

CLINICAL LEGAL EDUCATION DURING COVID-19 PANDEMIC: ISSUES AND PERSPECTIVES

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Abstract

Clinical legal education is understood as developing the perceptions, attitudes, skills and sense of responsibilities which lawyers are expected to assume when they complete their law degree course. It can, therefore, be as broad and varied as the law schools' curriculum would accommodate; certainly it is not limited to mere training in certain skills of advocacy and legal system. Clinical legal education, whether as teaching-learning pedagogy or professional skill training, has wider goals of enabling law students to understand and assimilate responsibilities as members of public service in the administration of justice, upholding rule of law, and equitable distribution of legal services in society. Access to justice with desired skills, legal acumen and lawyering craftsmanship are the core objectives of clinical legal education. This paper brings to the notice of all the stakeholders of legal education two pertinent questions: one, how clinical legal education has been and is suffering during COVID-19 pandemic period? and second, how the lost glory of clinical legal education can be achieved?

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I. Introduction

CLINICAL EXPERIENCE in law schools offers a unique opportunity for students to learn under direct supervision, not only about the professional skills used by lawyers, but also about many aspects of the 'hidden curriculum' essential for preparation 'to think and act like a lawyer'. Clinical programmes engage students in a whole range of learning objectives necessary 'to think and act like a lawyer', particularly when students deal with real life situations in a 'Legal Aid Clinic'. Learning interests are cultivated, attitudes are developed, skills are imparted, value clarification is provided, ethical decisions are made, and confidence and responsibility experienced by the students in a clinical setting of learning. Therefore, clinical legal education offers various skills a lawyer needs to use in the profession; and hence, such learning is internalized both at the 'cognitive' as well as in the 'affective domain'.

The term clinical legal education is used to characterize a particular form of method of

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instruction in the contemporary legal education system globally. The term as considered by Prof. Richard J. Wilson is not capable to any precise and exact definition.¹ This problem is fundamentally because of existing diversity among the law schools in US and other jurisdictions regarding the use of applicable form and type of clinical experiences. The definition can vary in connection to real client clinic vis-à-vis a totally simulated clinical structure; or a clinical experience based primarily on actual representation of a client in courts vis-à-vis legal literacy clinic or an alternative dispute resolution clinic where students do not represent any client before any judicial or quasi-judicial authority.² So in his opinion mostly clinical legal education a very specific defined in a contextual manner.

Clinical scholarship has mostly attempted to explain this term from the perspective of the common goal and objective of that clinical legal education seeks to achieve. Prof. Antony G. Amsterdam explained clinical legal education as a technique, *“precisely to teach students how to learn systematically from experience, and simultaneously to educate them in a broader range of legal analyses and skills than had theretofore taught in law school”*.³ The Report of the Committee on ‘the Future of the In-House Clinic’ considers as, *“Clinical education is first and foremost a method of teaching. Among the principal aspects of that method are these features: students are confronted with problem situations of the sort that lawyers confront in practice; the students deal with the problems in role; the students are required to interact with others in attempts to identify and solve the problems; and, perhaps most critically, the student performance is subjected to intensive critical review”*.⁴

Prof. Stephen Wizner tries to explain the term from the perspective of co-relation between legal education and practice of law and functions of legal system.⁵ He considers it as form of teaching law, *“[W]here students can engage in faculty-supervised law practice in a setting where they are called upon to achieve excellence in practice and to reflect upon the nature of that practice and its relationship to law... [I]t is a method of teaching law students to*

¹ Richard J. Wilson, “Training for Justice: The Global Reach of Clinical Legal Education” 22 *Penn St. Int’l L. Rev.* 421 (2004).

² Frank S. Bloch, “New Directions in Clinical Legal Education: Access to Justice and the Global Clinical Movement” 28 *Wash. U. J.L. & Pol’y* 111 (2008).

³ Anthony G. Amsterdam, “Clinical Legal Education-A 21st Century Experience” 34 *J. Legal Educ.* 612 (1984).

⁴ Report of the Committee on the “Future of the In-House Clinic” 42 *J. Legal Educ.* 508 (1992).

⁵ Stephen Wizner, “What Does it Mean to Practice Law in the Interests of Justice”, in the Twenty-First Century?: “*The Law School Clinic: Legal Education in the Interests of Justice*”, 70 *Fordham L. Rev.* 1929 (2002), p.1929.

