

PARADIGM SHIFT IN THE LEGAL EDUCATION: AN ANALYSIS OF TRANSITION BETWEEN DECADES IN THE LIGHT OF THE CONTRIBUTIONS MADE BY THE BAR COUNCIL OF INDIA TOWARDS UPLIFTMENT OF THE STANDARD OF LEGAL EDUCATION AND PROFESSION.

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ABSTRACT : Law as a matter of religious prescriptions and philosophical discourse has an illustrious history in India. The history of Legal education is as older as the education system in India has a recorded legal history starting from the Vedic ages and some sort of civil law system may have been in place during the Bronze Age and the Indus Valley civilization. The quality and standard of legal education acquires at the law school is reflected through the standard of Bar & Bench. The Formal Legal education in India came into existence in 1855 when first professorship of law was established at Government Ephiston College in Bombay & Madras and Hindu College at Calcutta. The situation after independence from the year 1950 has completely changed. The rule of law become foundational doctrine, the polity was totally based on it and would require a legal profession sufficiently skilled and possessing knowledge of law in order to maintain and preserve legal system. The 'Advocate's Act, 1961' was enacted in 1961 and became the focal point of legal education system which is in existence. Through this the Bar Council of India was established not only to regulate the advocated but also imparting legal education in India. 'Legal Profession is the profession of justice', which protects the rights and provides the remedy to every individual whether citizen of state or not. It has been also been experienced and has complaint that there are rarely good and trustworthy lawyer. Legal education is the base of legal profession is structure which is been constructed with an objective to touch sky if the base will be weak then how it can be possible that the structure will be athletic.

Keywords:- Different phases of development of legal education, Various Reforms, Degradations in legal education and suggestions

Introduction

In the Vedic period, the legal education can be inferred from the concept of Dharma. Justice was administered by the king or their appointees. The Guiding force for the king was the upholding of Dharma. In the British India, Legal education came into existence in 1855 when first professorship of law was established at Government Ephiston College in Bombay & Madras and Hindu College at Calcutta. In the Year 1961, Advocates Acts enacted, through this the Bar Council of India was established not only to regulate the advocates but also imparting legal education in India. Imparting of legal education always been considered as one of the noblest profession. The modern shift took place in the year 1985 after the serious affords of several eminent personalities the new change brought to legal education system in which the concept of National Law School (NLS/NLU) similar to IITs, IIMs, etc with 5 year degree program for Law. The quality and standard of legal education acquires at the law school is reflected through the standard of Bar & Bench.

Objective

- To study the disparity between Law Colleges and the role of bar council of India in this Issue
- To find out the reason behind the degradation of Standard of legal education which affects the legal profession
- To find out the implementation of Bar Council of India Legal Education rules and provisions of Advocates Act, 1961
- To offer a suggestion which can make effective the implementation of BCI rules and guidelines

Scope

Researcher wants to study the importance of Legal Education for Legal Profession and to find out the actual implementation of BCI rules relating to legal education by Law College in India.

Research Methodology

Researcher has undertaken the Doctrinal as well as the empirical research method. Doctrinal method is type of method, which is library based research where researcher will find out the issue by material available at library like Law Commission reports, books, article and also Online Database. Researcher has also opted Empirical research method to find out the actual implementation, the researcher had visit various Law colleges.

Type of Research Approach

Researcher has adopted the Descriptive, Historical and Critical Approach to find out the lacunas in Legal Education, what the legal education reforms were and how they were effective, also to find out the situation of Legal education in law colleges.

Literature Review

Books:

- **By Sathya Narayan “Selected work of S. P. Sathe, Social Justice & Legal Transformation” published by Oxford University Press, Vol. 3 2015 Edition, Page 697 to 714.**
This Book is selective work of Dr. S. P. Sathe, during his life time he has presented his views by several articles where author dealt with several legal transformations in legal education. In this book author explained the importance of legal education and legal profession. He also brought light on problems of legal education which helped the researcher to understand the problems and lacunas related to legal education.
- **By G. Manohar Rao & K. Shrinivas Rao “Legal Education in India- Challenges & Perspectives”, published by Asia Law House, Hyderabad, 2007 Edition.**
In this Book there are several articles related with legal education and profession by several articles by knowledgeable persons of legal field has presented their finding with the lacunas and problems and the role of Bar Council of India in respect of legal education. This helped the researcher to understand the role of BCI in legal education. Author describes about the reforms in legal education, how academic degree of law has come in India and how it has been changed from

two year to three year and from three year to 5 year.

