

## CLINICAL LEGAL EDUCATION IN INDIA -AN ANALYSIS

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### ABSTRACT

Clinical legal education (CLE) is important in equipping law students with the necessary skills to proficiently indulge in practicing law as a profession. It entails instructing students to become lawyers through experiential learning or "learning by doing." CLE is currently experiencing a time of expansion and advancement, which has led clinicians worldwide to contemplate the implications of its significant achievements over the last four decades for its future. Typically, law schools in India provide "legal aid cells" where young minds engage in legal assistance for underprivileged areas. Clinics are crucial as they equip students with essential skills and techniques, such as legal writing and research, interviewing, investigation and fact-finding skills, which are necessary for the practice of law. Students also cultivate a strong awareness of empathy and social justice via their efforts. The aim of this submission is to explore the various types of Clinical methods used in law teaching, understand their importance in the curriculum, and examine the present practices and schemes prevailing in "Indian Clinical Legal Education". This paper examines the definition of "clinical legal education", traces its historical development, outlines the fundamental prerequisites for clinical legal education, and underscores the significance of clinics and clinical teaching methods in the field of Law.

**KEYWORDS:** Legal Education, Clinical Legal Education, Clinical Methods.

### INTRODUCTION

In India, "Legal education" primarily pertains to the instruction and training of individuals aspiring to become lawyers prior to commencing their professional practice. Such education in the nation is provided by both conventional universities and specialized law institutions and institutes. It is typically pursued after completing an undergraduate degree or as part of an

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integrated degree programme. The regulation of Indian legal education is overseen by several authorities, including the UGC, the concerned State government, the affiliating university, and Indian Bar Council. In India, legal education is provided by a range of institutions, including grant-in-aid private law colleges, government law colleges, National Law Universities, Global Universities, private universities, private law colleges and Deemed Universities.

### **“CLINICAL LEGAL EDUCATION” MEANING**

The term "Clinical Legal Education (CLE)" refers to the mechanism of teaching law students with the aid of real-world, hands-on experiences in legal clinics or similar settings. Clinical Legal Education refers to a form of learning that aims to help students comprehend the practical application of the law. It is just one method of integrating theory and practice<sup>1</sup>. The term “Clinical Legal Education” can be defined in multiple manners. "Clinical Legal Education is a comprehensive and versatile form of education that can cultivate the human resources and idealism necessary to enhance the legal system. A lawyer who has received this type of education would be capable of making a more constructive contribution to national development and social change."<sup>2</sup>

Clinical Legal Education encompasses both clinical courses and practice-oriented courses and activities that are either part of the curriculum or offered separately. Clinical Legal Education transcends being merely a means for studying lawyering and the legal profession. The implementation of CLE is necessary to provide students pursuing law with a more profound and significant comprehension of the law. This approach has a historical background<sup>3</sup>.

### **HISTORICAL BACKGROUND RELATED TO “CLINICAL LEGAL EDUCATION (CLE)”**

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<sup>1</sup> MadhavaMenon N.R., “Bar Councils and Management of Legal Profession”, XIII (3 & 4) IBR (1986).

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

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

The origins of CLE in India can be traced back to the “Legal Education and Legal Aid Reform Movements”. Under colonial control of British rule, Indian legal education adhered to the conventional concept of training clerks rather than managers or advocates<sup>4</sup>. The main objective was to uphold the existing financial needs and desires of UK, rather than to initiate any changes within the legal profession at local level. Following the attainment of independence, education with respect to law was anticipated to align the legal system prevailing in the India with the political, economic and social aspirations of the nation. Law colleges in India have the potential to perform a crucial role in advancing and facilitating justice, especially by practicing legal aid. However, prior to the introduction of clinical programs, the inclusion of skills training and social justice work was not a priority in legal education. The law school syllabi in India primarily focus on legal doctrine, with classroom courses predominantly consisting of traditional lectures. The emphasis on "the law" overshadowed the need of practical training in law school to such an extent that any form of practical instruction appeared inappropriate. The concept suggested that law graduates would acquire knowledge and skills pertaining to the legal profession upon commencing their professional practice<sup>5</sup>. The inception of “Clinical Legal Education (CLE)” in India occurred in the 1960s, originating from the “Legal Aid and Legal Education Reform Movements”. Later on, the “Bombay Legal Education Committee” in 1949 proposed that practical courses be made mandatory exclusively for students pursuing a career in law. The recommended teaching approach would involve lectures, group discussions, and moot court competitions. The “Law Commission” in its 14<sup>th</sup> Report given in 1958 has recognized the importance of professional education and the requirement for a combination of vocational training as well as academics. It is advisable that individuals who are interested in pursuing the career in practicing law in the courts should complement their university education with a specialized professional degree that focuses on practical skills<sup>6</sup>. The focus of the report given by the Commission was to establish and enhance the entire quality of legal education. Consequently, in 1977, the BCI suggested within curriculum, the hands-on training should be included. The “University Grants Commission (UGC)” reports have significantly influenced the development of CLE. These reports have defined the goals of reformed education, which include enhancing students' receptiveness to learning and their ability to showcase their

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<sup>4</sup>UpendraBaxi, “The Pathology of the Indian Legal Professions”, XXII IBR, (1995).

