

# LEGAL EDUCATION IN INDIA IN POST COVID-19 PANDEMIC ERA: A CRITICAL EMPIRICAL OVERVIEW

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## Abstract

Online education has been neglected particularly in countries like India, until COVID had knocked our doors. COVID 19 pandemic has resulted in manifold increase in accountability and expectations from law schools. Law schools are expected to go from local to global with the help of digital platforms and engage in international collaborations for providing world-class education to future lawyers within their native states. In today's techno driven world, law students cannot isolate and restrict themselves to the domain of law. In the post pandemic world, law schools and students will be looked upon as 'Jack of all and master of law.' Situation becomes worse especially when, looking at India's existing digital divide, some sections of society are yet to get basic access to the internet which is the first and foremost requirement to access other related digital platforms. This is a threat to the current patterns and modes of legal education delivery mechanism in India. This research paper is an attempt to investigate challenges likely to be faced by law schools in the post pandemic era. Authors have also done empirical analysis to gather the data for understanding how far today's legal education strives for socially committed, accessible and justice driven legal education. Based on the findings, authors have also given a few suggestions with an object of improving the legal education to the expectations of modern society and making it futuristic.

**Keywords:** Legal, Education, Practise, Digital, Society, Students

## Introduction

*"Mere training is not enough, education is necessary in the untranslatable sense of the words I must be forgiven for using them again 'formation' or 'Building' which denote the forming of the personality as well as the inculcation of knowledge. It is this dual aspect of our work as law teachers which is to me its most significant feature."*

*-Professor Kahn Freund<sup>1</sup>*

This quote accurately expresses the concern of legal education and the responsibilities shouldered on the law teachers. Legal education has always acquired a prominent position as far as the social transformation is concerned. The concept of 'law' changes with the changes in society and this necessitates the change in the approach and mechanism of law teaching. If we look at the history we can derive that the socio-cultural changes in society have a great impact on the modes and patterns of legal education and it is evident from the events in the past. Lawyers are considered as social engineers and judges as guardians of justice working together for maintaining rule of law in society. Both of them are the defenders of justice and constitutional morals, rights and duties. Poor legal education will mean a weak legal fraternity resulting in dwindling the foundations of justice and leading to destruction of rule of law. History has time and again underlined the importance of legal experts in evolution of society. Role of Thomas Jefferson and James Madison in Great American Revolution of 1776, of Abraham Lincoln in American Civil war of 1861-65, of Lenin in Russian Revolution of 1917 and of Mahatma Gandhi in Indian Independence in 1947 etc. are the prominent examples of how vital role a legal expert can play. Hence, quality legal education producing quality lawyers and judges is the basic need of any democratic and futuristic society. However, the outbreak of current COVID19 Pandemic has been a prominent event that has compelled us all to rethink and reorient our existing patterns of education delivery mechanism and legal education is not an exception to the same. Process of digitising legal education has been ignited by COVID. But are we satisfying the ever expanding expectations of global community in providing well trained, skilled and tech savvy legal professionals is something this paper is aims to investigate. It focuses of on identifying how far the current system operates towards the goals of accessible social justice, imbibing the duties towards society in its students and training them for the global challenges and opportunities.

### **Methodology**

This research work employs qualitative method containing comparative analytical overview of concept of Legal education in England and India. The research employs both doctrinal and non-doctrinal methodology. In this research, researchers have attempted to combine the methods to reach a scientific outcome. For the part of doctrinal research the researchers have referred to all relevant resources available in online and offline mode. Considering the limitations of time and restrictions posed due to the pandemic, doctrinal research predominantly depends upon the online resources. For the non-doctrinal part researchers have created a questionnaire and circulated it amongst the pool of carefully sorted experts in the field of legal education and collected their responses. The data is carefully examined and analyzed in order to connect it with the objectives of the research.

### **Hypothesis**

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<sup>1</sup>O. Kahn Freund. *Reflections on Legal Education*, Modern Law Review, Vol. 29(2), pp. 121-123

Hypothesis for the current research is

‘Legal education system in India has failed in providing the skills and qualities expected from a lawyers in a post pandemic Era’.

