



TO MOULD MILLENNIUM LAW RESEARCHERS AND TEACHERS: THE ROLE OF INDIAN LAW INSTITUTE

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I Introduction

“OF COURSE there may be lack of legal researchers and teachers with commitment who could respond to the challenges of today and tomorrow. ILI has been transformed into a deemed university to remedy the lacuna in the legal education system, i.e., to mould well equipped and competent researchers and teachers.”¹ This was announced by K.G. Balakrishnan, CJI as President of the Indian Law Institute (ILI), a premier legal research institute, at its first convocation.

Recently the National Knowledge Commission (NKC)² and Bar Council of India (BCI)³ came forward with certain recommendations to reform legal education. The NKC identified various areas including – bringing regulatory reform, maintaining quality standards, creating incentives for faculty, developing research traditions, upgrading curriculum, changing systems of evaluation, establishing research institutions, financing legal

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1. Address by K.G. Balakrishnan, Chief Justice of India at the first Convocation of Indian Law Institute, New Delhi, on 5.11.2007, available at www.supremecourtofindia.nic.in/new_links/ILI.CJI-05.11.07.pdf

2. Report of *National Knowledge Commission - Working Group on Legal Education*. NKC as part of its consultative process constituted a working group of experts as M. Jagannadha Rao J as chairman and N.R. Madhava Menon as one of its members. The length and breadth of the deliberations and dialogue with stakeholders the committee recommended formulating a clear vision for legal education – Vision for New Millennium. This includes to provide justice-oriented education essential to the realization of values; to prepare professionals to meet the new challenges and dimensions of internationalization; to emphasise the need for original and path breaking legal research to overcome these challenges; to maintain the highest standards of professional ethics and spirit of public service; to examine the need for an effective regulatory body for legal education; to develop a trained cadre of research; and to discuss financial implications and fund generating strategies.

3. Committee Recommendations, 2008 to the Bar Council of India. The BCI constituted high power committee for drafting a Code of Rules on Legal Education and it has recommended the introduction of an accreditation system for law colleges, ‘Oxford University’ type course content and a Central Directorate of Legal Education to offer teaching courses.



education, incorporating dimensions of internalizations and disseminating new technology. Hence it is felt that one has to explore the possibility to revamp the legal education according to the need of the day, which will aim to mould socially committed and professionally equipped lawyers and law professionals. This paper is a survey of the functions and programmes of ILI, to examine how it can fulfil the need of the day through moulding well equipped and competent researchers and teachers.

II Legal education in present scenario

A well-functioning education system is essential to modern societies, and higher education has a pivotal role to play in the renewal of education systems and development in general. The education institutions have an influencing role to play on all societal activities. Education is central to addressing the paradoxes and inequities that challenge our society today.⁴ “Legal education is essentially a multi-disciplined, multi-purpose education which can develop the human resources and idealism needed to strengthen the legal systemA lawyer, a product of such education would be able to contribute to national development and social change in a much more constructive manner.”⁵

The legal education reform is a widely discussed matter in India for the last few decades. Majority of these discussions were limited to under graduate legal education. In India one may classify the law imparting institutional environment in following pattern:

- i) The traditional law colleges offering LL.B. which includes both government and private law colleges, which have courses at graduate level and at post graduate level. In private college category there are two streams, viz., aided colleges and unaided colleges.
- ii) Department of law in the university offers LL.B along with their usual postgraduate course in law (LL.M).
- iii) Exclusive law university called national law school which offers LL.B.

While addressing the nation on the occasion of Law Day, 2007, Chief Justice of India said: “To improve the quality of lawyering, legal education has to be reformed. The National Law School initiative has done some

4. Address by KG Balakrishnan, Chief Justice of India, at the Eighteenth Convocation of Indira Gandhi National Open University, New Delhi on the 17.3.2007, available at www.supremecourtindia.nic.in/new_links/IGNOU-JKGB.doc

5. S.P. Sathe, “Access to legal education and the legal profession in India” in R. Dhavan, N. Kibble and W. Twinner (ed.) *Access to Legal Education and Legal Profession* 165 (1989).