- **By Sushma Gupta “History of legal education” published by Deep & Deep Publication, 2006.**
In this book author has describe about the concept and history of legal education, in which she has explained position of legal education from Vedic age to present period. In this book researcher found that author has explained the ages and reforms of development of legal education in India by dividing into several heads like ages concern author clearly explain the history of legal education in ancient, Muslim and British age and for reforms concern author has the reforms from very beginning of year 1902 and goes through Bar council of India trust to reform of National law School. With the help of this book researcher tried to explain his first research question by Chapter 1 where concept and history is been explained.

Articles:

- **By: Justice A. M. Ahmadi “Repairing the Cracks in Legal Education” (1993) 1 SCC J-3**
In this Article Justice A M Ahmadi in his article suggested how to improve the quality of legal education and training skills and also suggested the duty to bar council of India to promote legal education. He also explained how to repair the cracks in legal education system. He has given practical knowledge about legal education.
- **By N. R. Madhav Menon “Transformation of Indian Legal Education” published by Harvard Law School Program on Legal Profession P. 6. Available at https://clp.law.harvard.edu/assets/Menon_Blue_Paper.pdf Accessed on 29/08/2016**
This article is the compilation of speech which has been given Prof. N R Madhav Menon who has explained the reforms and why 5 year integrated course for law should be introduces by the researcher got to know the view to the person who has brought the reform in legal education system.
- **By Sushila “Legal Education in Goblised World: Challenges and Opportunities” (2013) PL June 67.**
The Author of this article has explained challenges and problems related with legal education, in her article she also explained about the role of Advocates Act, 1961 and also given certain suggestions which helped the researcher to understand the lacunas and its solution.

Journals:

- **Dr. A. K. Avasthi “Legal education-Role of Bar Council of India Judicial Intervention/Suggestion”, edited by Indrajeet Mohanty Indian Bar Review Vol. XXIX(3&4) 200.**
In this Author has clearly explained the problems related with legal education in a separate head like setting age & pre-enrolment training with judicial interpretation which helped the researcher to understand the practical problems through authors view.
- **Dr. Krushan Chandra Jena, “ Role of Bar Council and Universities for promoting legal education in India”, edited by Indrajeet Mohanty, Indian Bar Review Vol. XXIV(3&4) 2002 P. 154.**
This article is published in Indian Bar Review where author has explained about the academic degrees and role of bar council of India and universities. He has also given the suggestions to legal educations in which he has talked about the problem of attendance.

Cases:

- **V. Sudeer v. Bar Council of India, AIR 1999 SC 1167.**
In this case Supreme Court of India held that BCI has statutory power to make rules to promote the legal education and profession also addressed that practical training should be mandatory.
- **State of Maharashtra v. Manubhai Pragaji Vashi (1995) 5 SCC 730.**
In this apex court had laid down that private law colleges should also get grant in aid with the same term as applicable to other professional courses.

News Paper Articles:

- **Business Standard Dated on: 8-01-2016 “Shut law colleges which lack infrastructure: CJI to BCI” Available at: http://www.business-standard.com/article/pti-stories/shut-law-colleges-which-lack-infrastructure-cji-to-bci-116010801233_1.html Accessed on: 29/08/2016.**
CJI T S Thakur has shown his concern toward the legal education in his speech and also given suggestions to Bar council of India to shut down law college whose infrastructure is not good and also explained that standard of lawyers are low in the market of marriage also which explains the standard of legal education and legal profession.

Research Questions

- i. Whether Legal Education effects the legal Profession?
- ii. Whether Bar Council of India Legal Education rules are followed by Law college and if yes, to what extent?

Introduction - Legal Education

Through this chapter researcher would explain how legal education came and what the history was and how it affects the legal profession. Legal education is not a new concept it can be traced from Vedic age and then it has been developed from Mughal & British period till now in India. Researcher has explained how the legal education was been improved and how course structure was modifies from time to time. This chapter will also clearly explain the concept of Legal education and how several authors and sources has defined it.

History of Legal Education

The history of Legal education is as older as the education system in India has a recorded legal history starting from the Vedic ages and some sort of civil law system may have been in place during the Bronze Age and the Indus Valley civilization. Law as a matter of religious prescriptions and philosophical discourse has an illustrious history in India.¹ Till early 1920s, opportunities for quality legal education in India were limited. It is not uncommon to see Indian legal luminaries from the era with an Oxbridge law degree and enrolment at an Inn of Court. Though reputed colleges like Government Law College, Mumbai were in existence since later half of the 19th century, the founding of faculty of law on Delhi University, ILS Law College in Pune and a host of other colleges in various states and universities across the country made quality legal education accessible.² Researcher has found that the legal education has its own history which can be explained in three fold:

1. Legal Education in Ancient India

In the verdict period, the legal education can be seen as the concept of Dharma³. The Justice was administered by the king or their appointees. The Guiding force for the king was the upholding of Dharma. There were the time when law was a part of ethics, religion, morals and values, philosophy and consciousness. The Ethics and philosophy was having an important role for explaining social problems and giving directions resolve these problems and which is not adequately appreciated today. However, in making and interpreting the law no society can accept to ignore the values of ethics.