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

<sup>6</sup>..MadhavaMenon., “Legal Education for Professionals Responsibility – An Appraisal of the Five Year LL.B

comprehension of the law. In 1997, the study led to a significant focus on “clinical legal education”<sup>7</sup>. The basic framework of the said education advocates for the development of professional skills and encourages law school engagement in the securing the people with social justice. The Law Commission of India recommended in a 2002 study that CLE shall compulsorily be taught. Currently, Indian law schools have established several "legal aid cells" where students, mostly without supervision or oversight of faculty, offer legal assistance directly to individuals<sup>8</sup>.

### **NEED FOR CLINICAL LEGAL EDUCATION (CLE)**

CLE is an alternative mode of studying law that involves hands-on learning through practical experience. Practical instruction instills confidence in students by attributing their achievement only to their own endeavors rather than external influences. It provides chances for the application of information and also encourages introspection and self-examination, fostering self-motivation and strong commitment among students. Additionally, “Clinical Legal Education” is founded on a pragmatic approach, thereby facilitating the acquisition of necessary skills for an advocate<sup>9</sup>. The abilities may encompass research, communication, client and witness interviewing, counseling, problem-solving, negotiating and drafting among others. A law clinic can facilitate the acquisition of these abilities, while also fostering a strong connection between the law school and the community. It can provide guidance and support to individuals in the community, thereby alleviating feelings of social isolation. Additionally, the students will have the capacity to comprehend the challenges faced by individuals from diverse generations and backgrounds. This encounter can enhance their comprehension of the social standing of others and foster their growth in maturity and sense of accountability and background. Such occurrence can enhance the level of their understanding and can further upgrade their sense of maturity and responsibilities.

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

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

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

## **ADVANTAGES OF “CLINICAL LEGAL EDUCATION”:**

The Clinical Legal Education offers several advantages:

1. This entails a distinct method for acquiring legal knowledge, which comprises experiential learning, sometimes known as "learning by doing". It involves the utilisation of acquired knowledge. It provides chances for the application of knowledge, but it also extends beyond this by requiring introspection and self-examination.
2. Students exhibit strong self-motivation and a high level of commitment towards their task. Students exhibit a higher level of accountability in their academic tasks.
3. Certain talents hold great significance for a lawyer. Clinical Legal Education is founded on a pragmatic methodology, which facilitates the acquisition of practical skills. The talents may encompass abilities such as research, communication, client and witness interviewing, counseling, drafting, negotiating, and problem-solving. These talents hold great significance for a lawyer.
4. There is a requirement for the examination of conduct, professional and ethical duties of advocates. The inclusion of practical training in “Clinical Legal Education” has led to its growth in recent years.

A legal clinic can mitigate the situation of isolation by enhancing the relevance of the law colleges to the society. It can provide guidance and support to individuals in the community and contribute to the alleviation of social isolation. There are numerous advantages to this. Additionally, the students will possess the capacity to comprehend the issues faced by individuals from diverse generations and backgrounds. This encounter can enhance their comprehension of the social standing of others and foster their growth in maturity and sense of accountability.

## **TEACHING METHODS IN LEGAL EDUCATION**

### **1. Lecture Method**

Classroom Lectures serve the purpose of elucidating certain course material, encompassing legal principles, statutory laws, court rulings, and precedents. The current monologue lecture approach used at law schools, which either completely ignores or very minimally incorporates practical training through activities such as Moot Courts, Court visits, and legal research, is inadequate for producing competent lawyers in legal education system prevailing in present

society. It is imperative to incorporate the exposure of students to criminal, civil and various other proceedings before the Court as a fundamental component of the curriculum.

## 2. Case Study

Case study method incorporates the use of court decisions to explain and exemplify the principles of law. Case study method helps in developing essential legal analytical skills.

## 3. Problem Method

This should be the primary method of teaching in Legal Education. This method helps students to get training for solving legal issues by finding out the problem, framing the issues and lastly analyze the issues by themselves. Problem method ensures maximum student- faculty interaction. Problem method involves

- Identify and Diagnose the Problem
- Generating solutions, which mean identifying and framing appropriate legal theories.
- Explaining Legal concept or theory.
- Evaluation of the said legal concept or theory
- Criticize and synthesize the legal Argumentation

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

## 4. Clinical Methods

The Clinical Methods course combines instruction in Legal Theory with the development of practical lawyering abilities. It aids in cultivating in pupils the habit of being a proficient Legal Practitioner. At these Clinics, students are taught the fundamental lawyering skills of client interviewing. The skills and tasks involved in this field include client counseling, case preparation, management of law office, legal drafting and research, negotiation and the application of professional ethics. Within these clinics, students acquire crucial legal skills through practical engagement with clients, enabling them to confidently transition from being law students to practicing lawyers.



