

REVAMPING LEGAL EDUCATION IN INDIA: LINKING THEORETICAL KNOWLEDGE WITH PRACTICAL TRAINING

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ABSTRACT

The rule of law is the hallmark of Indian democracy. An independent judiciary and an efficient justice delivery system are the essential characteristics of a society ordained by the dictum of the rule of law. In this context, one cannot be oblivious to the significant role played by lawyers both in the legal system and in the day-to-day lives of people. Lawyers not only play an important role inside the courtrooms, but also promote the development of law, and create awareness among the masses on matters pertaining to important legal issues. The huge responsibility entrusted to them along with the changing landscape of emerging fields of study in law like international trade law, cyber law, artificial intelligence, e-commerce, etc. has necessitated the requirement of professionals in the field who can match up with their peers across the globe. Thus, it has become imperative to transform the existing system of imparting legal education in conformity with the current needs. The major focus of this paper shall be on understanding the problem of the present lack of correlation between ‘theoretical knowledge’ and ‘practical training’ in legal education in India and to provide suggestions for the same. The paper restricts itself only to the bachelor's degree in law offered by recognized universities. Primary issues of bringing students back to the classrooms, reforming the internship system, and introducing mandatory training before enrolment at the Bar shall be dealt with in this paper.

Keywords: Legal education, Law colleges, Internship, Pre-enrolment training.

- I. Introduction**
- II. Legal Education in India**
- III. The problem of bringing students back to the college**
- IV. Lack of correlation between ‘theoretical knowledge’ and ‘practical training’ in legal education in India**
- V. Conclusion**

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I. Introduction

JUSTICE AKIL Kureshi in one of his lectures has explained the requirement of outstanding lawyers for three reasons *viz.*, for the development of law, to join judicial services, and to ensure judicial independence.¹ He says that lawyers are instrumental in delivering landmark judgments. They present the two sides of the case through good research which considerably contributes to writing judgments.² He states that a strong Bar is a *sine qua non* to ensure the independence of the judiciary and the separation of powers in a legal system. The Bar keeps a vigil by holding a mirror in front of a judge and corrects her or him when she or he may be wrong.³ Former Law Minister D.V. Sadananda Gowda is of a similar opinion and has in one of his speeches stated that the efficiency of judicial administration depends largely on the competence of the Bar.⁴

Lawyers act as social engineers protecting individual liberties, as vanguards of public rights in crises, and as vehicles to disseminate information to the general public on important legal issues. Though lawyers and judges both work in sync in any legal system, it is observed that the set-up restrains the judiciary from direct interaction with the commons apart from the medium of their judgments, while the lawyers act as a link between the judiciary and the public. They perform their function as the officers of the court, and also as a watch for actions of the State and private individuals. Their role in upholding the rule of law cannot be undermined.

The journey of a law student from classroom to courtroom is crucial for her or his career as a legal professional. The basic premise of the paper is based on the degradation in the quality of legal education in India resulting in a generation of incompetent law graduates entering the profession. Some measures have been suggested to improve the state of law colleges in India, make academic education appealing to law students, and prevent them from interning during the academic calendar of colleges which nevertheless is not as rewarding as it may seem. There is a problem of lack of proper regulation of internships by the Bar Council of India which worsens the situation of law students. Adding to this is the constant pressure on the students to

¹ Live Law, “How to extend Class Room Training into Good Advocacy - By Justice Akil Kureshi”, 2020, available at: <https://www.youtube.com/watch?v=dTDG8cKDCgM> (last visited on June 02, 2022).

² *Ibid.*

³ *Supra* note 1.

⁴ Speech of Hon’ble Minister of Law and Justice at the Inauguration of Seminar-cum-Training Programme for Young Lawyers & Students, held on June 04, 2016, p.no. 3, available at: <https://lawmin.gov.in/sites/default/files/Speech%20-%202004-0602915.pdf> (last visited on June 19, 2022).

gain practical experience in courtrooms to prepare them for practice upon the completion of the course. This calls for the need for compulsory pre-enrolment training for law graduates along with a stiff professional exam to make them practice-ready.

II. Legal Education in India

Legal education in India is regulated by the Bar Council of India. The Council is empowered under the Advocates Act, 1961 to promote legal education and to lay down standards of such education.⁵ This function is performed in consultation with the State Bar Councils and the universities that offer such education.⁶ The other significant function of the BCI is to recognize universities whose bachelor's degree in law shall qualify for enrolment as an advocate and to visit and inspect educational institutes itself or through the State Bar Councils.⁷ It further has the power to make rules to prescribe the minimum qualification for admission to a law course in a university⁸ and to prescribe standards of legal education required to be observed by these universities and their inspection to ensure them.⁹

In the exercise of these functions, the BCI has framed the Rules of Legal Education, 2008. However, the powers of BCI are limited to the LL.B. courses (bachelor's degree in law) and do not extend to Masters and Doctoral courses in law. Thus, the LL.B. courses are regulated by the University Grants Commission (UGC), the BCI, and the laws relating to the State universities. The UGC was established to coordinate and determine standards in universities in the country.¹⁰ Its functions include the maintenance of teaching standards in universities¹¹ and the power of inspection¹² similar to the BCI.