good in this direction; but a lot still remains to be done.”⁶ National law school, as separate university of law, offers both LL.B and LL.M courses besides research facilities for Ph.D. programme. At present twelve⁷ such law schools are functioning under the Chancellorship/Visitorship of the Chief Justice of India. During the inaugural function of the twelfth law school, CJI observed thus:⁸

The first and the most significant problem faced by the National Law Universities (NLU's) at present is that of an inadequate number of experienced and motivated teachers. Despite visions of competing with the best law schools in the world, almost all of our institutions have found it increasingly difficult to attract and retain qualified and talented individuals. Many analysts have linked this trend to the relatively lower remuneration offered to law-teachers in comparison to wages offered in sectors such as litigation as well as advisory work in commercial law firms and companies. While this reasoning can be questioned, there is no doubt that Indian law schools need to devise creative solutions to attract talented and motivated faculty members. The first and the most significant problem faced by the National Law Universities (NLU's) at present is that of an inadequate number of experienced and motivated teachers. Despite visions of competing with the best law schools in the world, almost all of our institutions have found it increasingly difficult to attract and retain qualified and talented individuals. Many analysts have linked this trend to the relatively lower remuneration offered to law-teachers in comparison to wages offered in sectors such as litigation as well as advisory work in commercial law firms and companies. While this reasoning can be

6. K.G. Balakrishnan, Chief Justice of India addressing the nation on “State Of Administration Of Justice” on the occasion of Law Day, 26.11.2007, *available at* www.supremecourtindia.nic.in/new_links/Law_Day.pdf

7. Total number of national law school universities (NLSU) as on 2008: 12. They are: National Law School of India University, Bangalore; NALSAR University of Law, Hyderabad; National Law Institute University, Bhopal; National Law University, Jodhpur; Hidayatullah National Law University, Raipur; Gujarat National Law University, Gandhi Nagar; National University of Advanced Legal Studies, Kochi; Chanakya National Law University, Patna; Rajiv Gandhi National Law University, Patiala; Dr. Ram Manohar Lohia National Law University, Lucknow and National Law School of Delhi University, Delhi. And also the Indian Law Institute, a Deemed University under the Presidentship of Chief Justice of India.

8. Address by K.G. Balakrishnan, Chief Justice of India on the inauguration of the National Law School of Delhi 3.9. 2008, *available at* www.supremecourtindia.nic.in/Inauguration_of_NLS_Delhi_speech_3-9-08.pdf



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It was further stated thus:⁹

[C]ollective concern for legal education in India today is the need for a rigorous research and scholarship agenda in each institution. While the National Law Universities (NLU's) have considerably improved some aspects of undergraduate teaching, there is a wide gap when it comes to the delivery of postgraduate education as well as research initiatives. There is an urgent need to improve the curriculum and range of subjects taught at the postgraduate level in our Universities, since these programmes are meant to produce academics and researchers for the future. There have been suggestions to modify the structure of the LL.M. programme in Indian universities so as to bring it in line with the one-year degree offered in some Western countries.

It is high time to address many areas *viz.*, the need for revamping curriculum, assessment and evaluation, fee structure, good talented teachers and researchers etc. There is a scarcity of good law teachers generally and law schools particularly. In this regard, the NKC¹⁰ recommended thus:

Explore methods of attracting and retaining talented faculty members. In order to attract and retain talented faculty members, there is an urgent need to improve their remuneration and service conditions. The current UGC scales offered by the law schools and universities are not sufficiently attractive.¹¹ Second, the teaching load needs to be rationalized in order to leave sufficient time for research purposes. Third, there is need to institute both at national and institutional levels, awards to honor reputed law teachers and researchers. Fourth, there has to be sufficient flexibility with law schools to appoint law teachers without having an LL.M degree if the individual has proven academic or professional credentials. Fifth, there is a need to reconsider the existing promotional schemes and avenues in order to promote meritorious faculty members. Incentives such as fully paid sabbaticals should also be granted. Sixth, free faculty housing is another significant incentive that may

9. *Ibid.*

10. Report of National Knowledge Commission - Working Group on Legal Education

11. This has been recently revised by government vide order 1-32/2006-U.II/ U.I (i) dt. 31-12-2008 on the recommendations of the Pay Revision Committee constituted by UGC.



be considered. Faculty exchange programs with leading universities abroad would help in enriching the knowledge base and familiarizing faculty members with other legal systems and innovative pedagogic methods.