*represent clients effectively in the legal system, and at the same time to develop a critical view of that system”.*⁶

Prof. Margaret Martin Barry and her colleagues like Prof. Wizner consider clinical legal education twin objective of experiential learning through practice in live client representation and interaction with the legal system. They call clinical legal education as a “*method allows students to confront the uncertainties and challenges of problem solving for clients in fora that often challenge precepts regarding the rule of law and justice*”.⁷

Based on the aforementioned definitions, clinical legal education seems to be a method of teaching. It is characterized as a form of teaching method that aims to provide students with instruction of practical legal skills, professional responsibility, and social justice in an experiential learning⁸ environment. The central goal of this teaching method is to help law students to learn about these important issues through their experience in either real client scenario or through simulated exercises, which helps student to understand how lawyers do their work and learn from their experience and reflective practice. However, the evolution of clinical legal education is regarded as the most important pedagogical initiative since the invention of the ‘case method’ of teaching by Langdell’s⁹ and have a profound impact in legal education reform in US and internationally.¹⁰

It’s relevant to refer Prof. N.R. Madhava Menon, the exponent of clinical method of teaching in India, who opined that, “*clinical education is as much a new methodology as it is a vehicle for teaching new subject matter in law. Many teachers welcome clinical education because of the opportunity it offers to the students to learn more substantive subject matter contents than the lecture or case method of teaching can provide. Thus, the clinical methods help the law schools to venture on subjects like law reform, social policy, and professional responsibility.*

⁶ *Id.* at 1930.

⁷ Margaret Martin Barry et al., “Clinical Education for This Millennium: The Third Wave” 7 *Clinical L. Rev.* 38 (2000).

⁸ This term ‘experiential learning’ has been defined by the Handbook for New Clinical Teachers at page 11 which reads as “*A teaching/learning methodology through which students learn from personal performance of a job or task, either in work contexts (e.g. a clinic) or in a classroom setting (e.g. a simulation class). Usually refers to structured programs operating from an academic base, and includes closely-related classroom, discussion, and supervisory elements*”. Handbook for New Clinical Teachers, May 2009, Produced and Distributed by Clinical Legal Education Association, Fifth Edition (2009), Compiled by Laura E. McNally, available at: https://www.cleaweb.org/resources/documents/new_clinicians_handbook_2009.pdf (last visited on Sept. 07, 2020).

⁹ *Supra* note 7 at 11.

¹⁰ Anirban Chakraborty, *Issues and Challenges for Supervising Live Client Clinic: A Study of the US Model and Strategies for Implementing it in Indian Clinic Curriculum* (2010) (Unpublished LL.M. Dissertation, Vanderbilt University Law School, US).

Perhaps, the clinical method also offers better scope and to teach substantive areas which non-clinical methods attempt less effectively. Therefore, the substantive areas such as relationships between substantive and procedural rules and the early development of a case, and facts of social relationships can be learnt better through practice in a clinical setting than by lectures or discussion"¹¹. At present the legal education in the country is undergoing third generation of reforms, and in these reforms, the author feels there will be a significant emphasis on clinical legal education. Recently launched National Education Policy 2020 has also taken into consideration all aspects and has tried its best to give an environment for quality education to all while ensuring that all students get an opportunity to explore their interest and achieve their best. The higher education has been given due emphasis and the policy aims to promote critical thinking and ethics in preparing budding professionals. The policy brings out changes in our educational system with the goal of 'creation of greater opportunities for individual employment'. Though law and medical education are not covered exhaustively by the policy, the author hopes that the legal education will get an equal importance in implementation of this national education policy. Further, the author feels professional obligation to write about clinical legal education, especially in these unprecedented times, how it has been compromised and neglected by the stakeholders.

II. Emergence of Clinical Legal Education

Clinical legal education is relatively recent phenomenon in Indian legal education. Although there were a few, scattered programs earlier, clinical legal education burst into legal education in the 1970s. In 1969, a handful of law schools had a clinic. Today, no law school is without a clinic, with most having several.¹² Clinical legal education was adopted in India after looking at its phenomenal success as an instructional method for law students in United States and other countries. Clinical legal education, broadly conceived, includes not only the clinical course strictly so called, but also practice oriented courses and activities included in or offered outside the curriculum. Before the Advocates Act, 1961 came into force, law students were required to complete certain courses on procedural subjects offered by the State Bar Councils and acquire practical training for over a year and apprenticeship in the chamber of a Senior Advocate. The arrangement was unsatisfactory because of the lack of integration between the university/college education in law and the practical training. The Bar

¹¹ N.R. Madhava Menon, "*The Canadian Law Teaching Clinic*", Indian Bar Review (*Editorial*), Vol. XI, 1984, p. 3.