A harmonious construction of the relevant provisions has been tried to be achieved by the courts in case of a dispute to reach a conclusion in tune with the aim of legal education.¹³ For the purpose of this paper, 'legal education' refers to the bachelor's degree in law offered by recognized universities in the country. It is imparted in India either through a three-year course

⁵ The Advocates Act, 1961 (Act 25 of 1961), s.7(1)(h).

⁶ *Ibid.*

⁷ *Supra* note 5, s.7(1)(i).

⁸ *Id.*, s.49(1)(af).

⁹ *Id.*, s.49(1)(d).

¹⁰ The University Grants Commission Act, 1956 (Act No. 3 of 1956), Preamble.

¹¹ *Id.*, s.12.

¹² *Id.*, s.13.

¹³ *Bar Council of India v. Board of Management, Dayanand College of Law* (2007) 2 SCC 202.

after completion of a bachelor degree of three-year duration from a recognized university, or an integrated five-year course after completion of senior secondary school education.¹⁴

The deteriorating condition of law colleges

The Law Commission has in its fourteenth report expressed concerns over the miserable state of affairs of law colleges in the country replete with part-time teachers and colleges, deteriorating standards, overcrowding, and unsatisfactory infrastructure.¹⁵ Sadly not much has changed since then on the macro level with the condition of law colleges excluding the elite National Law Universities and few reputed private colleges being dismal. Around 60,000-70,000 law graduates join the legal profession in India every year,¹⁶ out of which only around 3,000 are from National Law Universities. Law is a professional and full-time course of study, yet many colleges in the country are giving out law degrees to students who have not attended classes on a regular basis. Many private law colleges have unfortunately turned into profit-making businesses where degrees are sold on the payment of fees.

III. The Problem of Bringing Students back to the Classroom

The difficulty of bringing students back to the classroom may seem exaggerated, but is a hard reality. Few efforts although unsuccessful have been made towards this end. In 2014, the BCI issued a circular to universities and law colleges to not send their students for internships during the academic year.¹⁷ In 2013, the Supreme Court of India registry brought a notice to not issue passes to law students and pre-enrolment interns on miscellaneous days (these are the days when fresh matters are heard) and also to not permit them entry into the courtrooms during these days.¹⁸ Aggrieved by this notice, in 2017 a law student named Swapnil Tripathi challenged it arguing that it violated the ‘Right of Learning’ of interns and is adverse to the BCI’s mandate of internship requirement.¹⁹

¹⁴ *Supra* note 5, s. 2(vi).

¹⁵ Law Commission of India, “14th Report on Reform of Judicial Administration” 521 (September, 1958).

¹⁶ *Available at*: <https://www.barcouncilofindia.org/info/vision> (last visited on May 21, 2024).

¹⁷ Circular No.5/2014, dated September 11, 2014, BCI: D:1478/2014(LE), *available at*: <http://www.barcouncilofindia.org/wp-content/uploads/2010/05/Circular-No.-5-BCI-1478.2014-dated-11-9-2014.jpg> (last visited on June 17, 2022).

¹⁸ Supreme Court of India, Notice No. 1016-18/CCTV/07/SCI(AMI), dated August 21, 2013.

¹⁹ SCC Online, “Swapnil Tripathi on his experience of arguing in the Supreme Court against the bar imposed on interns in entering courtrooms”, 2019, *available at*: <https://www.sconline.com/blog/post/2019/05/01/swapnil-tripathi-on-his-experience-of-arguing-in-the-supreme-court-against-the-bar-imposed-on-interns-in-entering-court-rooms/> (last visited on June 08, 2022).

The petitioner had claimed the relief to either strike down the impugned notice or to create a room where the proceedings could be live-streamed and the interns could watch them without overcrowding the court premises.²⁰ The petition proved to be a landmark judgment²¹ in the history of the Supreme Court of India and has given the necessary push for the live streaming of judgments of “constitutional importance having an impact on public at large or a large number of people”.

One may argue that these occasions could be the instances wherein the students were interning during the vacation period of law colleges as prescribed by the Rules. However, the argument is rebutted by observing the dates of issuance of the Supreme Court registry notice and the BCI circular. These were issued in the months of August, 2013 and September, 2014, when the odd semester is in full swing at most Indian universities. Both these instances are reflective of the presence of interns in courts during the academic calendar of colleges. Thus, the fact that students do internships during the academic year has well been acknowledged by the legal fraternity.

At the same time, we need to understand that the summer vacations of the students coincide with the summer vacations of the courts in a larger portion of the Indian subcontinent. This renders it difficult for students to complete these internships during the vacation of colleges. The only time they are free to do internships according to the academic calendar for the five-year course students will be their tenth semester when they are not required to attend classroom lectures. However, the students are supposed to prepare a dissertation which carries twenty credits, along with the internship which carries only eight credits in some universities; thus putting huge stress on students in juggling with two tasks at the same time. We cannot underestimate the fact that the dissertation is supposed to be the first original comprehensive work the students are expected to submit, and adding to it is the task of completing an internship wherein they are supposed to maintain a diary together with the jobs they may be assigned as part of the internship duties.

²⁰ *Ibid.*

²¹ *Swapnil Tripathi v. Supreme Court of India* (2018) 11 SCC 475.