In India there are two statutory bodies, i.e., the Bar Council of India¹² and universities under the broad umbrella of University Grants Commission,¹³ to award/recognise degrees/courses in legal education, especially at under graduate level. In the post graduate level the universities are the competent bodies to impart and award degrees.

III Role of ILI

This issue of the journal is commemorating the fiftieth year of journey of uninterrupted research publication of the ILI. The institute was founded in 1956 primarily with the objective of promoting and conducting legal research and has been granted deemed university status.¹⁴ “During the last five decades it has made many strides. It has been doing yeomen service to the legal fraternity in the country. Indeed, it has had the benefit of dedicated service of a larger number of scholars — Indian and foreign — in accomplishing its tasks. It carved its place of pride in the society by the tremendous amount of work, it could turn out through the preceding years. We could take stock of its services and achievements during the Golden Jubilee Celebrations in 2006. The legal fraternity was lavish in paying accolades to the Institute.”¹⁵

The institute started the post graduate and doctoral programme since it became the deemed university. Its LL.M. with unique combination method of research paper and compulsory participation of seminar along with the conventional papers equips the post graduate students competent enough to fulfil the need of the day and face the challenges. By strengthening this programme ILI can mould committed teachers. It is proposed to conceive a four-year integrated LL.M.-Ph.D. programme and implement the same. As part of their curriculum the students of the programme can be assigned certain hours to teach LL.B students by introducing the ILI proposed four year LL.B.-LL.M. integrated course.¹⁶ This would mould new teachers, while

12. S. 7(h) of the Advocates Act, 1961.

13. S. 2(f) of the University Grants Commissions Act, 1956.

14. Granted Deemed University Status in 2004 vide Government of India, Ministry of Human Resource Development Notification No. F.9-9/2001-U.3 dated 29.10.2004.

15. K. N. Chandrasekharan Pillai, “Editorial” X (IV) *ILI Newsletter* 2008.

16. K.N. Chandrasekharan Pillai, “Legal Education – In Search of New Vistas” 50 *JILI* 367 (2008).



simultaneously pursuing the integrated programme. Like in western countries, students could be selected on the basis of their academic performance or writing competition, to contribute articles for publication in law journals. By this the student gets exposed to legal scholarship and editing. The institute, in co-ordination with the judiciary could after some screening process, select students as research assistant to judges, in different courts of the country.

The NKC recommendation¹⁷ expressed the urgent need to set up centers for advanced legal studies and research (CALSAR), one in each region with the mandate for promoting legal studies and research, which shall enjoy full autonomy. The tasks to be assigned to these advanced legal centers would include cutting edge research on developing subjects and related areas, as well as serving as a think-tank for advising the government in national and international fora. The commission suggested the specific functions and objectives as: Bringing out a peer reviewed journal of international quality; encouraging interaction across disciplines to facilitate a multi-disciplinary approach to understanding law; institutionalising arrangements for having national and international scholars in residence; organizing workshops and conferences on contemporary developments and issues of law; undertaking in-depth research projects on new and developing areas of law, including specializing in some branches of law and providing continuing legal education for faculty members of law schools. All faculty members would be required to attend and clear minimum number of courses for promotion to professor grade. The NKC also recommended courses/research subjects to include pedagogy, university management and administration, use of technology in legal education, etc; building a world-class library, with up to date and easily accessible resources, including on-line resources and a national network and also establishing a network with other international law research institutions to exchange information and access resources worldwide.

These centers would require an initial investment of around Rs. 50 crores for building an academic complex, conferencing facilities, library and other infrastructure with an annual budget to the tune of 5 crores for salaries, fellowships, administrative expenses etc.¹⁸ The infrastructure should be of international standards. This initial investment and the annual budgets should be borne by the central and respective state governments, but the centers should be financially self-sustaining. The commission suggested that self-sustenance could be achieved in the following ways:

17. *Supra* note 10.

18. *Supra* note 2.