It can be said that law is applied ethics for the society which is made by severing and has to follow by every member of the society. The Legal practitioners indigenously known as pleader or Niyogies who were representing parties in litigation from the time of 'Manu Smriti'. The concept of 'Vakil' was introduced by the Mughal period when someone was appointed as representative to present one in the court.

¹ The Bar Council of India, available at '<http://www.barcouncilofindia.org/about/about-the-legal-profession/legal-education-in-the-united-kingdom/>' Accessed on 30/08/2016

² The Bar Council of India, available at '<http://www.barcouncilofindia.org/about/legal-education/>' Accessed on 30/08/2016

³ By Justice A S Anand at *H.L. Sarin Memorial Lecture : LEGAL EDUCATION IN INDIA PAST, PRESENT AND FUTURE* available at '<http://www.ebc-india.com/lawyer/articles/9803a1.htm>' Accessed on 02/09/2016

2. Legal Education in British Period

In the British India, from time to time many statutes were enacted for legal education and profession like, Regulation Act of 1773, Legal Practitioners Act, 1873 in which it stated that, only those can practice who had taken degree of Law. The first concrete step for direction of organizing legal profession was taken through Regulation Act, 1773 which empower to enroll as advocate. Advocates were as barristers of England and Ireland but the Vakils were Indian Practitioners. The pattern of legal education which is in vogue in India was transplanted by the English, after the establishment of their rules in India. The Formal Legal education in India came into existence in 1855 when first professorship of law was established at Government Ephiston College in Bombay & Madras and Hindu College at Calcutta⁴. At that time primary aim of legal education was equip law student so that they could help the lower courts and High Court in the administration of justice by enrolling themselves as Vakils or becoming judicial officers. Initially a law school had to be self-financing institution, and if possible a money making concern so that it could feed the teaching of other disciplines in the University. There is no tradition of legal research and academic legal training. In the year, 1857 legal education was introduced as a subject for teaching in three universities in the presidency town of Calcutta, Madras and Bombay. The language of the British statutes being English, so any Indian who learnt English could study law and was considered qualified to practice the profession. At that time law classes were attached with arts colleges. However, if one aspired to something higher, he could go to England and join the Inns court, provided one could afford it. Till 1920s the opportunities were limited in legal education.

3. Legal Education after Independence

The situation after independence from the year 1950 has completely changes. The rule of law become foundational doctrine, the polity was totally based on it and would require a legal profession sufficiently skilled and possessing knowledge of law in order to maintain and preserve legal system. The 'Advocate's Act, 1961' was enacted in 1961 and became the focal point of legal education system which is in existence. Through this the Bar Council of India was established not only to regulate the advocated but also imparting legal education in India. The Bar Council of India Rules lays down the curriculum for imparting throughout India. It was only in 1967 that it became the burdensome task of the three year law colleges to include procedural subjects into the curriculum of their law school. The monologue lecture scheme adopted in law schools, where practical training is either totally neglected or marginally implemented at the level of Moot Courts, Court visits and legal research will not make good lawyers in today's scheme of legal education. The modern shift took place in the year 1985 after the serious affords of several eminent personalities the new change brought to legal education system in which the concept of National Law School (NLS/NLU) similar to IITs, IIMs, etc. for Engineering and Management field was established where a law aspirant can take admission after completing 10+2.

⁴ Ibid.

Meaning of Legal Education

There is field of knowledge and education for each and every subject which are present in our surroundings. Similarly, the term Legal or Law that we hear in our day to day life which is been considered as subject which has separate branch of knowledge which is been imparted as education which can be said as legal education. Although there no specific definition of legal Education but Legal education in India generally refers to the education of lawyers before entry in practice⁵ and several authors have descried about the term legal education as a broad and comprehensive concept, it include not merely the profession that is practiced in the court but also cover teaching of law, legal research and all other activities which postulates and require the use of legal knowledge and skill.⁶ Dada Dharmadhikari remarked that ‘Legal education makes lawyer an expert who pleads for all like the doctor who prescribed for all, like the priest who preach for all like economist who plan for all. It may really be termed as an art which enjoy the capacity to make lawyer a best pleader for public at large.’⁷