Law Commission of India in one of its reports states that “the subject of legal education is fundamental to the very foundation of the judicial system.”²² Quality legal education not only creates competent lawyers but also law-abiding citizens who are justice-oriented and value human rights. In 1927, Felix Frankfurter wrote: *“In the last analysis, the law is what the lawyers are. And the law and lawyers are what the law schools make them.”*²³ The National Education Policy states that legal education must enshrine the notions of justice-social, economic, and political and be focused on upholding the rule of law, democratic principles, and human rights.²⁴ With the changing dimensions of internationalization and technological advancements, the legal profession is undergoing a paradigm shift. There is a need that our legal education also adapt to these growing needs and prepare lawyers who can effortlessly pull off the requirements of the profession. In this respect, it is important to maintain the quality of legal education by improving the condition of law colleges in India, building the capacities of the faculty, and making the curricula suited to the needs of the profession.

Inspection of colleges

The best mechanism to keep a vigil on the state of functioning of law colleges in the country in terms of infrastructural requirement, faculty-student ratio, faculty qualification, etc. is the power of the BCI to inspect them.²⁵ The BCI in its inspection manual guidelines states that inspection of universities is *“one of the most important function and a very critical one”*²⁶. Yet, this powerful weapon is not effectively utilized by it. The Law Commission in its 184th report has expressed dissatisfaction over the manner in which inspections are carried out and suggested measures to streamline the procedure in the manner of inspections.²⁷

The Central Information Commission in the case titled *H. N. Pathak v. PIO, BCI*²⁸ has held that the inspection report prepared by the BCI is ‘information’ as per section 2(f)²⁹, and cannot

²² Law Commission of India, “Report No.184th Report on the “Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 2 (December, 2022).

²³ Letter from Felix Frankfurter to Mr. Rosenwold, (May 13, 1927) as cited in Law Commission of India, “Report No.266th Report on The Advocates Act, 1961(Regulation of Legal Profession)” 35 (March, 2017), para.12.4.

²⁴ Government of India, “National Education Policy” 50 (Ministry of Human Resource Development, 2020), para.20.4.

²⁵ *Supra* note 5, s. 49(2)(d).

²⁶ Bar Council of India Inspection Manual, Guideline for Inspection of Bar Council of India of University/Institution (2010) p.no. 3, para.1.

²⁷ *Supra* note 22 at 80, para.8.9.

²⁸ *H N Pathak v. PIO, BCI*, decision dated January 02, 2017, p.no.7, para. 20, CIC/SA/C/2016/000164.

²⁹ The Right to Information Act, 2005 (Act 22 of 2005).

be denied unless it falls under any of the exceptions provided under the Right to Information Act. The Commission observed that “as the ‘sun is best disinfectant’, the transparency will be the best antidote to the invisible corruption that allowed dilution of standards of legal education, which ultimately affect the functioning of judiciary and deteriorate the rule of law as a whole.”³⁰ It further stated that the Council is under an obligation under section 4(1)(b)³¹ to voluntarily publish the inspection reports on its official website.³² Therefore, access to these reports to the public would be useful in improving the conditions of law colleges and also would encourage colleges to fill up vacant faculty positions, thereby improving the quality of education being imparted. Concurring with this judgment, recently the Central Information Commission in *Prasoon Shekhar v. CPIO, BCI* observed that “the disclosure of the inspection reports of the law colleges in the public domain will benefit the student community at large and will significantly reduce the burden of RTI Applications filed in this regard”.³³

Building capacities of the faculty

The requisite qualification for teaching LL.B. students in India is either a Master of Laws (LL.M.) degree along with a National Eligibility Test; or a Doctor of Philosophy (Ph.D.) degree in law. Some universities teach a paper on Andragogy (the art of teaching adults) during the Ph.D. coursework, while others do not. The University Grants Commission mandates a compulsory paper on Research Methodology carrying four credits in the Ph.D. coursework.³⁴ Another two-credit paper titled "Research Publication & Ethics (RPE)" is to be made compulsory by every Indian university by the UGC guidelines.³⁵ However, the importance of ‘Andragogy’ as a paper for Ph.D. scholars has still not been given importance. As a result, the faculties who teach in law schools are themselves not trained in the art of teaching adults. A compulsory paper on ‘Andragogy’ must be introduced both at the LL.M. and Ph.D. levels to empower teachers in developing the skill of teaching along with the knowledge of the subject that they are gaining.

³⁰*Supra* note 28.

³¹ *Ibid.*

³² *Ibid.*

³³ CIC/BCOIN/A/2020/687001, decision dated May 25, 2022, p.no.5.

³⁴ University Grants Commission (Minimum Standards and Procedure for Award of M.PHIL./PH.D Degrees) Regulations, 2016, regulation 7.2.

³⁵ D.O.No.F.1-1/2018, (Journal/CARE) UGC letter dated December, 2019.

The National Education Policy lays importance on teacher education and states that Ph.D. scholars, irrespective of discipline, will have a compulsory credit-based course in teaching/education/pedagogy/writing during their Ph.D. coursework.³⁶ A National Mission for Mentoring will be established with a large pool of senior faculties to train and mentor university/college teachers.³⁷ Both these policy initiatives should prove to be successful in filling the void of trained faculties in law colleges.

Clinical legal education

Establishment of legal aid clinics is mandatory in law colleges.³⁸ It is important that these clinics should be active and should regularly engage students in visits to courts and prisons; organize legal literacy camps; and promote and take up matters in areas relating to consumer protection where even students can appear on behalf of a party, participate in resolution of disputes through mediation, or provide them sound legal advice.