Clinical Legal Education (CLE) has played a prominent role in Indian legal education. CLE is important for bridging the divide among practical application and theoretical knowledge. The inclusion of CLE is crucial in adequately equipping law students with the necessary skills to effectively indulge in the practice of law. It entails instructing students to become lawyers through experiential learning or "learning by doing." Law schools and colleges in India typically provide "legal aid cells" wherein law students, often without direct teacher oversight, offer legal assistance to underprivileged areas. Clinics are crucial as they equip students with essential skills, like legal writing and research, interviewing, investigation and fact-finding, in order to prepare them for the practice of law. Students further cultivate a strong awareness of social justice and empathy as they engage in meaningful activities with marginalized communities.

#### MODEL CLINICAL METHODS

- **Internship under the guidance of Advocates-** Although, the students are barred from serving as Counsel for the clients, but they could be assigned to a lawyer who is interested in working with them. Students can be motivated to carry out legal research relating to a specific matter allotted by the lawyer under the guidance of the faculties.
- **Public Interest Litigation-** With respect to the matters of public importance, the students could be motivated to carry out legal research and the research outcome can be submitted to the relevant authorities. When the concerned authority fails to take any action, the students can redress the grievances by filing PIL before the High Court or the Apex Court. These students can learn advocacy skill by involving themselves in such process.
- **Moot Court-** Moot Court needs to be organized at regular intervals. Training should be provided to the students for conducting legal research, researching relevant case laws and methods of citation, framing legal issues, drafting skills and, Court etiquettes and identifying significant factual matrix from the case.
- **“Free Legal Aid Clinics”-** In every law schools, the “Free Legal Aid Clinics” could be established. In the said clinic, the faculties and students can assist public in recognizing their issues and sensitize them about the available remedies for them. Such

legal service is significant since it saves money and time of the prospective clients and also diminishes the needless litigation. These Clinics provides sufficient platform for the students in learning the research and fact-finding techniques and interviewing skills.

- **Para Legal Services-** Paralegal aid can be provided by the students like rendering assistance in registration of electoral rolls, deaths, births, marriages, affidavit drafting and aiding in filling different forms. Law departments can accomplish this task at ease by collaborating with local government like Municipalities and Panchayats. Such services are also beneficial in developing various techniques and skills namely, fact finding, interviewing and drafting skills. Simultaneously, it also ensures greater assistance to the people in fulfilling their essential legal rights and entitlements.
- **Open Forums-** It is yet another method to promote Legal education wherein Law Colleges are involved in adoption of a village. The students are motivated to carry out research to recognize the issues which as faced by the population living in a specific village. After finding out the issues, the students can reach out to the appropriate authorities and thereby arrange public forum. The people residing in village can be intimated regarding the program and motivated to take part in the forum. They can approach the relevant officers on a specific date and resolve their problems publicly. This type of scheme would provide assistance in developing communication and drafting skills, problem solving skills, legal research skills, organizational skills and survey techniques.
- **Theater Art-** Another method to promote Legal Education is the option for Law Schools can be organizing public shows, skits, street plays for spreading legal awareness and literacy and to sensitize people about the free legal services which are provided by their schools. Law department can get the aid of different NGOs in making students learn about the skills. By this mechanism, skills such as oratory, analytical drafting, public performance and communication.

With respect to the Indian context, Law Commission, Bar Council and various other significant agencies of government and non-government machinery have identified the significance of clinical legal education. However, the unfortunate fact is that it has yet to be sufficiently developed. To bring improvements in Indian legal education, following suggestion has been given.



## SUGGESTIONS

- Exchange programs should be encouraged.
- Team work, sensitivity towards others, time management, stress management should be emphasized.
- In legal education, the research should be treated as the essential part for which required resources should be made available. At national level, there shall be one council or body pertaining to legal research and it should be at par with the “Indian Council of Social Science research”. The Council should lend financial support in research to the law universities and other institutions relating to law teachings.
- In the realm of Legal education, moot court forms an essential part. The Moot Courts should be organized as a regular practice so that it can help in imparting and teaching court etiquettes and habits to the concerned law students. It is a replica of Court which assists in attaining required confidence in arguing skills which is an essential element of oral advocacy. So it should be incorporated as an important part of curriculum.
- Practical Training should be encouraged as it helps the student to correlate the theory gained in the law schools to practical aspect of legal profession and law. Practical training can be with corporate houses, senior advocates, social action communities and law firms.

## CONCLUSION

It can be concluded that the scope and purpose of legal education is to make students capable for practicing the legal profession. Thus, Legal education and law that collectively forms the society’s backbone should be altered in accordance with the changing interest and needs of the dynamic society. In this process practical experience makes students capable enough to understand about how law operates in reality. Therefore, clinical methods shall be incorporated in the curriculum of legal education.

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