¹² J.P. Sandy Ogilvy, "*History of Clinical Legal Education*", Columbus School of Law, The Catholic University of America, 2005.

examinations and the system of apprenticeship were not organized in a manner to provide the best educational and professional experiences to the new entrants at the bar. The Bar Council of India, therefore, in consultation with the universities, devised a new curriculum uniformly applicable throughout the country under which the necessary practical training was to be imparted by the universities and colleges themselves in the course of the three-year law education. The intention was good, but the performance has been quite unsatisfactory.

In India, under the scheme of legal education introduced in the 1960s practical training as such was not included as a compulsory part of the LL.B. degree programme. Courses such as Code of Civil Procedure, Code of Criminal Procedure, Indian Evidence Act, Minor Acts, and Drafting, Pleading and Conveyancing, were being taught mainly through the lecture method and examined through memory based written examination like other courses. It was possible that a practical orientation was given to the teaching of these subjects by the sheer accident of being taught by a practicing lawyer employed as a part time teacher. However, generally part-time teachers also adopted the lecture method and the students had no active and participatory role obtaining in clinical legal courses. There was hardly any exposure to legal research, legal drafting/writing and written and oral arguments. In absence of case method of teaching and class discussion method, even opportunities for developing analytical skills and reasoning capabilities were inadequately provided in the academic curriculum. The term clinical legal education was not even talked about in academic circles or referred to in academic circles or referred to in the literature pertaining to law study. Because of the traditional separation between the legal education and legal profession (practical training), the first (legal education) remaining with the universities/colleges and the second (practical training) with the bar, it did not appear necessary for law teachers to develop a clinical methodology and integrate it with the law curriculum. The structure and status of legal education did not permit the same to be taken as professional training for the bar.

The Bar Council of India, while adopting the rules under the Advocates Act for restructuring legal education in 1982, did not appear to have given clear thinking the nature, contents and method of practical training it desired the universities/colleges to give through to its recommended curriculum. Nevertheless, some universities/colleges did make an honest effort to impart clinical experiences to law students by organizing moot courts, mock trials, legal writing exercises, advocacy courses and court visits as optional and co-circular activities.

Keeping in view the half-hearted, non-professional way of imparting legal education in the country, in 1988 a national level law school imparting quality legal education was thought of

by the Bar Council of India, Indian Judiciary, Karnataka State Bar Council and the Government of Karnataka with a limited number of students who opted for legal profession as career by choice. The law school was given full autonomy in terms of designing of academic curriculum including teaching pedagogy befitting foreign legal educational standards; though existing norms set up by the Legal Education Committee of the Bar Council of India were made as the minimum points of reference. This experiment was found to be workable as it had certainly improved quality of legal profession which led to creation of another two law schools in 1998, viz, NALSAR University of Law, Hyderabad and NLIU, Bhopal. Following this experiment until 2007, there were seven national law universities in the country. By 2019, there are 23 national law universities imparting quality legal education in the country. These law schools besides some private law schools, by and large, working reasonably well in upholding clinical legal education.

Therefore, clinical legal education becomes a very significant teaching pedagogy in the law school curriculum because of its effectiveness in developing advocacy skills. Practical training in present time is very important for law students and clinical legal education is playing an important role preparing students fully for the bar. But, the clinical education programme is not implemented properly throughout the country. There are many law colleges where the students are not aware of such kind of practical training as part of the law curriculum. The teachers are not trained in clinical method of teaching. It is high time that clinical legal education is implemented fully in law curriculum uniformly. Hence, it is very essential that clinical legal education is promoted in all the centres of legal education¹³ and clinical programmes through legal aid clinic must be implemented effectively.

