

Clinical Legal Education: An Effective Method of Law Teaching

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ABSTRACT

The phrase “Clinical legal education” is significant in making law students ready enough to practice the law in efficacious manner. It includes providing leanings to students to become advocate by way of “learning by doing or experience”. It is a kind education that is in the midst of phase of development and growth and in these relevant clinicians over globe are prompted to look upon the remarkable achievements and success over last 40 years that will be crucial for its future. Usually, law institutions in India provide the facility of “legal aid cells” wherein the students are involved in performing legal services for poor people. Clinics are crucial as they nurture students to practice law through making them learn significant skills like legal writing and research, interviewing, investigation and fact-finding. Moreover, students build an aspect of empathy in their work and social justice.

The objective of this paper is to know the different kinds of Clinical techniques of law teaching, the necessary elements in curriculum and present practices and initiatives for promoting Clinical Legal education in India. In this submission, stress is on the definition of clinical legal education, its historical background, necessary pre-requisites of clinical legal education and significance of such clinics and methods used in teaching of law, advantages of clinical legal methods/education have been also mentioned like: (a) Acquisition of skills (b) Practical approach (c) Professional Ethics and Responsibility (d) Student development and motivation.

KEYWORDS: Clinical Legal Education, Clinical Methods, Clinical Legal Education, Legal Education

Introduction

Legal Education in India

In India, usually the legal education involves educating lawyers prior to the practice. The said education is provided in India at various stages by the conventional universities and the school and specialized universities pertaining to law only after getting integrated degree or undergraduate degree. In India the legal education is governed by several authorities like: affiliating universities, “University Grants Commission, Bar Council of India (BCI)”, and State government. There are several organizations which offer legal education in the nation: government law colleges, private law schools (colleges), National Law Universities, Global Universities, private universities, Deemed Universities and private law schools running under grant-in-aid.

The legal education in India has been divided into 2 types of courses i.e., three-year program of LL.B. that provides for pre-requisite of Undergraduate degree and a five-year integrated degree i.e., program of B.A., LL.B. that can be availed right after secondary school. BCI, a statutory body has been formed under the “Advocates Act of 1961”, that provides for the syllabus and curriculum for courses relating to legal education. It governs the Indian legal professional regime and also oversee that laws are complied with and ensures the maintenance of standards for professionals by legal profession in the nation. The BCI has also been empowered to carry on supervision of the universities which confers the degree to students and also assesses their curriculum and teaching methodology. It also determines that the required standards are met by the institutions and recognizes the universities and degree awarded by it.

“Clinical Legal Education” Meaning

The term “Clinical Legal Education” refers to the process of learning which deals with making students to comprehend the manner in which the law works in real world. The said task can be completed by undertaking the realistic or real case study work which is simulated. Earlier, the law was considered to be one of the curriculums provided to law students.¹ Despite the growth of casebook method in early times, it also suffered from criticism in initial times. The law students can be educated in efficient manner by first-hand experience technique. The clinics can be used to aid students to attain knowledge if they are channel led in right direction. Clinical Legal

1. Madhava Menon N.R., “Bar Councils and Management of Legal Profession”, XIII (3 & 4) IBR (1986).

education is one such manner that can bring both theory & practice together. The term “Clinical Legal Education” can be defined in various ways: “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 manner²”. It literally refers to the process wherein the students undertake few aspects of a particular case and organize it in the manner as if it would be organized in the reality. Although the purpose and aims of every kind of clinics encompasses same principle, the legal clinics can be categorized into 3 kinds on the basis of actions taken.

Historical Background of “Clinical Legal Education”

“Clinical Legal Education” encompasses clinical courses along with such practice oriented-activities and courses which are provided outside the ambit of course curriculum. It is far more than a medium for education of legal professionals and advocates. The said education should be formulated and be put into action by implementation; this would provide legal students a comprehensive and better understanding of legal concepts³.

The content or subject-matter of Clinical method of teaching law and Clinical legal education are two different aspects; the subjects which is to be included in a clinical program or course can used in the form of presentation in conventional classes and clinical teaching technique could be used in courses beyond the general “clinical” areas of subject.