Teaching procedural law

The Law Commission in its fourteenth report³⁹ and the Bombay Education Committee Report⁴⁰ recommended the introduction of a two-year academic course at the university followed by a one-year professional course conducted by professional bodies wherein procedural law, local law, drafting, and professional ethics would be taught to them by the professionals. The law graduates intending to join the legal profession had to mandatorily complete the professional course, while those intending to pursue a master's in law and enter into research or academia could directly apply for further studies.⁴¹

Former Chief Justice of India, Justice Dipak Misra in one of his speeches has said that quite often law students are well versed with the principles of substantive law, but lack a good understanding of the procedural law principles.⁴² He attributes the reason for this fault to non-

³⁶ *Supra* note 24 at 43, para. 15.9.

³⁷ *Supra* note 24 at 43, para. 15.9.

³⁸ The Rules of Legal Education, 2008, sch. III, para.11.

³⁹ *Supra* note 15 at 531, para. 22.

⁴⁰ Bombay (India: Province), "Report of the Legal Education Committee, Bombay" 38 (1949), para.75.

⁴¹ *Supra* note 15 at 531, para. 22.

⁴² Handbook on the Conference of Vice-Chancellors of National Law Universities on Legal Education Reforms, Held at Plenary Hall, Indian Law Institute, New Delhi on September 1-2, 2018, *available at*: https://main.sci.gov.in/pdf/PublicationOther/proceeding_book051018.pdf (last visited on June 08, 2022).

exposure to the practical side of these statutes during law school and believes that this exposure can be attained by teaching under the supervision of experienced advocates and judges.⁴³

The syllabus of procedural law subjects especially the Code of Civil Procedure and the Code of Criminal Procedure is comprised of many principles that need to be extensively taught as they act as the medium to enforce the rights provided by the substantive laws. Yet, these subjects are only taught as a single paper in the legal curriculum. The situation is worse for the Civil Procedure Code as the Rules provide for 'the Civil Procedure Code and Limitation Act' to be taught as a single paper.⁴⁴ The syllabus of the paper 'Civil Procedure Code and Limitation Act' and 'Criminal Law' should be divided and taught as two papers in the LL.B. course like the 'Constitutional Law' paper. This will ensure that the students become well-versed with the concepts of procedural laws. Another hidden gain of this change would be the improved understanding of the students in clinical subjects. The biggest difference would be seen with respect to the paper 'Drafting, Pleading and Conveyance'. When the students are proficient in procedural laws, the paper on drafting legal documents will become easy to sail through.

IV. Lack of Correlation between 'Theoretical Knowledge' and 'Practical Training' in Legal Education in India

Theoretical knowledge and practical training are two aspects of professional education. The instruction imparted at the university largely falls in the category of the former, and the one gained at the Bar, in the latter. A commonplace perception in favour of practical training in the profession over the academic discourse appears to be completely out of place. Academic teaching builds the foundation of legal education by imparting students the science and principles of law. This when supplemented with practical training, polishes students in the art and craft of practicing in courts. Both being complementary to each other, serve their unique purpose. And, as a child is first taught the alphabet and then is educated in combining those alphabets to form words, so is the step of academic education indispensable to any efficient system of legal education. A reinforcing explanation is found in the words of Dean McClain of the Duke University Law School wherein he cautions by saying that:⁴⁵

⁴³ *Ibid.*

⁴⁴ *Supra* note 38 at 23, sch. II, part II(A).

⁴⁵ *Supra* note 15 at 525, para.11.

There is a serious danger in allowing the student to pursue the so-called practical training to the neglect of thorough and indispensable scholarly and analytical legal training. Without this, the student is hopelessly lost in practice and practical 'know-how' becomes empty and meaningless. The young graduate's lack of 'know-how' is soon cured by experience, whereas the graduate without a broad scholarship background and strong analytical reasoning ability never recovers. The public is much more apt to suffer seriously from the latter type of lawyer over the long-pull than from the neophyte who lacks practical 'know-how' at the beginning of his practice.

The Bombay Legal Education Committee has in its report stated that "there cannot be water-tight compartments in the study of law", and the study of the science of law cannot be divorced from the professional training in law.⁴⁶ Thus, the classroom imparts theoretical knowledge which when complemented with practical hands-on experience makes it into one complete whole of legal education.

A. Internship

The system of legal education as prevalent in the United States of America comprises combining theoretical and practical knowledge with students engaging in internships during vacations to understand the workings of law.⁴⁷ In the United Kingdom, theoretical knowledge is imparted at the university, and practical knowledge is gained by law graduates at the Inns of Courts, Law Society, and the Council of Legal Education.⁴⁸ Our present legal education system seems to have borrowed heavily from the United States in this respect, and the results have been dissatisfactory. There is a crying need for the introduction of reforms in this context to uphold the standard of legal education, and thereby that of the Bar and the justice delivery system. To elucidate the core issue of this problem, we should first understand the concept of internship.

Meaning and importance

⁴⁶ *Supra* note 40 at 38, para.75.

⁴⁷ *Supra* note 15 at 525, para.12.

⁴⁸ *Ibid.*

Confucius famously said, “Knowledge without practice is useless. Practice without knowledge is dangerous”. The essence of this saying gives equal importance to theoretical as well as practical learning.