### **Legal Education in England:**

“Conventionally, legal education has been confined to the classroom. In England it was left to the Inns of Court and the Law Society, and in the civil law systems to the Bar authorities, for bridging the gap between ‘legal education’ and learning the science (or art) of ‘lawyering’.

The concept of compulsory continuing legal education (CLE) after qualification came about as a result of a number of elements that indicated an increasing need to ensure that practitioners keep themselves up-to-date with changes in the law.”<sup>2</sup>

“The compulsory CLE system was designed to ensure that practising lawyers would be up-dated with latest developments in their specialised fields (and more widely for the few remaining general practitioners). Skills learning were introduced partly in order to avoid the potential problem of qualified lawyers being mere wallflowers at lectures. For instance, dispute resolution techniques were taught by using mock cases supervised by career practitioners. Course leaders would brief the students on the mock case before the action began, and would ‘de-brief’ them afterwards to help them analyse what they did right, and what they did wrong. While the longer established universities experienced difficulty in creating faculties for this purpose, comprised primarily of individuals who had not acquired the required academic qualifications and/or a suitable publications list, the new universities found it relatively easy to conform to this method of instruction as a result of the flexibility contained in their statutes to award chairs to suitably qualified retired or semi-retired practitioners). Commercial providers also took advantage of this ‘gap’ in the market.”<sup>3</sup>

### **Legal Education in India**

In the era of development where India has moved on from the status of developing country to emerging country, the education system in India plays a pivotal role in strengthening the economy. The legal education in India has been in flux with changing market situations and needs. From traditional court practices to modern day’s arbitration practices and corporate litigations, today’s market demands the legal professionals with varied expertise. Coping with these increasing and varied demands is the biggest challenge before today’s legal education system.

Today Indian legal education is struggling in comparison to its counterparts across the world, which belies in the tremendous potential that the Indian legal profession can unleash in the years

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<sup>2</sup>Retrieved from, <http://arbitrationblog.kluwerarbitration.com/2011/08/14/legal-education-in-the-21st-century/>

<sup>3</sup> *Ibid*

to come.<sup>4</sup> Creation and enforcement of stringent minimum standards for legal education in India (with more than 900 law schools) is the biggest challenge.

### **Objectives of Legal Education:**

In the words of Honourable Mr Justice R.D. Tulpule<sup>5</sup>

“Every system of legal education which is designed to achieve ultimate objective of preparing persons for a legal career, must not only aim at preparing for good legal practitioners who will function in a court of law, but must also impart legal skills and equipment to men who want to specialise in the various job opportunities and requirements which have already opened up and are opening up, and must also be designed so as to prepare academicians, researchers, scholars and critics in the legal field.”

The International Legal Center New York has enumerated the “objectives of Education which are as follows;<sup>6</sup>

1. Socialization Objectives: the use of education to develop perceptions and understanding of the environment, local and global; to understand the problems of one’s society; to influence values and attitudes.
2. Manpower of Objectives: the use of total educational system to generate the kinds of skills and knowledge needed for tasks in society.
3. Opportunity objectives: the use of education to broaden opportunity and mobility in society- notably among groups who may have been historically deprived or repressed.
4. Research Objectives: The use of educational facilities to develop research of value to education and society.
5. Administrative objectives: the use of planning in the governance of institutions; the use of more sophisticated methods in budgeting, managing and evaluating programs.”

These objectives raise following issues

- Whether today’s legal education has succeeded in generating the understanding amongst the students about contemporary socio-legal problems?
- Whether today’s legal education has succeeded in generating the skills required for a lawyer to understand and find judicious solution of socio-legal issues?
- Whether today’s legal education has succeeded in producing a research which will add value to education and society?