An ideal clinical education aims to equip the students with the necessary professional skills which include drafting, argumentative and presentation skills and to apply the acquired knowledge with sense of justice and wisdom.¹⁴ During COVID-19 pandemic spread, clinical legal education was the most affected domain in legal education. The higher levels of learning through clinical method were unfortunately not addressed by the virtual teaching-learning pedagogy. The efforts made by the Bar Council of India to superimpose a certain amount of what is called 'practical training' in the new curriculum remained either totally

¹³ Rules of Legal education, Part-IV, Bar Council of India, 2(iv) defines that "*Centres of Legal Education*" means (a) All approved Department of Law of Universities, Colleges of Law, Constituent Colleges under recognised Universities and affiliated Colleges or Schools of Law of recognised Universities so approved. (b) National Law Universities constituted and established by statutes of the Union or States and mandated to start and run Law courses".

¹⁴ K. Vidyullatha Reddy, "Clinical Legal Education in India: Issues and Perspectives" 2 CLR 209 (2018).

neglected or marginally implemented at the level of Moot Court, Mock Trial, Court visit and legal research and writing. Part II (B) (*Compulsory Clinical Courses*) of the Schedule II (*Academic Standards and Courses to be Studied*) of the BCI Rules of Legal Education 2008 provides four (4) Compulsory Clinical Courses, *viz.*, (i) Drafting, Pleading and Conveyance; (ii) Professional Ethics and Professional Accounting System; (iii) Alternative Dispute Resolution; and (iv) Moot Court Exercise and Internship. All these four courses are practical in their nature and they need skills based teaching-learning pedagogy. In virtual teaching-learning pedagogy, simulation exercise, drafting and pleading skills, inter-personal academic discussions, practical socio-legal issues based teaching, cooperative teaching, and teaching by the experts from the bar, bench and industry are some aspects where the students and the teachers failed miserably.

III. Clinical Legal Education During COVID-19 Pandemic

Sudden closure of educational institutions throughout the country has impacted students immensely on their health-mental and physical, education and job prospects. Students from pre-school to the higher secondary, undergraduate degree courses to postgraduate degree courses and doctorate to post-doctorate programmes have been barred from physical interaction with the peer mates and teaching-learning process. Since March 16, 2020, all institutions of higher education in the country were focussed on saving the academic session at the graduate, postgraduate, and doctorate levels while completing half-done formal evaluation of their examinations until then and the rest fifty per cent also could have been covered by the end of May 2020 but due to sudden spread of COVID-19 Pandemic in the country it was not covered by most of the institutions. While all the institutions were trying to complete the academic session by conducting virtual teaching, where basically a lecture method of teaching in a virtual mode was practiced. In such kind of teaching-learning pedagogy clinical learning took the back seat. The students of law specifically lost their grip on the clinical papers. Students' active participation in moot courts, mock trials, trial advocacy, ADR activities etc. were put on hold initially and as the coronavirus spread and nationwide lockdowns continued, such practical oriented teaching-learning practices automatically stopped. Another dent in professional learning came with closure of the courts throughout the country. The moment courts stopped hearing matters physically and turned into virtual mode, the students pursuing law courses were left over in online process of e-courts. At the same time, law firms, corporate houses, etc. too stopped allowing law students to join them as interns, though these law houses were having active e-lawyering and legal

matters in hands but due to spread of virus, as a preventive measure, they too did not allow the law students to undergo training. Even the senior lawyers closed their offices for internship for the senior students. As we understand that society is the laboratory of a lawyer where he/she can see the application of a judgment and its impact on the members of the society; these budding lawyers were not taken to the society under the banner of social outreach activities of the institutions imparting legal education during these unprecedented times; hence, no social interaction and learning. In such circumstances, practical learning, i.e., clinical based learning suffered a lot.

From July 1, 2020, most of the law schools, public and private, have started their academic session in virtual mode while teaching mandatory and optional papers. Again, they started in virtual teaching-learning pedagogy where teachers have by chance or by choice least bothered about the clinical learning such as practical/skills based learning, training and real-life problem solving skills of the students. The teaching-learning pedagogy was only the normal lecture method in online mode. In pre-pandemic times, most of the institutions imparting legal education used to invest a considerable amount of time on moot court activities where teachers, lawyers, judges and students were involved for practical teaching-learning process. But, due to Pandemic, nationwide lockdowns, closure of educational institutions, social distancing, etc., clinical oriented activities have become a matter of academic discussion, where teachers and students feel a sense of loss in their learning. There have been attempts of online/virtual moot court, trial advocacy and essay writing activities by some institutions, but they too do not carry as a matter of regular learning due to technical glitches. Further, during virtual teaching-learning process mediation, negotiation and conciliation/reconciliation skills are another area where students have lost their grip over such learnings and teachers could not train their students well on these practical oriented learning. Visiting courts, tribunals, chambers of senior advocates, law firms; corporate houses, government offices, child homes, old-age homes, prisoners etc. have become virtually distanced learning during these days. Consequently, learning activities such as moot court competitions, mock trials, ADR activities, legal debates, essay writing, deed writing, memorial drafting, general legal documents drafting, judicial clerkship, summer schools, policy review, research centres, and legislative drafting all are have become herculean task for the teachers and the students.