An ‘intern’ is commonly understood to refer to the designation of a student who works under a professional, or in an organization to gain practical experience or to fulfil the requirements of the course he is pursuing; and ‘internship’ refers to the period during which the intern so works. These internships expose the students to the necessary practical skills of advocacy and working in the courts which the law schools cannot provide. They help them make important decisions about making career choices after completing their university degrees.

The National Education Policy encourages internships for students studying in higher educational institutions in research and with businesses, local industries, artists, etc. to engage students with the practical aspect of education and increase their scope of employment.⁴⁹ The UGC has reiterated the importance of internships for general stream course students in India and has broken new ground for internships and skill development by bringing forward a set of guidelines⁵⁰ for internship/apprenticeship embedded degree programmes in India. Internships are recognized as outcome-based methods of learning focused on improving employability and boosting linkages of academia with the industry, commercial and non-commercial organizations.⁵¹

Internship mandate under the Bar Council of India Rules: A confusing scheme of regulation

The BCI Rules make it mandatory for students pursuing an LL.B. to undergo an internship of at least twelve weeks in the three-year course and twenty weeks in the five-year course in the entire course duration.⁵² The regulator, however, fails to define the said term. This creates uncertainty as to the scope of the internship. The Rules emphasized on the observance of client

⁴⁹ As cited in *Supra* note 24 at 37, para.11.8.

⁵⁰ UGC, “Guidelines for Higher Education institutions to offer Apprenticeship/Internship embedded Degree Programme” (July, 2020).

⁵¹ *Id.* at 3.

⁵² *Supra* note 38, sch. III, p.no.34, para.25.

counselling, preparation and filing of documents, trial in a court; and awarding marks for recording the same.⁵³

The Rules stipulate a requirement of the observance and recording of court craft, and states that these internships may be completed under NGOs, advocates, judicial officers, regulatory bodies, Parliament and state legislative bodies, other legal functionaries, market institutions, law firms, corporate, local self-government and other such bodies as the University shall stipulate; where law is practiced either in action or in dispute resolution or management.⁵⁴ It is to be mentioned herein that many aforementioned organizations do not deal in the core function of legal study *i.e.*, litigation, and the students undertaking internship therein may not be exposed to the nuances of the legal profession; therefore the Rules make it mandatory for students to intern under trial or appellate advocates at least once during the entire course.⁵⁵

The said Rules provide for the preparation of a district-wise list of senior advocates with at least ten years of experience willing to take interns during the vacation period.⁵⁶ Further, they state that the BCI shall then publish the list on its website and also make it available to the institutions teaching law courses.⁵⁷ Also, the BCI through its advocate during the hearing of a case assured the Delhi High Court that the Council “shall ensure that the arrangement and placement for Internship shall be ensured by the Council and by the law school itself and the students will not be required to make arrangements for their internships.....on their own.”⁵⁸

However, on the next scheduled date of hearing, the court observed that since no such list was available on the website of the Council, there is a lack of support from it and this also renders the implementation of the aforesaid requirement doubtful.⁵⁹ The court further observed that no obligation had been cast by the BCI on the senior advocates to train interns.⁶⁰ Looking at the number of law colleges affiliated with the BCI, the Hon'ble High Court rightly pointed out that if these students are to pursue internships as required, around 1,20,000 students would be

⁵³ *Supra* note 38, sch. II, part II(B) para.24.

⁵⁴ *Supra* note 38, sch. III, para.25.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ *In Re: Suicide committed by Sushant Rohilla*, DHC, Order dated January 10, 2020, W.P.(CRL) 793/2017 (Pending).

⁵⁹ *Ibid.*

⁶⁰ *Id.*, at 10.

seeking internships every semester.⁶¹ The BCI in its Vision Statement 2011-13 states that there are around 4-5 lakh law students in the country.⁶² This figure is obtained if we assume that only 25 percent of these students apply for internships. At the same time, we cannot overlook the fact that the figures given in the Vision Statement are a decade old, and the number of law colleges and students must have increased since then.

The Hon'ble Delhi High Court has observed that the said provision required reconsideration as obtaining such internships and making arrangements for young students coming from small towns and *mufassil* towns in big cities may be difficult, and may subject them to loss of confidence, psychological stress, and humiliation.⁶³ This severely affects the law school studies of the students as they are under the constant pressure of securing internships, and has the potential of reducing their regard towards the classroom lectures. A certain degree of peer pressure is created among the students as some regularly visit courts as interns even during the regular college days.

The Kerala High Court has in a recent judgment⁶⁴ relaxed the requisite twenty-week internship mandate for completing a five-year B.Com LL.B. (Hons) course. The court invoked the doctrine of necessity during the COVID-19 pandemic and relied on the *V. Sudeer* case⁶⁵ gave the observation that the “BCI rules were only suggestive of the ways and means to promote legal education and it is for the universities to make appropriate regulations prescribing the curriculum for the course, having regard to the standards prescribed by the Bar Council of India.”

The problem of unregulated internships for law students

One of the famous instances of recognition of the work done by law interns was by the former Supreme Court judges Justice Markandey Katju and Justice Gyan Sudha Misra acknowledging the contribution of Mr. Nithyaesh Nataraj and Mr. Vaibhav Rangarajan, law students of Dr. B.R. Ambedkar Law University, Chennai in one of their judgments.⁶⁶ However, not all

⁶¹ *Supra* note 60 at 8.