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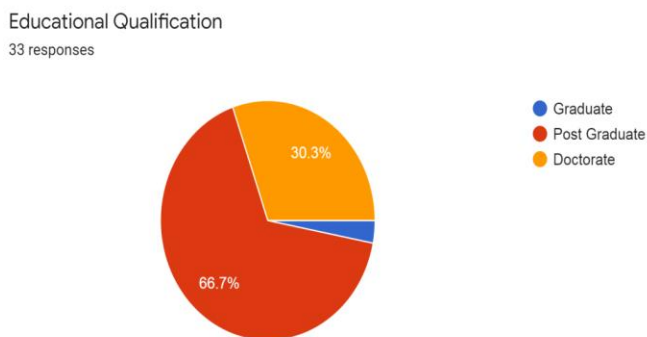
<sup>4</sup> Reform of Legal Education in India, Bar Council of India, available at, <http://www.barcouncilofindia.org/wp-content/uploads/2010/07/LegalEducationReformRecommendations.pdf>, accessed on 30<sup>th</sup> June 2018

<sup>5</sup>Bar Council of India Journal, Vol. VIII, Nos. 1-4 (1981), p. 96.

<sup>6</sup>Legal Education in a Changing World: Report of the committee on Legal Education in Developing countries , International Legal Centre New York

- Whether the current mechanism to monitor legal education is sufficient enough to managing and evaluating programs?
- Whether today's legal education has succeeded in delivering the basics of substantive and procedural laws along with skills and techniques which are essential to the practice of the legal profession?
- Whether today's legal education develops the capacity amongst its students to find the gaps in existing legislations and invent legal reforms?
- Whether the legal education has developed the commitment to accessible and equitable justice amongst its students?

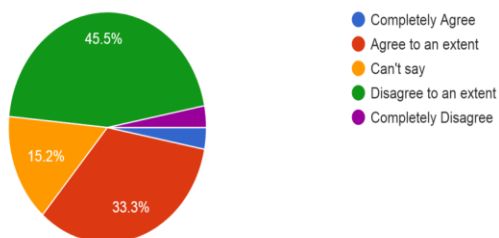
With an object of finding answers to these questions, authors conducted an empirical study by circulating survey questionnaire. The analysis of same is as follow;



Except one respondent, all had a postgraduate educational qualification and 66.7% have completed their Ph.D. 84.4% respondents were from legal fraternity whereas 12% were from social science and one from science background. Majority of the participants i.e. 63.6% were legal academicians.

Samples were selected by employing simple random sampling techniques. Primary object of this sampling survey was to understand the quality legal education and identify the possibilities of its improvements in post pandemic scenarios.

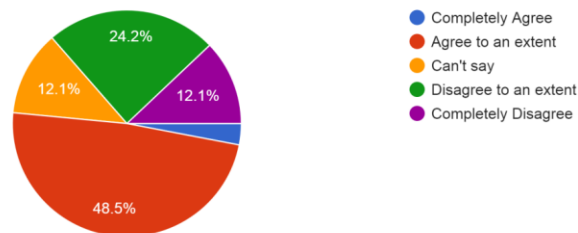
4. Whether the current mechanism to monitor legal education is sufficient enough to managing and evaluating programs?  
33 responses



Upon asking the question on sufficiency of current regulatory mechanism in legal education, 48.5% respondents have expressed disagreement thereby underlining the need for change in

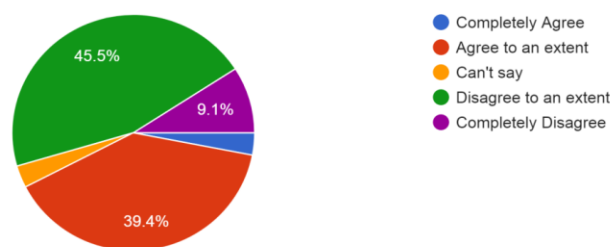
existing mechanism. At present University Grants Commission (UGC) is the body regulating education almost across all sector. Whereas, the Bar Council of India (BCI) is the major regulator that has been entrusted with task of ensuring and monitoring the quality of legal education. However, it doesn't have financial resources to support the educational institutes. Rather, its role has often been criticized as coercive by legal institutes. Hence, the aforementioned response indicates reforms on the front of monitoring legal education programs. Though, it's a body regulating legal education, it's been dominated by lawyering community resulting in lack of representation of legal teachers. This has resulted in dissatisfaction among stakeholders towards the way in which BCI is regulating the legal institutions.