The Hon'ble Chief Justice of India, Shri Justice S.A. Bobde, said during a virtual event where he launched the book "*Judiciary, Judges, and the Administration of Justice*" authored by

former Supreme Court Judge, Smt. Justice R. Bhanumathi, “the COVID-19 pandemic would present a ‘huge pendency of cases’ in courts and a lot of emphasis has to be placed on utilising mediation for resolving many of these matters”. He believes, “*this is the time when a lot of emphasis has to be placed on utilising mediation, pre-litigation and post-litigation mediation to resolve many matters. I am not suggesting every matter can be, but when the Pandemic goes away and the lockdowns are all lifted, we are going to face a flood of cases which I do not know how we are going to decide if we go in the usual way to following the detailed procedure and this is something which we all have to put in our minds together to deal with*”¹⁵. All the stakeholders of legal education must take this message of the CJI as important because imparting quality legal education which leads to justice-social, economic and political, as envisaged in the preamble of the Constitution of India. This message, though was in the light of pendency of cases and expected number of cases post pandemic is likely to come before the courts but it leads to caution the whole legal system including administration of justice system, timely and accurately disposal of cases, justice education, and the way centres of legal education are preparing the budding lawyers and the kind of professional skills are imbibed in them. Hon’ble Chief Justice of India is also the chancellor of some of the law universities; hence, his words/messages are to be taken seriously by these law universities and other centres of legal education. In recent times, the Hon’ble CJI has requested all the law universities and the Bar Council of India to deliberate and start offering of Mediation and Conciliation courses besides existing Alternative Dispute Resolution course as part of law courses, mandatory or optional or elective whereas students can be trained to become future arbitrators, mediators and conciliators so that a considerable amount of cases may be settled amicably where both the parties feel happy and there is a win-win situation among them. Further, the BCI on August 13, 2020 has issued notification along with guidelines on offering of a course on ‘Mediation Conciliation and Arbitration’ with due care and caution¹⁶. The BCI further notified on August 24, 2020 the same course with some modifications making this course as a major compulsory subject¹⁷. Hence, ADR being one of the prominent courses in clinical legal education as per the recommendations of the BCI¹⁸,

¹⁵ Press Trust of India, “There will be ‘flood’ of Pending Cases Post-COVID, Mediation Needs to be Emphasized, Says CJI”, *The Indian Express*, Sept. 12, 2020, available at: <https://indianexpress.com/article/india/covid-19-cji-bobde-supreme-court-6593447/> (last visited on Sept. 10, 2020).

¹⁶ Vide the communication from the Secretary of the BCI, BCI: D: 1897: 2020 (323/2020) dated: 13.08.2020.

¹⁷ Vide the communication from the Secretary of the BCI, BCI: D: 2133:2020, dated: 24.08.2020.

¹⁸ Rules of Legal education, Part-IV, Bar Council of India, Part II (B) *Compulsory Clinical Courses*, 23 ‘Alternative Dispute Resolution’, pp. 24-25.

the author feels confident that centres of legal education, especially the law schools, public and private, will take this move in positive and there will be desired change in the regular law curricula. Therefore, law curriculum must cater to the need of litigants as 'Access to Justice' and 'Justice to All' are key concern of clinical legal education; hence, clinical legal education must be promoted with all seriousness to meet its core objectives.