⁶² Bar Council of India, “BCI Vision Statement”, available at: <http://www.barcouncilofindia.org/about/about-the-bar-council-of-india/vision-statement-2011-13/#:~:text=The%20Indian%20legal%20profession%20today,the%20legal%20profession%20in%20India> (last visited on May 20, 2022).

⁶³ *Supra* note 58 at 8 & 9.

⁶⁴ *Jomol John v. Bar Council of India*, 2021 SCC OnLine Ker 2634.

⁶⁵ *V. Sudeer v. Bar Council of India* (1999) 3 SCC 1167.

⁶⁶ *Aruna Ramchandra Shanbaug v. Union of India* (2011) 4 SCC 454 at 109.

internship experiences are enriching for law students. Senior Advocate Siddharth Luthra had in a conference raised the issue of internships being done by law students in a mechanical manner and the law graduates skipping the basic trial court training.⁶⁷

To understand the backbone of this issue, the problem of non-regulation of internships needs to be analyzed. Only a few paragraphs are mentioned in the Rules which state the duration of the internship, the preparation of a district-wise list of senior lawyers, the dress code during the internship along the marking scheme in the LL.B. course. As a result of this, the internships mostly end up being mechanical, with neither the intern nor the senior feeling any obligation towards the other. A maximum period of four weeks of internship at a time⁶⁸ further deteriorates the quality of experience an intern can gather from the internship and leaves little to no scope for building rapport with the senior she/he is attached to.

The unfortunate reality of the effectiveness of these internships is another area of concern. The LL.B. course structure is designed in a manner that during the initial law school years the students are exposed to substantive laws while procedural laws and clinical courses are taught during the senior years. This implies that interning in courts during the initial law school years is not fruitful for these students as they would not be able to understand the nuances of evidence and procedure being applied during the court proceedings.

Justice S.P. Mehrotra has in one of his speeches suggested that law schools should be tasked with the responsibility of provision of practical training to their students rather than leaving it to be managed by the students themselves.⁶⁹ The UGC requires higher educational institutions to have a prior Memorandum of Understanding (MoU) with the industry, organization, etc. before introducing an internship/apprenticeship embedded degree program in their institute in its 2020 Guidelines.⁷⁰ The new Guidelines also make it a part of the internship structure.⁷¹ Unfortunately, no such obligation has been placed on law colleges for the provision of internships to law students when such internships have to be mandatorily completed by students

⁶⁷ *Supra* note 42 at 54 & 55.

⁶⁸ *Supra* note 38, sch. III, para 25.

⁶⁹ Based on a speech delivered on February 16, 2008, at the Alumni Convention, 2008 of Allahabad University, available at: <http://www.ijtr.nic.in/webjournal/6.htm> (last visited on May 21, 2022).

⁷⁰ *Supra* note 50 at 8, para 6.

⁷¹ UGC, Guidelines for Internship/Research Internship for Under Graduate Students, 2023, (w.e.f. February 2, 2024) at 7.

as part of their course of study and carry credits for their overall marking. The new guidelines explain the roles of Mentor, Mentee, Nodal Officer, and Internship Providing Officer.

To encourage apprenticeship training, the Apprentice Rules have been amended by raising the hiring limit of apprentices in an organization to 15 percent of the total strength of employees,⁷² and a minimum stipend from Rs. 5,000 per month (for school pass-outs of class V to class IX) to Rs. 9,000 per month⁷³ (for graduates or degree apprentices or degree in any stream). However, no such provision for a stipend to be paid to law interns is provided for in the Rules which make completion of a minimum twelve and twenty weeks of internship compulsory for 3-year and 5-year undergraduate law students. This is another reason for the degradation in the quality of internships done by students. A lot of times they are made to do menial tasks by their seniors without any stipend being paid for their work. There is a need for a comprehensive set of guidelines for internships explaining in detail the role of the intern and the advocate/judicial officer/organization during the internship period on the lines of a few other professional courses in India.

The All India Council For Technical Education (*hereinafter* referred as ‘AICTE’) has also formulated its internship guidelines in the form of AICTE Internship Policy Guidelines & Procedures which is a thirty-four-page document describing in detail the guidelines to the institutes for organizing and evaluating internships, and for the industry to provide internships. As per the policy, every AICTE-approved institute is required to have a Training and Placement Cell which shall be tasked with the responsibility of mentoring and counselling the students to choose the right career and work as a facilitator between the industry and the students.⁷⁴ The Ministry of Education and AICTE have also started an online portal where students and institutes can register and fill out internship opportunities.

Full-time internships should not be allowed during the academic calendar of colleges, though the students should be encouraged to intern during the vacation period. Towards this end, law colleges can engage first, second, and third-year students in the research projects undertaken by the university or provide them opportunities to intern at various research organizations and

⁷² The Apprenticeship (Amendment) Rules, 2019 (Updated as of September 25, 2019), rule 7B (3).

⁷³ *Id.*, rule 11(1).

⁷⁴ AICTE, “Internship Policy Guidelines and Procedures”, *available at*: <https://www.aicte-india.org/sites/default/files/AICTE%20Internship%20Policy.pdf> (last visited on June 18, 2022).

non-governmental organizations which would sensitize them towards issues of social justice. Senior students should be encouraged to intern at the chambers of advocates and judges to understand the practical aspects of litigation.