Imparting of legal education always been considered as one the noblest profession. Today, legal education desires its impetus from the economics, social and political setup of society. The lawyers are one who is conversant with problems of society. It is because lawyers have their independent profession and directly connected with society and their affairs. Legal study promotes accuracy of expression, facility in argument and skill in interpreting the laws and writing document as well as understanding of social value. In a democratic society rule of law prevails, law defend and promote the individual and his interest, which constitute the society. Law and education of law has its own importance in the society. Legal education is basis of responsive and responsible lawyering and legal Profession is the profession of justice, which protects the rights and provides the remedy to every individual.



⁵ Wikipedia 'https://en.wikipedia.org/wiki/Legal_education_in_India' Accessed on 2/09/2016

⁶ Sushma Gupta '*History of legal education*' Published by Deep & Deep Publication 2006 Edition

⁷ Dada Dharmadhikari "*Lawyers role in social change*" AIR Journal (1978)

Reforms in Legal Education

As researcher has discussed earlier that the first formal legal education in India came into existence in 1855 when the first professorship of law established at the Government Ephistone College in Bombay and Madras and Hindu college at Calcutta. From that need for improvement of Indian legal education system was felt. The effect of legal profession by the legal education can be explained by the several reforms which has been occurred by constituting several committees like First Indian University Commission, 1902, Bills on Legal Education 1936-4, Bombay Legal Education Committee, 1949, Gajendra Gadkar Committee, 1964, Establishment of Bar Council of India Trust, 1974, First National Convention on Legal Education, 1977, Bar Council of India Training Rules, 1995, Report of Professional Legal Education Reform Committee, 1996 etc which consider and proposes reform in subject of legal education India⁸. In front of these committees there were three very important questions for which these committees tried to find out the solutions that, 'what should be the pattern of legal education which is provided by the law colleges or law faculty of the University?', 'Should it be academic and theoretical or should it be practical and procedural? And, 'Should it be meant for any research purposes of law?'

Bombay Legal Education Committee, 1949

In the bunch of the important committees Bombay Legal Education Committee, 1949 was one of the important which has been constituted in the year 1949 has suggested that 'thorough grounding in the principles of legal education and law is absolutely necessary to make the students a good lawyer', which shows that how legal education is important for the legal profession further committee also suggested what changes should be made like lecture method should be supplemented by the seminar or group discussion and there shall be tutorial method which encourage to train student individually and ask to write on different subjects, moot court and moot trail should be conducted regularly with a view to train the future lawyer.⁹ By these suggestion committee shows that how the legal education is important and why it should be taken into cognizance because somehow poor or bad imparting of education to law student may affect the profession on which they are about to come in future.

All India Bar Committee (1951-52)

After the independence in a year 1951-52 the new committee was constituted named as 'All India Bar Committee 1951-52' which look after the issues of uniformity in qualification. This committee has recommended that there should be a unified All India Bar which should prescribe the minimum qualification for the Advocates. Committee has found that there were several Universities which prescribe different period to study and different syllabus too. Another problem which has been lightened by the committee was that there were different requirements for getting admission in law course except Bombay and Andhra University all university were having requirement to graduate degree but in Bombay and Andhra there were no such requirement to start legal studies one can directly start by passing intermediate examination. Later in the year 1958 after the observations in the deterioration in standard of legal education and Law Commission has recommended few observations which were related to full time teaching must be continued by lecture method, law college should encourage law student to undergo in legal research, financial assistance should be provided by the government to attain good standard of legal education. All India Bar council should be empowered to ascertain the minimum standard of law colleges.