IV. Higher Education Regulators

In tune with the University Grants Commission (UGC), on May 27, 2020, the Bar Council of India (BCI)¹⁹, based on the resolution passed by the General Council of the BCI at its meeting held on May 24, 2020 has issued guidelines with regard to the online examinations. The guidelines were in the light of detailed guidelines for conducting examinations issued by the UGC on April 27, 2020²⁰. Further, on June 9, 2020, the BCI in continuation of its earlier communication dated May 27, 2020 released the revised guidelines²¹. All the centres of legal education were guided by the BCI on time and they have taken care of terminal and final year examinations accordingly. However, in these evaluations too, clinical papers were the most affected ones as they were put in the normal evaluation pool where practical learning was missing.

The matter relating to conduct of examinations was brought by the students, NGOs and political leaders before the Supreme Court of India in July 2020. On August 28, 2020, the Supreme Court pronounced its judgment in *Praneeth K. v. University Grants Commission (UGC)*²² on conduct of examination.²³ However, the clinical legal education or/and clinical based evaluation during the pandemic hit circumstances was not brought before the Supreme Court and it remained judicially unscrutinised. At the same time the BCI, the sole regulating body of legal education, did not provide any guidelines towards evaluation of law courses with specific focus on clinical based evaluation. In fact, as far as legal education is concerned, there have been general guidelines issued by the BCI, but the clinical legal education and particularly the evaluation of the same remained unattended during the COVID-19 pandemic period. On behalf of the BCI, there is no other body that would see whether minimum class-hours per week, per semester or per trimester including tutorials,

¹⁹ Vide BCI: D:1401/2020 dated 27.05.2020 signed by the Secretary of the BCI.

²⁰ *Ibid.*

²¹ Press Release signed by the Secretary, BCI dated June 9, 2020.

²² Writ Petition (Civil) No. 724 of 2020, decided on August 28, 2020.

²³ *Id.*, at para 111.

moot court exercise, and seminars for mandatory, specialised or honour courses are conducted, and how clinical papers are dealt with.

At the same time, there have been no directions/guidelines from the BCI or its legal education committee as to how the universities/colleges should impart quality legal education while promoting clinical legal education, nor any compliance report is being asked for from institutions imparting legal education, nor the way forward is shown to conduct quality legal education in these unprecedented times. Further, as per the rules of legal education 2008, 'no centres of legal education shall admit any student and impart instruction in a course of study in law for enrolment as an advocate unless the recognition of the degree of the university/college has been approved by the BCI after inspection'. But in reality, during these unprecedented pandemic period, no inspection by the expert committee of BCI is happening and the universities or colleges are running the courses as usual.

The legal education committee of the BCI met during these days but did not consider the conduct of clinical legal education as an important component of legal education which is suffering the most during these days, nor did it direct the BCI to find out the ground reality about quality legal education and clinical legal education. Nowadays, the higher education sector of the country is working hard on effective execution of the (new) national education policy 2020 with effective governance and leadership, and transforming the regulatory system of higher education. In this background, the author appeals the BCI to come forward with phased manner plan to re-skill legal education with more effective practical oriented legal education where clinical learning will play a vital role. The author with all sincerity requests the chairman of the BCI to conduct a webinar on 'quality legal education and clinical legal education' and invite all the vice-chancellors, directors, principals of law schools, public and private, and the colleges to deliberate on these issues. It would be appreciated if the BCI comes with a proposal to make these legal educationists as part of the legal education committee and fix over them the responsibility of quality legal education.

Further, in normal course of things, all the universities and colleges imparting legal education have Legal Aid Clinic in place and through this Clinic, the teachers and students conduct a lot of social activities while providing aid and advice to the needy, marginalised, and underprivileged people. Through such social-outreach activities, there is a lot of learning for the students of law where they connect themselves with the people or society and understand social demography of the region, religion and the local folk. Some of the institutions have connected with district legal service authority, state legal service authority and so on. While

having such kind of associations, the students get double learning benefits and feel connected with profession and society. But, during these COVID-19 pandemic period such kind of learnings are not happening and no one is bothered about such kind of loss of learning of the students. Hence, the BCI and the universities/colleges must associate themselves with the district and state legal service authorities and facilitate clinical legal education to the budding lawyers.