B. Pre-enrolment training

Advocacy is a skill-based profession. Craft skills of counselling, negotiation, drafting, trial, and appellate advocacy are of equal dignity as is the law school class teaching. Legal education at law schools coupled with advocacy skills gained at the pre-enrolment training would mould one into a complete and able advocate.

The situation these days in the courts has become chaotic as fresh law graduates without attaining any training start appearing in higher and appellate courts. One such experience of the Supreme Court in *Sanjay Kumar v. State of Bihar* led the court to remark⁷⁵:

any ‘Arzi’, ‘Farzi’, half- baked lawyer appears in the court under the label of ‘proxy counsel’, a phrase not traceable under the Advocates Act, 1961 or under the Supreme Court Rules, 1966 etc., cannot be allowed to abuse and misuse the method of the court under a confusion that he incorporates a right to waste public time.

The case was noted by the Law Commission in its 266th report which recommended the inclusion of a clause in the Act to provide for the rule-making power of the BCI for training and apprenticeship of a law graduate before enrolment.⁷⁶ The Law Commission in its fourteenth report recommended that university training should be followed by a professional course.⁷⁷ The need for pre-enrolment training has also been emphasized by the Law Commission in its 184th report.⁷⁸

Before the enactment of the Advocates Act in 1961, a law graduate had to mandatorily undergo training (called apprenticeship) in the chamber of an advocate for a year and then write and

⁷⁵ (2014) 9 SCC 203.

⁷⁶ *Supra* note 23 at 40, para.13.1.

⁷⁷ *Supra* note 15 at 525.

⁷⁸ *Supra* note 22, 102-116.

clear an exam conducted by the Bar Council to be enrolled as an advocate.⁷⁹ The exam was on the subjects of the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898.⁸⁰ The Advocates Act came into force on May 19, 1961. The Act constitutes and gives powers to the BCI and various State Bar Councils. From the year 1961 to 1964, the State Bar Councils made it compulsory for law graduates to undergo pre-enrolment training and examination. After the 1964 amendment, State Bar Councils made it mandatory to pass the examination and were permitted to mandate pre-enrolment training. Later, through the 1973rd amendment, they were deprived of these powers to reduce the entry age into the legal profession. In 1994, Justice Ahmadi Committee recommended the re-introduction of apprenticeship and a Bar examination to improve the existing standards of advocates in the profession.

The Bar Council of India (Training) Rules, 1995 were, framed by BCI to carry out the recommendations of the Committee. These rules were challenged and the Supreme Court struck them holding that the legislature had dispensed with the requirement of pre-enrolment training and professional examination, and could not be introduced again by way of subordinate legislation, especially when the rule-making power of the BCI has also been expressly omitted.⁸¹ Though the Apex Court struck down the training rules, yet through its judgment suggested introduction of these two measures for improving the standards of the profession *viz.*, mandatory pre-enrolment training before induction into the Bar and introduction of the Bar examination.⁸²

The Law Commission in its 184th report noted that some law schools depute their few students in the chambers of senior counsels. The report appreciated the practice but acknowledged the majority of students who cannot gain such an opportunity and afford to stay in big cities for the placement. It observed that “‘placement’ is not a substitute for ‘apprenticeship’”.⁸³ The Commission observed that one needs to keep in mind not just students passing out from elite colleges, but also the bulk of students from colleges in other parts of the country who practice in district courts and *mofussils*. It emphasized the importance of training in the trial courts, and

⁷⁹ *Supra* note 22 at 107, para. 12.0.

⁸⁰ *Ibid.*

⁸¹ *Supra* note 65.

⁸² *Ibid.*

⁸³ *Supra* note 22 at 116, para. 12.13.

not allowing them to practice in the High Courts and the Supreme Court straightaway.⁸⁴ The Commission also referred to a 2002 judgment⁸⁵ of the Supreme Court in the context of training wherein it observed that fresh law graduates could directly enter the Judicial service at the lowest level without the requirement of a minimum 3-year period of practice at the Bar, but should be provided a one-year training after they enter the service.⁸⁶ The Law Commission's 266th report recommended the introduction of a clause in the Advocates Act to empower the BCI to frame rules for pre-enrolment training and apprenticeship before being inducted to the Bar.⁸⁷

To understand the essential nature of internships/apprenticeships/pre-enrolment training across professional courses, we should take a cue from the curriculum of other such courses in India. The Institute of Chartered Accountants of India mandates practical training of a minimum of three years articulated assistantship during the pursuance of the course.⁸⁸ The Institute of Company Secretaries of India as per its regulations provides that membership of the Institute can be availed only after the completion of the mandatory period of practical training. This training is for one year after passing the professional examination, or two years after passing the Executive Programme examination, or three years on registration for the Executive Programme.⁸⁹

Bachelor of Medicine and Bachelor of Surgery (MBBS) Course involves a period of certified study of four and a half years after completion of which a medical student becomes a medical graduate; and a compulsory rotating internship of twelve months after it which entitles a student to permanent registration to independently practice medicine in India.⁹⁰ Similarly, the duration of the Bachelor of Dental Surgery (BDS) Course is four years which is followed by one year of rotational internship in dental colleges.⁹¹ It is understood that medical schools are always attached to hospitals, which cannot be the case with law schools. However, many students of medical schools intern at other hospitals during the last mandatory year of internship. When

⁸⁴ *Ibid.*

⁸⁵ *All India Judges' Assn. (3) v. Union of India* (2002) 4 SCC 247.