In India, “Clinical Legal Education” has derived its origin from Legal Education reform movements and Legal Aid. Amid the rule of Britishers, Indian legal education complied with the general colonial model wherein the clerks were made and not lawyers or managers⁴. Its major aim was to assist and deal with financial interest existing in England and certainly the aim was not to bring changes in legal profession (Govt. of India, 1930).

2. Government of India, Ministry of Law, Justice and Company Affairs, Department of Legal Affairs, Report of Expert Committee on Legal Aid : Processual Justice to the People (1973).

3. Upendra Baxi, “Notes Towards Socially Relevant Legal Education: A Working Paper for the UGC Regional Workshop in Law”, 51 Journal of the Bar Council of India (1975-76).

4. Upendra Baxi, “The Pathology of the Indian Legal Professions”, XXII IBR, (1995).

Post-independence, education of legal studies was predictable to make the legal arena in accordance with the political, economic and social aspirations of the nation. With about five hundred law institutions and forty thousand law students becoming graduate every year, the law institution can play a vital function in encouraging and ensuring justice, specifically through the area of legal aid. However, till the clinical courses entered the scenario, social justice work and skills training were not included within the agenda of legal education. Legal principles influenced the syllabus of school, with all the necessary directions provided online through classroom course programs influenced by conventional mode in the country. The focus on “the law” has brought its practice or action to the backstage, to the extent that any practical session felt to be outside the ambit of law institutions. The prime ideology was that graduands from law schools would get knowledge regarding the practice matters before entering into field for practice⁵. At several stages, this aspect has been put into implementation by way of apprenticeship (apart from such kind of education, the latest reforms have been brought under legal education wherein the initiatives have been taken to substitute lecture method into more efficient technique). In India actual Clinical education in law began in 1960s having its origin in both “the Legal Aid and Legal Education Reform Movements”. In 1949, “the Bombay Legal education committee” has suggested for the 1st time that practical courses shall be made mandatory only for such aspirants which look forward to opt law as a profession and technique for teaching shall include moot court competition, group discussion, seminar etc. Afterwards, in the year 1958, it was recognized by Indian Law Commission’s 14th report that professional training holds significance and there is need to strike balance between vocational training and academic session. It gave suggestion that the University training shall be accompanied by a professional program focusing upon practical aspects imbibing to those who opt to practice law⁶. The said report stressed on improving and institutionalizing the overall level of legal education. With this aspect, the Report also dealt on teaching techniques and recommended that simulation exercises, mock trials, discussions, workshops and seminars should be brought under the realm of teaching. There was need for better training in ethics and skills in law colleges. Issues arose regarding maintenance of quality of practical aspects when apprenticeship mandate were

5.Krishna Iyer, “Professions for the People: A Third World Perspective”, XXII IBR (1995).

6.Madhava Menon., “Legal Education for Professionals Responsibility – An Appraisal of the Five Year LL.B.

removed in the phase of 1960s. Accordingly, in the year 1977, the Bar Council suggested to include practical training in the curriculum. Reports of UGC (University Grants Commission) also performed vital roles in legacy of legal education by specifying the aims of reformed teaching whereby students are made more responsive towards learning and to demonstrate their level of grasping the same. The report prepared by UGC highlighted the need of making students learn various sensibilities and skills in order to transform legal education into a hermeneutical profession and brought few initiatives by forming committee for building curriculum in legal field. Based on the report, the number of subjects were increased from 16 to 28 and emphasized on the clinical education in 1997. The BCI passed a circular as per “the Advocates Act of 1961” and passed directions to all law schools and universities to reform their curriculums. It inserted 21 mandatory courses along with two other optional programs, leaving institutions free to include more subjects. It also required the introduction of 4 practical exams (papers). Law schools were mandated to bring all these papers from 1998-99 academic years, which can be seen as a huge step in bringing Legal education into the curriculum. The second report of UGC regarding Clinical Education was made by a “Curriculum Development Committee”, which was required to update the syllabus of LL.B. Program. The main focus of legal education by providing proposal of curriculum is on professional responsibility, social justice, and legal aid. The fundamental model of the said education encourages law institution indulging in work of social justice and training for professional skills. Clinic students are typically involved in experimental activities and learning by active participation in some kind of activity involving social justice like “legal aid clinics”⁷. BCI rules which mandate credit for clinical task seeks to provide few measures of particular skills training. The whole structure and idea of legal education is premised on the report of “American Bar Association task force” which was named as “the MacCrate Report” that had nexus with Indian scenario. In the nation, there has been waves of reforms in national level and efforts were taken to develop skill-based curriculum. Further, the Law Commission’s report in 2002 recommended that clinical education shall be