5. Whether today's legal education has succeeded in delivering the basics of substantive and procedural laws along with skills and techniques whi... essential to the practice of the legal profession?  
33 responses



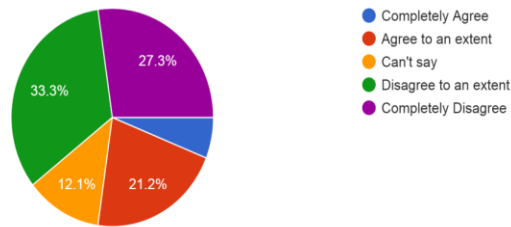
Substantial number (36.6%) of the respondents feel that, current legal education doesn't deliver the basic skills and techniques required in a successful lawyer. One of the prime reason for this is the neglect of practical learning. When asked upon the suggestions for reform, many respondents have stressed upon need of more emphasis on practical aspects (e.g. Moot Court (Courtroom simulation), attending court proceedings and internship with senior practitioners).

8. Do you think that existing modes of imparting legal education in India are competitive enough to match the global expectation?  
33 responses



Majority i.e. 54.6% respondents find legal education in India uncompetitive compared to global expectations. As observed by the authors in this paper, expectations from legal education have increased manifold particularly in the post pandemic era. Today we need lawyers who have the technical skills and competencies. A futuristic lawyering community working in paperless world, operating in virtual world, accessible to each and every fragment of society, is something that today's society expects from the legal fraternity.

10. Do you think that the current modes of legal education are efficient in handling the challenges posed due to COVID19?  
33 responses



Majority i.e. 60.6% of the respondents felt that current mode of legal education has failed in responding to challenges posed by COVID 19 pandemic. Many legal education institutes, law professors and even students were found to be not prepared, trained and equipped for virtual education. Many legal institutes still don't have even a single smart classroom. Students in remote areas are struggling to have access to good internet connectivity. Both students and professors are not sufficiently acquainted with digital etiquettes. This may have led to the above conclusion.

### **Suggestions:**

From the issues identified and conclusions drawn based upon empirical data gathered, authors are proposing following suggestions for reformed legal education in post pandemic era.

- More stress on clinical education<sup>7</sup> with at least one compulsory practical subjects (like practical visits and training in courts, tribunals, arbitration sessions, AGM's of corporate meetings, LokAdalat, Free Legal Aid Camps, Model Parliaments/United Nations) in each semester
- Uniform admission procedure for all recognised law schools in the country (this was target of BCI which was supposed to have been achieved in Academic year 2011-12 but yet to become the reality).
- Application of newer technology in imparting education and stress on short term online programmes.

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<sup>7</sup> “There are many variations on the clinical theme. At one extreme the student renders service on an ad hoc basis to particularly needy clients. At the other extreme he works as a law clerk to an appellate judge or as an observer in an administrative agency, an experience thought to warrant the designation *clinical* by virtue of its locus outside of the law school and its involvement with working legal institutions.” See, Robert Gorman, Proposals For Reform of Legal Education, University of Pennsylvania Law Review, Vol.119:845, at pg. 846, available at, [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=5833&context=penn\\_law\\_review](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=5833&context=penn_law_review), accessed on 30<sup>th</sup> June 2018

