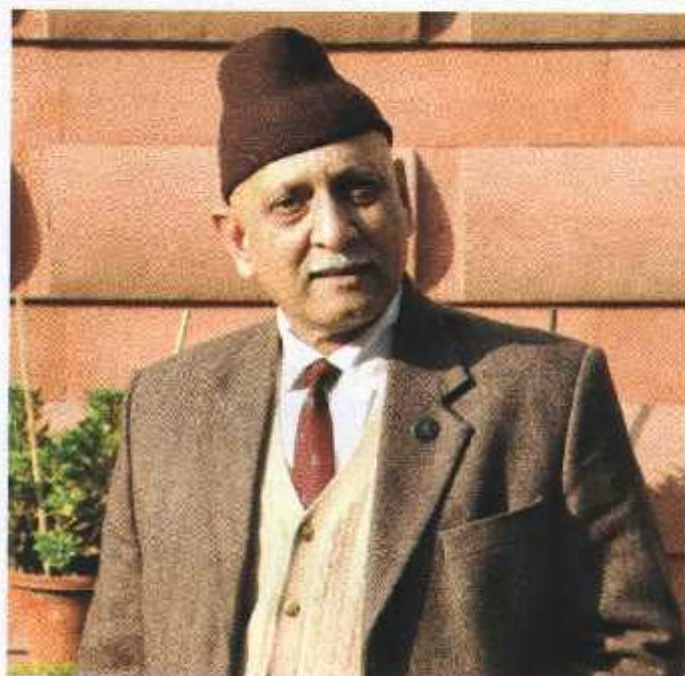
process more participatory to reach world class standards," adds Kumar.

CHALLENGES AHEAD

When India opened its economy to the world, it moved on to embrace changes to provide better choices to its citizens and an efficient economy. The results are for everybody to see. But, the process has also thrown up some very tough challenges for the legal industry. While various industries in India steered full throttle to reap the benefits of globalization, a wide gap has split open — the gap between skill sets required by the nation to become a developed economy and the present quality of legal professionals and speed with which they are being prepared for industries. One of the most challenging tasks in legal education in India is to strike a proper balance to ensure that our students are taught a fair mix of courses that give them knowledge and training in Indian law, but at the same time prepare them for facing the challenges of globalization, where domestic legal mechanisms interact with both international and foreign legal systems.

The US President in his address to the Indian Parliament in November 2010 said: "India is not simply emerging; India has already emerged", a fact which is not now endorsed by the world at large. This perception is perhaps rooted in India's potential as an unstoppable force in the 21st century, mainly because today India is being driven by the youth. Nearly half of all the Indians are below 30 years of age — that's 550 million — or the equivalent of the youth in Western Europe and the US put together!

Approximately 80,000 lawyers pass out of the Indian law schools every year. The numbers are staggering, but the task at hand is even bigger. To channelize the energy of the young lawyers in the right direction is the greatest challenge for the legal fraternity. According to Major General Nilendra Kumar, Director Amity Law School, "Conducting Moot Court training is a challenge in most law schools due to lack of trained faculty. Getting internships in the legal sector and vast course curriculums also impose great challenge for students. The other modes of clinical legal education viz. legal writing and legal aid clinic, are also usually found to be neglected. This area warrants due importance. The second major task is faculty development."



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Professionalism demands learning at work or learning under professional supervision and to keep abreast with professional developments. However, most of the law colleges in India are not adequately equipped for the same.

SIGNIFICANCE OF CONTINUED LEGAL EDUCATION

Historian Daniel Boorstin in his work "The Discoverers" points out, "the greatest obstacle to discovering the shape of the earth, the continents and the ocean was not ignorance but the illusion of knowledge". The efficaciousness of his words could have never been felt as strongly as is being felt today. Our legal luminaries, established advocates, as well as the judges, urgently need to undertake periodic updates and continuing legal education programs as necessities rather than as mere options. Taking lessons from the Bar of other developed countries, we need to consider the ways and means by which such partnerships can be established and can be made functional to the advantage of practicing professionals as well as of the law colleges and law schools.


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Countries like the US, UK and Singapore have regular continued legal education (CLE) courses for lawyers that keep them abreast with the latest developments. By making these CLE courses mandatory, the lawyers can service their clients better. For every CLE course, a lawyer gets Bar-approved credits that are calculated against his practice license. These courses vary from online to regular classes to subject specific seminars. The CLE model ensures that the practicing lawyers never get 'out of touch' from the latest laws in their field of practice and continuously raise their professional benchmark. This kind of model needs to be applied in Indian context where lawyers are increasingly getting involved in complex cross-border transactions, M&As, and working with MNCs across multiple jurisdictions, dealing with complex laws and by-laws.

Taking cue from our past experience with University Grant Commission (UGC), which was established to provide the right direction to higher education in the country but was reduced to the status of a funding agency, a funding-based model may not work for us. Thus, we need a model that encourages public-private partnership, so far as funding needs are concerned and an accreditation-based model to ensure the quality control.

EPILOGUE

According to Hans-Paul Burkner, global Chief Executive Officer and President of The Boston Consulting Group (Germany), "in today's global and fast-changing business environment, access to highly skilled people — not just top talent, but also people who possess essential expertise — is crucial to succeed and grow". Thus, as a first step, introducing world class higher education to the legal industry can rightly be called critical in determining the economic and social success of India in the 21st century. 

ABOUT THE AUTHOR



Bithika Anand is the founder of Legal League Consulting, A Chartered Accountant by training. Bithika also holds a PG Diploma in the Management of Legal Practice awarded by Nottingham Trent University. She has more than 23 years of experience in professional services domain, being associated with some of the leading brands in the industry like S.B. Billimoria & Co., KPMG & Anandharam Mangaldas & Suresh A. Shroff & Co, Delhi.