7. Government of India, Ministry of Law, Justice and Company affairs, Department of Legal Affairs, Report on National Juridicare: Equal Justice – Social Justice (1977).

made compulsory. In present scenario, various “legal aid cells” has been setup wherein students provide legal services to people without the help of faculty⁸.

Need for Clinical Legal Education

“Clinical legal education” is a distinct kind of approach to teaching and learning the law; it includes “learning by doing” or experimental kind of learning. Practical training helps students to get confidence as their own success lies in their own works rather than other miscellaneous factors. It provides a platform to know about how to apply knowledge and also focusses upon self-examination and reflection, so as to motivate students who are involved in the work. Moreover, as it is based on practical aspect and thus assists in acquiring skills which is crucial for an advocate⁹. These skills can be namely Problem-solving skills, negotiating, interviewing witnesses and clients, Drafting, Counselling, Communication skills and Research skills, etc. A clinic can assist to develop these skills and develop rapport among the society and law school. It can render advice and assist local communities and eliminate isolation. Further, the students could be able to comprehend the issues of different background and generation. This experience can increase the responsibility and maturity of students with respect to their society.

Benefits of Clinical Legal Education:

Few advantages of “Clinical legal education” are as follows:

- (a) It includes various methods in learning the law: The education includes “learning by doing approach” or in other words “experimental learning”. The extent of problems of client is considered and solved accordingly by this clinical education. It builds confidence within students because their achievement is decided by their own will and efforts. It is applied knowledge. It gives options to apply knowledge and also goes above it and mandates for self-examination and reflection. It provides students with platform to discuss as to the reason for the action and can discuss and reexamine their efforts. Students can review the social and legal concerns in depth.

8.Law Commission of India , 14th Report on Reform of Judicial Administration (1958).

9.Law Commission of India, 184th Report on The Legal Education and Professional Training and Proposal for Amendments to the Advocates Act 1961 and the University Grants Commission Act 1956.

- (b) Students are highly committed and self-motivated towards their tasks. Students have taken responsibility regarding the same.
- (c) Few skills are very crucial for lawyers. Clinical education is founded on the basis of practical aspect and thus helps in acquiring requisite skills. These skills can be namely Problem-solving skills, negotiating, interviewing witnesses and clients, Drafting, Counselling, Communication skills and Research skills, etc. All these skills are significant to an advocate.
- (d) There is necessity to study professional responsibility and ethics and manner in which lawyers are shaped. This is flourishing in past times as it involves practical sessions and training.
- (e) A clinic can assist to reduce the isolation by making law institution more effective to the community. It can provide assistance and advice to native people and aids to eliminate isolation. There are numerous merits of the same. Further, students can be capable to know about the society's stance and can enhance their sense of responsibility and maturity.

Teaching Methods used in the field of Legal Education

1. Lecture Method

This method assists teacher to discuss particular content which includes legal doctrines, case laws, legislations and judicial ruling. The monologue kind of lecture pattern used in law colleges, in which practical aspects are neglected or partially implemented through legal research, Court visits and moot court and due to this good advocate are not made by this kind of legal education. While focusing on the analysis of legal principles and rules should give opportunity to clinical education as well. Providing exposure to the students to criminal, civil, personal and other kinds of trials in relevant court should essentially part in the curriculum.

2. Case Study

Method used in case study involves the use of precedents and court's ruling to explicate and understand the doctrine of law. It aids in developing crucial legal skills.