V. A Way Forward

Clinical legal education is an integrated part of contemporary Indian legal education. It is a useful teaching method and provides a wide range of choices to law teachers to design their program in a manner to meet the students learning needs more comprehensively. Also, in India, millions of people still have limited access to justice due to various socio-economic factors. Clinical legal education can serve their legal needs. The students enrolled with the clinic can play a vital role in meeting the justice needs of the marginalized citizens. However, clinical education in India is still at its very nascent stage. There is a dearth of literature in clinical teaching. Various other challenges also exist in implementing a clinical curriculum e.g., supervision guidelines; determining appropriate assessment system; financial and infrastructural issues etc. Further, the restriction on law teachers and students in India to present clients in court is considered as a constraint in development of clinical teaching.²⁴

As a matter of fact, most of the teachers are not accustomed with clinical method of teaching and are also not well-to-do with technological advancements such as breaking virtual class into multiple groups and leading each group for different kind of practical oriented teaching including simulation exercise. Hence, they have put clinical teaching-learning pedagogy on the back seat during these unprecedented times. Though such kind of teaching-learning seems to be easy when teachers are aware of such programming of the virtual platform (software), but in absence of these teaching-learning skills, this method becomes troublesome and students lose interest. At the same time, inviting experts from the bench, bar and industry, during these unprecedented times, has become next to impossible; hence, the practical experience of many eminent experts is not getting to the students in the virtual teaching-learning process. In such a situation, institutions imparting legal education must come forward in providing formal training to the teachers. Nowadays, training the trainers cost a lot but becomes imperative for almost all the educational institutions of higher learning. Well-

²⁴ Anirban Chakraborty, "Using Clinical Legal Education in Law Schools: The NUJS Experiment" 2 *CLR* 233 (2018).

trained teachers in technological developments besides commend over the domain area of teaching and research and technological language will serve desired purpose of virtual teaching-learning pedagogy.

A unique source of experiential learning could also be used especially in clinical teaching-learning pedagogy from human libraries. Experience sharing of actual human beings and their life-long experience if brought to the classroom, the students will be immensely benefitted. In the academic world these experiments are termed as human library based learning. Human library could become a very useful instructional materials or resources to create clinical experiences for law students. The formation and implementation as well as legal practice are imbedded in the society, hence the clinical experiences should not only focus on legal practice but also on the sociological aspects of the same. In this context, human library could be quite useful in law schools in empowering clinical legal education especially through virtual delivery of classes. Human library, as the name suggests, comprises of 'human books' that readers could borrow for interactions. The human beings who have unique stories and they volunteer to be the interactive books and readers can ask them questions to immerse into their stories. Generally, the human books are kind of people like refugees, homeless people, people with HIV, sex-workers etc.; and hence, the human books expose stereotyping and stigmatization.²⁵ If such human books from human libraries are invited for online or offline classes on experimental basis in clinical education, not only would it contribute to those subjects which are considered to be clinical subjects in particular, but all subjects taught in legal education.

Since all centres of legal education have opted for virtual teaching during the pandemic, they are procuring virtual platform for online teaching, and the service providers are conducting training sessions for the users (teachers, students and IT personnel) while making them to become ICT user-friendly. During such trainings, teachers of clinical courses shall ensure that they get trained for virtually enabled simulation exercises which shall be instrumental in during virtual teaching-learning in bringing clinical legal education into virtual mode. For example, certain virtual portals like Cisco WebEx facilitate 'Breakout Sessions' in which the participants could be divided into groups either by selection or randomly for specific duration. In other words, the selected or entire members of participants could be grouped for simulation exercises wherein clinical aspects of teaching leaning could be easily executed. These features do not only facilitate teacher or administrator centric group formation, but also

²⁵ Available at: <https://www.rd.com/article/human-library> (last visited on Sept. 17, 2020).

allow students to move from group to group or form their own groups with the permission from the administrator. If the law teachers explore these features of virtual portals to undertake the stimulation exercises in the online classes, they will prove to be instrumental in increasing the interaction within the class and making classes more engaging and fruitful. Not only will such simulation exercises come as a great learning experience for students and the teacher, but also provide a platform to incorporate clinical legal education aspects into the virtual teaching learning.

It is also important to note that the legal aid clinics of law schools in India can play a vital role in sharing the burden of the courts due to increased case load in the aftermath of the Covid-19 Pandemic. As observed earlier the Chief Justice of India has predicted that administration of justice will come under severe strain of pendency and arrears of cases due to loss of valuable judicial working hours and other limitations presented by the Covid-19 Pandemic. Increased use of mediation or ADR methods wherever possible and augmenting resources is a way-out to secure timely delivery of justice. The legal aid clinics with its faculty and students can be an important resource that the judiciary may look for. In the report titled *Processual Justice to the People*, 1973, Justice V.R. Krishna Iyer had observed that *“The law school clinic is indeed a visible and effective instrument for community education and a wide variety of far-reaching preventive legal services programmes.”*²⁶ In the opinion of the committee the law students can serve as a valuable resource in reaching out the benefits of legal aid to millions of Indian citizens. It was recommended by the committee that institutions for administration of justice need to partner with the law schools to serve the justice needs of the society.

