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EDITORIAL NOTE

Regulating Indian Legal Education

The Human Resources Development (HRD) Ministry's move to establish a super-regulatory body, the National Commission for Higher Education and Research (NCHER), did not go down too well with many of the stakeholders. A few months after the Bill to this effect was introduced, the country erupted in protests by lawyers all over the country, claiming that this was a clandestine move by the government to strip the Bar Council of India (BCI) of its powers and to allow foreign law firms through the back door. Accusations and abuses were hurled both ways, and the Law Ministry added its own statements against the Ministry of HRD's 'interference'. Since then, negotiations have taken place and tempers appeased. The HRD Ministry has assured the Bar Council that its role will not be diminished in any manner. In this melee, one would presume that the current state of legal education would get some notice. But sadly do we note that this vital issue receives mention only by way of mud-slinging against the other group.

Legal education in India is in almost a crisis, and needs, not a few reforms, but a complete overhaul. Teachers, who seem thoroughly disinterested in the subject they teach, pedagogical methods that would have been considered obsolete in the Victorian era and a devastating lack of accountability on the part of the educators characterizes legal education today, even in the revered national law schools. The setting up of National Law Schools (NLS) started with a lot of idealism and hopes of creating 'centres of excellence', but more than a decade later, they have not begun to achieve a fraction of all that they set out to. One cannot but wonder whether the mad rush to highly-

remunerative corporate jobs is what the framers had in mind while stating that one of the aims of NLS is the development of ‘a sense of responsibility to serve society’ among the students. Another stated object is to develop ‘skills in regard to advocacy, legal services, legislation, law reform and the like’, an object that may not be best achieved by a mere theoretical study of law, a lack of inter-disciplinary studies and an apathy to dedicated legal research. Clearly the authorities haven’t heard the phrase ‘old wine in new bottles’. The failure of the National Law School experiment was, in the words of one student, “the bitterest disappointment of all” (Arushi Garg, *Legal Education in India* on the blog Law and Other Things).

But while a national commission regulating all forms of higher education may not be the solution to pull legal education out of its comatose state, it is highly doubtful that the Bar Council in its present form is the messiah either. With law rapidly entering into the most-lucrative-careers club, private law schools charging tremendously high fees and claiming to provide a ‘global’ education are mushrooming across the country. The need for an effective standardization body is even greater in this scenario. The Bar Council, however, seems ill-equipped to handle this job effectively, and in fact, until 2010, it did not seem to have occurred to the BCI to set up a Curriculum Development Committee.

The globalization of legal education seems to have completely escaped the BCI’s notice. It also seems completely oblivious to the varying aspirations of law students and the different career opportunities that legal education can open up. No mention is made by the Bar Council in the Rules or anywhere else for that matter, of any form of comparative legal studies, nor does the Council find it relevant to include more contemporary areas of legal interest like Intellectual Property Rights, Cyber laws etc. in its list of mandated subject. The word ‘inter-disciplinary’ seems completely absent from their vocabulary, and there is no concern to ensure that subjects like the Civil Procedure Code and Evidence Law are taught with a more practical side to it so that they become useful for the students, and do not remain mere sections that are to be mugged up. It is hardly surprising then that despite the Bar Council having been, in their own words,

the “guardian”, of legal education for so many decades, clinical legal education has not picked up in India, the very least that a committed Bar could have ensured.

The Bar Council’s insistence that practicing lawyers know the requirements of the legal industry better than legal educationists, and are therefore more suited to regulating legal education, shows the extent of their narrow-mindedness. This presumption of superiority is an indicator of their outdated modes of thought and lack of recognition for the changed climes in which legal education now takes place. It probably explains why the BCI has been formulating rules all these years without consultation with Universities, and has only three academicians in its legal education committee.

It is high time that the Bar Council realized that the purpose of legal education is not limited to churning out lawyers for the Bar anymore. World over, the emphasis is it to craft critical thinking minds, to create lawyers who understand the social relevance of law and are prepared to understand and assess the boundaries of the legal system. This necessitates the coming together of stakeholders who have become meaningful players in legal services. Apart from academicians, judges and litigators, people from the law firms, companies, research organizations et cetera, have to be represented in any major legal education policy discussions. Since law is being increasingly taught in a global context, it will serve well to have legal education experts from other countries as well on these committees as special invitees.

The BCI’s ire over the conduct of a Round Table on Legal Education by the HRD Ministry is surely a cause for great concern by all those interested in the welfare of law students. A body appointed to improve standards of legal education and bring in reforms should applaud such an initiative, and indeed participate in it. Unfortunately, the lawyers of the Bar Council are too busy protecting their jobs from foreign competition to have any serious concerns about the education of future lawyers. And whereas the lawyers of the Bar Council can protest their way out of foreign competition, law students wishing to pursue higher studies or advance their careers are left in the lurch with serious educational disadvantages. In this turf war between the

BCI, the HRD and the Law Ministry too, the students are the greatest sufferers. They are left to face falling standards, infrastructure deficits, obsolete rules and teaching methods, and a complete lack of talent in the faculty.

There are approximately 900 law colleges in the country today, with around one lakh students passing out of them every year. With the lives of all these students at stake, the authorities cannot afford to continue to engage in their petty squabbles. The gravity of the situation calls for serious reflection into the failures of the system and a united approach to solving them. To the thousands of law students who have no choice but to suffer disappointing standards, it matters little who controls legal education in the country. To them what matters is not whether the BCI continues in its position or whether it is replaced by another body, but how much any authority can do to ensure that the country is blessed with the quality legal education that it surely deserves.

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On behalf of the Editorial Board