3. Problem Method

This method should be used a major method of teaching under the realm of Legal Education. This technique assists students to learn to resolve the legal issues through fact finding, framing of issues and analysis of concerns themselves. This method makes sure that there is existence of faculty-student interaction. The said method includes

- Identify and Diagnose the Problem
- Generating solutions, which mean identifying and devising concerned legal theories.
- Explaining Legal Theory or concept
- Evaluation of theory pertaining to law.
- Synthesizing and criticizing legal Argumentation

This method involves Legal Research as well as Factual Investigation. Both these aspects play an important role in developing the efficient Lawyering skills.

4. Clinical Methods

This method is the combination of legal theory with teaching skills of a good lawyer. It aids to inculcate in students the practices of capable legal professional. In the said method, students are taught the fundamental skills pertaining to Lawyering such as applied professional ethics, case planning, Client Counseling, Client interviewing, Law office management, Legal Research etc. In these clinics, tackling practical situation of dealing with clients, they can get to know about crucial legal skills by actually practicing the same and while doing this they get confidence because they help to transform from law students to professional i.e., practicing advocate.

Clinical education in legal field has been a crucial part under Indian education system. This is essential to fill the gap between theoretical aspects and real practice. It is crucial in shaping law students in order to practice law efficiently. It encompasses making people learn through “learning by doing approach”. Usually, law institutions in India provide clinical education courses as a part of curriculum. Generally, these law schools provide “legal aid cells” in which members or students render legal services to the needy people without any aid and advice of faculty. These are crucial as they make students competent enough to practice in legal field by teachings of essential skills like legal writing and research, interviewing, investigation and fact finding. Students too build a feeling of empathy and social justice in their daily routine.

Model Clinical Methods

- **Internship under a practicing Advocate:** Despite the banning of representing clients, the young students should be made to work under a competent lawyer. Students should be motivated to undertake legal research relating to a specific matter designated by the lawyer under the guidance of faculties.
- **“Public Interest Litigation (PIL)”:** Law Students should be motivated to undertake the research work on problems involving public importance, and the outcome can be brought before the relevant Officer (who has responsibility for proper implementation). If the officer is not taking action, the students should either approach High Court or Apex Court to get relief in the form of PIL. In a proper PIL, students too can be present before the Court. While going through these processes, they are taught all the essential skills of advocacy.
- **Moot Court:** There is need to conduct event like moot court on timely basis. A faculty should be assigned who shall start by discussing the necessity, need and significance of the Moot Court. Law students should be well trained to undertake research work, find precedents, manner of framing issues, drafting a citing case law, finding concerned legislations and significant facts and ethics in Court. A Course or lecture series on using internet and library could be helpful.
- **Legal Literacy Camps:**
“Legal Literacy Camps” should be conducted to sensitize the people regarding the right & duties imposed by law. These camps don’t need large financial assistance and expertise in specific field. This can assist students in building significant institutional skills, public speaking, oratory, translation and research skills.
- **Legal Entitlement Programs:** As majority of the people in the country are in the state of below poverty line, the law students could be coached to organize legal research on welfare aspects under “Social Welfare Scheme” which has been brought by both Union and State governments. This type of deep investigation can be essential to find out the beneficiaries under different schemes and to assist them in application submission. Adequate research on the said beneficial law is the need of the hour to point out the beneficiaries and to assure that these steps reach the people who are in need of it. This

type of work brings about a social duty upon them and will let them know about the concerns of poor people. This scheme has capability to provide various skills such as interviewing skills, legal analysis, research and investigation.