- Increased stress on faculty and student exchange programme under international institutional collaborations.
- Legal curriculum should be developed/ changed with more inclination towards International Law and Practices considering the global industrial trends.
- Offering better incentives to the faculties to attract the best pool of talent in legal education (non availability of expert and experienced faculty members has been a global issue. Particularly in country like India, teachers are paid less than other professionals).
- Setting up of global open access e-database.
- Reducing the expenditure of faculty time on non-academic activities
- frequent interaction between faculty students and legal practitioners and judges with a view to develop legal skills, ‘thinking like a lawyer’ attitude and competency of legal practice
- With mounting number of enrolment of students, they suffer from mass education, as individual need based education is neglected. Majority of the students tend to lose their involvement in classroom pedagogy. Student’s participation in teaching learning process and reducing faculty student ratio is required to be stressed.
- Application of case study method in pedagogy (diagnose (problems/issues), decide (solutions/remedy), and act), which has been the highlight of western (particularly, American) institutions, needs to be stressed in India.
- The mootng scenario does not progress beyond argument and counter argument. There is no scope for presentation of evidence by cross-examination or other confrontational methods. The National Institute of Trial Advocacy (NITA), which is at the forefront of advocacy training in the USA has introduced this element in workshop format.<sup>8</sup>
- There is need to revamp the examination system as students are clearing the examinations by studying from short summarised publications published by private enterprising publishers. Unfortunately, these publishers are least concerned about the maintenance of the standard of legal education. Instead of traditional examination and assessment pattern, students should be assessed through learning by doing activities like mootng, mock parliament, dispute resolution sessions, case studies etc.
- In curriculum delivery there should be blend in the active method i.e. the case-method, (also known as the Langdell Method), and the passive method i.e. the lecture method.
- Today’s legal education also needs to stress on developing skills that will help students in application of technology to deliver cheaper and faster legal services for e.g. developing technological competencies so as to provide e-consultation/conveyancing, e-ADR etc.
- The institutions involved in imparting legal education shall focus on using their legal skills and expertise for betterment of society. Towards this end, under public service commitment,

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<sup>8</sup>J. Martin Hunter. (August 14, 2011) *Legal Education in the 21st Century*. Kluwer Arbitration Blog

Retrieved from, <http://arbitrationblog.kluwerarbitration.com/2011/08/14/legal-education-in-the-21st-century/>



these institutions shall frequently engage their faculty and students in legal aid activities. The research at PG courses should focus on identifying the societal problems, particularly of deprived or repressed sections, and find practically viable solutions.

- Law schools shall broaden its horizons and shall start looking into delivering small training modules to professionals from other field. Many engineers, Managers, entrepreneurs do not desire to obtain law degree but merely want domain specific basic knowledge and training which unfortunately has been neglected by today's law schools.
- In post pandemic era, law schools will be and should be looked as lifelong learning centers training the lawyers through executive development programs rather than merely acting as factories of producing lawyers. Lawyering community too should engage in continuing education offered through digital platforms for updating skills. This has been a common trait in technical and management education offered through educational institutions like IIT's and IIM's and same may be and should be expected even in legal fraternity from the law schools

### **Conclusion**

Enactment of Advocates Act, 1961 was the first major development in an attempt to unify the standards of legal education. Unfortunately, this and several other subsequent attempts have failed. The kind of curriculum that is delivered in law colleges and institutions affiliated to traditional universities is outdated and rarely updated as against the curriculum in some of the newly established private law universities and national law universities. The infrastructure, quality of faculties, collaborations etc. are the additional factors separating the legal education in these universities and one in affiliated colleges. Fees charged in affiliated colleges is state controlled and very nominal as against the one charged by private universities. Hence, affiliated institutes lack the financial resources to match up the private universities and national law universities in case of providing infrastructure and quality teachers. Lack of power to upgrade the curriculum further impairs these affiliates. On the other hand, private universities and national law universities, though offering competitive environment for quality education, their focus, by and large has been towards training students for corporate litigation and lack the socialistic approach. This has resulted in creation of huge gap in terms of quality of education served in legal education sector in India. Having said this, with adoption of technology, now we have the opportunity to bridge this gap by connecting legal education institutes. Digital platform also affords opportunity to every institute to offer virtual short term courses, affording them the opportunity to showcase their true potentials. COVID 19 has certainly given the much needed push to digital education. How far this practice continues in future is something that only time will tell.

The overall effects of COVID19 pandemic are yet to be assessed on a holistic level and we all are still trying to connect the dots. In case of legal education the impact of pandemic can be long lasting and we have to rethink and reorient our fundamentals regarding the same. This research was an attempt to assess the prima facie effects and to provide few workable suggestions in order to cope with the ongoing situation and demands. Keeping in view the digital split in India, legal

education has to take some drastic steps in order to sustain this turmoil created by pandemic. Suggestions given in this paper is an attempt to propose these required steps. There is immediate need for intervention from all the relevant stakeholders for the same. Hope this attempt will sensitise the stakeholders to some extent and provide a ground for the future. Not to mention, education system shall always keep itself in flux as per the change in time and need. Hence, such attempts of research are only the part of ongoing process and not the end.