⁸⁶ *Supra* note 22 at 116, paras. 12.19.

⁸⁷ *Supra* note 23 at 40, para 13.3.

⁸⁸ The Chartered Accountants Regulations, 1988 (Updated as of July 1, 2013), regulation 50.

⁸⁹ The Company Secretaries Regulations, 1982 (Updated as of February 3, 2020), regulation 46B.

⁹⁰ The National Medical Commission (Compulsory Rotating Medical Internship) Regulations, 2021, regulation 3,4 &5.

⁹¹ Dental Council of India, B.D.S. Course Regulations, 2007 (Updated as of July 27, 2007).

medical schools can prepare doctors practice-ready within five years, the same can apply to law schools as well. The 184th Law Commission observed that the proposal is akin to the training in the courses of Chartered Accountancy and medicine.⁹² The law profession should also mandate one year of pre-enrolment training for a five-year course and six months for a three-year course. The syllabus will have to be made compact so that the subjects are taught within a span of four years and two and a half years respectively. If a law student does not want to do the training, she/he may take the degree of a graduate in law with the option of completing the training later.

The pre-enrolment training or pupillage should be structured in a judicious manner similar to the aforementioned professional courses, describing in detail the obligations of both the senior and the trainee. The senior should act as a mentor and guide the mentee in skills of advocacy. The training must be designed in a manner that makes working in the trial court mandatory for at least half the period of the total training. This will ensure that students even from National Law Universities have some exposure to working in courts which may encourage them to join litigation and may address the issue of these students hardly entering into the field of legal practice. Such training would ensure that the law graduates will be practice-ready so that they can start independent legal practice.

Professional examination

The Law Commission has recommended a very stiff test after the one-year apprentice course for entry into the legal profession. It observed that the duty of conducting the lectures and the examination lies solely on the bar councils to oversee that the young lawyers entering the profession are “well-equipped and fully fit to do justice to the cases of their clients”.⁹³

It has been observed that professional examinations encourage law graduates to study subjects they had not taken in law school.⁹⁴ It is a relatively inexpensive and uncomplicated mechanism that persuades law institutes to develop curricula in sync with contemporary practices and

⁹² *Supra* note 22 at 118, para. 12.18.

⁹³ *Supra* note 15 at 548, para.60.

⁹⁴ Final Report of the 3-Member Committee on Reform of Legal Education, *available at*: <http://www.barcouncilofindia.org/wp-content/uploads/2010/06/3-member-Committee-Report-on-Legal-Education.pdf>, p.no.39 (last visited on June 19, 2022).

creates a uniform standard of evaluation keeping all students of the country on an equal footing thereby improving the quality of the Bar.⁹⁵

V. Conclusion

The structure of legal education has been experiencing an upheaval since 1987 when the five-year integrated law courses were introduced along with the existing three-year LLB course. The initiative has been very well received and has propelled many law institutes to adopt it voluntarily. The present challenges to legal education are yearning for a similar wave of reform. The Law Commission of India through its reports and the Supreme Court of India through its judgments have highlighted the issues in the existing system of legal education in India. Many recommendations have been made though most have not been implemented. It is understood that there is always a reluctance to change, but at the same time, legal professionals should not be oblivious to the huge responsibility of protecting constitutional values that are bestowed upon them.

The condition of law colleges in India in terms of the infrastructure requirements and trained faculty should be improved. 'Androgogy' should be introduced as a compulsory subject in Masters as well as Doctoral courses of study. It is the responsibility of the law schools to bring students back to the classroom by making academic teaching engaging and effective. There is a dire need for push to be given to these institutes by the BCI through the effective use of its power of inspection. The public is expected to be vigilant in obtaining these inspection reports to analyse the quality of these institutions. A comparative research can further be conducted by analysing these reports of colleges in a particular city and ranking these colleges based on the parameters laid down by the BCI; and also to analyse the efficiency of the BCI as a regulator in enforcing the norms that have been laid down by it.

Internships should not be allowed during the academic session and encouraged during the vacation of colleges. The Training and Placement Cell of the college should coordinate with the industry and provide internship opportunities to the students. Pre-enrolment training and a

⁹⁵ *Id.*, at 40.

stiff professional exam should be introduced to improve the quality of the Bar. Comprehensive guidelines should be framed for both the internships and pre-enrolment training describing in detail the structure and obligations of both the law student/law graduate and the advocate/organization.

Justice Leila Seth, former Chief Justice of Himachal Pradesh High Court in her autobiography informs the readers that during the 1950s a twelve-month pupillage under a senior was required to be undertaken after clearing the Bar exam. She shares her experience of getting attached to Mr. Sachin Chaudhuri as a pupil after clearing the Bar exam in 1957 and states that Mr. Ahmed, the Registrar of the Calcutta High Court on the 'Original' side had prepared a list of about thirty names of barristers entitled and willing to take pupils; and it is through this list that she met her senior.⁹⁶ A similar list should be kept at the Supreme Court, all High Courts, and District Courts to facilitate recent graduates to find seniors to be 'attached to'.

⁹⁶ Leila Seth, *On Balance* 120-121 (Penguin Random House India, Gurugram, 2010).