Accordingly, the State Legal Services Authorities or District Legal Services Authorities established under the Legal Services Authorities Act 1987 may increase their engagement with the law schools to establish ADR and Mediation centres. These centres can function under the direct supervision of the District Legal Services Authorities and effectively help in providing ADR and mediation services at a decentralized and efficient manner. It will also increase the resource pull of mediators if the law faculties are given necessary training and used as mediators or ADR neutrals in resolving disputes between parties. The faculties will be enriched with this practical training and experience in mediation and can share it with their students. Further, the faculties and students of final year law degree can be empanelled with the District Legal Services Authorities to represent cases of marginalized sections in various

²⁶ Government of India, “Report of the Committee on Processual Justice to the People” (May, 1973).

judicial and quasi judicial forums. Courts in India have on certain occasions permitted law students under supervision of their faculties and with the appropriate authorization to represent marginalized clients before them.²⁷ However, the main hindrance in this regard is the Bar Council of India regulations that restrains full-time faculties and students of law to appear in courts.²⁸ But, in the present circumstances of COVID-19 pandemic when the pendency of cases is feared to be on rise, it is both timely and necessary that the Bar Council of India revisits this position. Appropriate guidelines can be formulated to this extent after necessary consultation with the judiciary and the law schools to allow limited practice rule for law faculties and final year law students to strengthen the reach of the legal aid system.

After analysing the current situation on clinical legal education in the country amid COVID-19 Pandemic, the author makes some suggestions into two-fold formula: (i) *During Pandemic*- **first**, the teachers, who are involved in offering clinical papers must device formula in such way that they involve students into their virtual teaching-learning pedagogy; **secondly**, the centres of legal education, especially the law schools, must bring experts from the bar, bench, and industry virtually to the students for practical oriented teaching; **thirdly**, academic activities having interface with clinical papers must be organised virtually on regular basis engaging students in their skill-based training/learning by all the centres of legal education; and **fourthly**, the BCI and state bar councils must come forward and extend their support in providing clinical based learning to the students, especially the final-year students. (2) *Post-pandemic*-**first**, the legal educationists and regulators must make it mandatory for all the centres of legal education to have legal aid clinic as part of the infrastructure and the academic curriculum without which no approval shall be granted by the BCI. **Secondly**, let there be a separate pool of teachers for teaching the clinical courses as recommended by the BCI. Following the footsteps of other countries, in India too, we need to have dedicated clinical teachers who are meant for advocating, promoting and disseminating teaching on clinical courses. **Thirdly**, the legal education regulators and the statutory bodies of the universities must allow appointment of retired judges (district court, high courts and supreme court) as eminent, guest, professor of emeritus, etc., so that these experts having abundant life-long practical experience may be shared with the budding lawyers. Additionally, practicing lawyers/advocates must be allowed to be invited to the classroom for practical teaching-learning and life-long experience sharing with the students. **Fourthly**, regular class-size may be permitted to split into small groups so that the teacher-student interaction

²⁷ *Anees Ahmed v. University of Delhi*, AIR 2002 Del 440.

²⁸ Bar Council of India Resolution No. 108 of 1996.

becomes direct and practical oriented teaching-learning becomes easy for both the parties. As referred earlier, clinical method of teaching should not be combined and compared with in its teaching mode, techniques, course evaluation and learning outcomes because in clinical courses these parameters are different than other the methods, modes, and techniques of law teaching. **Fifthly**, the legal aid clinic must be provided separate financial assistance by the universities/colleges authority with term of reference of activities to be undertaken in an academic year which shall be supervised by the teacher/s and students registered with the clinic. And, **lastly**, legal aid clinic shall be allowed to forge partnership with district and state legal service authorities, other centres of legal education, community service providers, NGOs and gram panchayat etc. so that the students get wide range of exposure to understand society and offer their services to the needy.