- **Free Legal Aid Clinics:** “Free Legal Aid Clinics” could be constituted in law institutions. Here, the faculties and students can assist and supervise individual in identifying their issues and to let them know about reliefs available. The services are valuable as they save cost and time of clients and also eliminate unnecessary matters or litigation. These Cells provide huge opportunity in making students learn the techniques like research skills, fact finding and interviewing skills.
- **Para Legal Services:** Student could offer paralegal services like drafting affidavits, helping in registration of electoral rolls, births and deaths, marriages and filling many other forms. Law colleges can perform this by getting in association with regional self-government namely Municipalities and Panchayats. These types of services too will assist in developing various skills like fact finding, interviewing and drafting skills. Meanwhile these services render great assistance to people in providing them with their basic needs.
- **Open Forums:** Another technique to encourage legal education is the practice of Law schools in adoption of a particular village and motivate students to organize a survey to find out the issues, the law students can go before the competent authorities and organize a public platform. People living in village can be intimated regarding the program and motivated to take part in the said forum. Those villagers can meet the said authorities on that specific day and resolve their disputes in public. This type of event would facilitate in inculcating skills of problem solving, communication skills, legal research, drafting, organizational skills, and survey technique.
- **Theater Art:** This is another kind of technique to encourage legal education wherein law schools conduct public performances, skits and street plays for legal literacy and to advertise the free legal aid which are there and availed at their institutions. These institutions could take assistance of numerous NGOs in teaching the students. Many issues like children rights, gender discrimination, environmental issues, domestic violence and untouchability, could be the subject matter for those plays. They can even visit nearby schools and make the school children aware regarding legal concerns that

matters to them. Skills which can be affected by this technique are analytical skills, drafting, performance, communication and oratory.

However, one of the prime obstacles in growth of clinical education under Indian scenario is bar on students to represent and plead on behalf of clients. Due to this reason, clinical field and its movement has been restricted to paralegal services and legal literacy in India. But, quasi-judicial authorities like “the Consumer Dispute Redressal Forums” offer a platform to establish online client clinics in law schools. Since the forum has permitted individual to represent any party in settling consumer disputes, the clinics for consumer have been empowered to offer requisite skills which an advocate needs in the profession. Thus, constituting “Consumer clinics” especially in the Law schools can be a good option for both students and teachers. The methods given above signifies that Clinical education could play a vital function in providing both service to whole community or society and skill to the young minds i.e., students.

In India, BCI, Law Commission and various other crucial governmental and non-governmental organization have realized the significance of clinical education. However, it hasn't developed to that extent. This is due to the reason that there is deficiency in resources used by law institution upon clinics, failure in reduction of workload or burden from professors, scarcity of trained faculties and lack of laws which prohibits students and faculty from taking up practice in Indian Courts. In this submission, the focus of the author is over definition of “clinical legal education”, fundamental necessities of clinical education and significance of participation of citizens in those clinics. The author concludes with some recommendations to bring improvement in the field of legal education in India.

Suggestions

- Exchange programs should be encouraged.
- Teachers should encourage reading the related case laws very minutely.
- Team work, sensitivity towards others, time management, stress management should be emphasized.

- Research should be moved to the mainstream of “Legal education” for which resources are required. It is suggested that a council for the purpose of research in legal field shall be set up at National level which will be at par with “Indian Council of Social Science research”. The function of the same would be to provide financial need involved in research by institutions and universities indulged in legal education.
- Single Entrance Examination Pattern should be followed by all law Universities.
- BCI should regulate all Law colleges regarding intake of students like, in some law colleges student intake is 80, in some 120 and in some law colleges it is 240 irrespective of infrastructure. So BCI should bring some guidelines in this regard which can be implemented uniformly.
- Compulsory attendance should be enforced.
- Teaching training should be done at the LLM level.
- Moot court is an essential facet of Legal education. The Moot Courts should be conducted as a regular practice so that it can help in imbibing court culture amongst the law students. It assists in achieving required confidence in argumentative ability which is an vital aspect of oral advocacy. So it should be incorporated as an important part of curriculum.
- Practical Training should be encouraged as it helps the student to correlate the theoretical knowledge gained in classrooms to realities of law and legal profession. It gives them an exposure to various aspects of Legal work in, administrative offices, Advocate’s chamber, non-govt organizations, court, etc.
- Practical training can be with social action groups/communities, corporate houses, senior lawyers, and law firms.
- Computer training should be given.

Conclusion

It is essential to signify that scope and objective of legal education shall be there to make students competent enough for practicing the profession of law. Thus, Legal education and law should together form the backbone of modern society as law should change as per the interests and necessity of ever transforming society. The clinical experiences play a vital role in this

process by enabling students to understand the manner in which law functions in practice by experimental approach. Therefore, it is much needed change that clinical methods be included under the ambit of curriculum.

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