- Nominal fees could be charged for faculty training that could be levied on the faculty member's institution alone or could be shared with the faculty member.
- Paid training programs for the industry/profession to be conducted on the lines of executive training programs for business managers. The programs shall also be open for faculty members to ensure that training relevant for the industry is delivered to the academia as well.
- Lectures delivered to be recorded and sold in India and abroad.
- Government may tie-up with universities abroad for lectures to be transmitted to these universities through video conferencing for a price. These lectures may also be exchanged for lectures by faculty of leading universities.

A unique institution in this line in India is the Indian Law Institute,¹⁹ a deemed university headed by the Chief Justice of India as its President ex-officio and the Law Minister, Government of India and the Attorney-General as Vice-Presidents ex-officio. The office bearers and governing council consist of a bunch of eminent persons from the government, the legal fraternity and the law teachers. Since it possesses the attributes and credentials envisaged by the NKC it may be declared as CALSAR. It may co-ordinate and cater the need for the entire (more than 700) law institutions of the country.

Likewise, the separate law universities also need to take urgent steps to face the challenges in the new internationalised world. As Chancellor/Visitor of all the national law schools, the Chief Justice of India is unable to personally monitor their performance, hence Chief Justice does it through his nominees in the statutory bodies of the universities. But due to lack of proper co-ordinated effort, each law school is functioning differently. In this background, it is proposed to authorise the Indian Law Institute to co-ordinate the programmes like teacher's training, continuing education, refresher and training of teachers (TOT) courses for the law school teachers; exchange of faculties within and outside country; collaboration and co-operations with organisations/ law schools abroad; common law admission test (CLAT); networking the resources and information available in the law schools and ILI may provide as nodal agency; clinical education and legal aid clinic for strengthening legal aid and access to justice movement – keeping in mind 'learning by doing' is method of learning in practical training for the law students; etc.

19. Rajeev Dhavan, "Legal Research in India: The Role of Indian Law Institute" 34 *Am J Comp L* 527(1986).



It is suggested that there may be a consortium,²⁰ standing committee²¹ and a core committee²² to co-ordinate the functions of law schools. The consortium shall meet at least once in a year. The standing committee shall meet at least once in every three months and core committee shall meet once in every month and appraise the affairs to Chancellor/Visitor periodically. The office may function in the Indian Law Institute with the financial assistance from the Ministry of Human Resources Development/ University Grants Commission.

It is a welcome trend on the part of BCI for thinking about the stringent quality norms for law colleges and universities which impart legal education. As discussed earlier since the NKC as well as the BCI have come forward with a common point agenda, for the need to revamp the legal education according to the need of the day, it is the duty of the stakeholders to initiate appropriate steps.

20. The Consortium may consist of: The Chief Justice of India as Chairperson; One sitting or former judge of the Supreme Court nominated by the Chief Justice of India as Vice-Chairman; All nominees of Chancellor/Visitor to the law schools; All Vice-Chancellor/Director of Law Schools/ Universities/Institutes in which the Chief Justice of India is the Chancellor/Visitor/President; One former Vice-Chancellor/Director of Law School nominated by Chief Justice of India; The Chairman, University Grants Commission; The Joint Secretary in Charge of Higher Education & UGC and one Law Professor nominated by Chief Justice of India as Convenor.

21. The Standing Committee may consist of: One sitting or former judge of the Supreme Court nominated by the Chief Justice of India as Vice-Chairman in the Consortium as Chairman; All Vice-Chancellor/ Director of Law Schools/ Universities/ Institutes in which the Chief Justice of India is the Chancellor/ Visitor/President; One former Vice-Chancellor/ Director of Law School nominated by Chief Justice of India; The Chairman, University Grants Commission; The Joint Secretary in Charge of Higher Education & UGC and The Convenor of the Consortium as Convenor.

22. The Core Committee may consist of: One sitting or former judge of the Supreme Court nominated by the Chief Justice of India as Vice-Chairman in the Consortium as Chairman; One former Vice-Chancellor/Director of Law School nominated by Chief Justice of India; The Chairman, University Grants Commission; The Joint Secretary in Charge of Higher Education & UGC and The Convenor of the Consortium as Convenor.