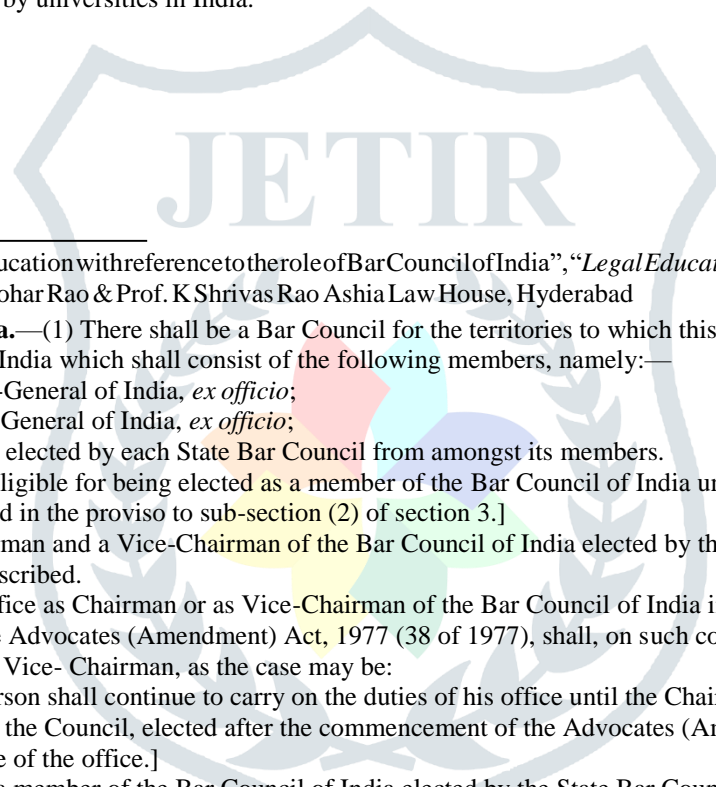
⁸ Sushma Gupta 'History of legal education' Published by Deep & Deep Publication Edition 2006

⁹ Ibid

Enactment of Advocates Act, 1961

In sixties the year 1961 was the drift change and which bring evolution in the subject of legal education, Parliament of India by considering the recommendations of several committees and law commission enacted the legislation, known as Advocates Act, 1961. The Advocates Act, 1961 was the result of Indian Parliament which consolidate and amalgamate various classes of legal practitioners into one known as Advocate by repealing all other Acts.¹⁰ Researcher has also stated Advocates Act, 1961 as mother of all the advocates by which advocates take birth in India legal system. The Bar Council of India the apex body for entire legal profession and legal education was constituted under Section 4¹¹. After enacting the Advocates Act, 1961 universities were bound by the policy of Bar Council of India for prescribing the subjects for the degree of law. Under the Advocates Act, 1961, the Bar Council of India was given power to make rules for laying down the standard of legal education.¹² Bar Council of India constituted under Advocates Act, 1961 plays an important role in development of legal education there are specific provision which indicates that legislator while making law for the advocates and legal profession has taken legal education also into consideration because it clearly indicates in Section 7(h)¹³ which states that Bar Council of India in its function has also a function to promote legal education and lay down the standard of such education.

As this is not the only provision related to legal education, Bar Council of India has a power under Section 49¹⁴ to prescribe rule for minimum qualification required for the admission to law degree course at any recognize university and also to observe the standard of legal education by universities in India.



¹⁰ Dr. K Malathi, "Legal Education with reference to the role of Bar Council of India", "Legal Education in India-A Challenges" Edited by Prof. G Manohar Rao & Prof. K Shrivasa Rao Ashia Law House, Hyderabad

¹¹ **4. Bar Council of India.**—(1) There shall be a Bar Council for the territories to which this Act extends to be known as the Bar Council of India which shall consist of the following members, namely:—

- (a) the Attorney-General of India, *ex officio*;
- (b) the Solicitor-General of India, *ex officio*;
- (c) One member elected by each State Bar Council from amongst its members.

(1A) No person shall be eligible for being elected as a member of the Bar Council of India unless he possesses the qualifications specified in the proviso to sub-section (2) of section 3.]

(2) There shall be a Chairman and a Vice-Chairman of the Bar Council of India elected by the Council in such manner as may be prescribed.

(2A) A person holding office as Chairman or as Vice-Chairman of the Bar Council of India immediately before the commencement of the Advocates (Amendment) Act, 1977 (38 of 1977), shall, on such commencement, cease to hold office as Chairman or Vice-Chairman, as the case may be:
Provided that such person shall continue to carry on the duties of his office until the Chairman or the Vice-Chairman, as the case may be, of the Council, elected after the commencement of the Advocates (Amendments) Act, 1977 (38 of 1977), assumes charge of the office.]

(3) The term of office of a member of the Bar Council of India elected by the State Bar Council shall—

- (i) in the case of a member of a State Bar Council who holds office *ex-officio*, be two years from the date of his election [or till he ceases to be a member of the State Bar Council, whichever is earlier]; and
- (ii) in any other case, be for the period for which he holds office as a member of the State Bar Council: Provided that every such member shall continue to hold office as a member of the Bar Council of India until his successor is elected.]

¹² By Sathya Narayan "Selected Work of S P Sathe, Social Justice & legal transformation" Vol.3 Oxford University Press 2015 Edition p.699

¹³ **Section 7(1) Functions of Bar Council of India:** (h) "to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;"

¹⁴ **Section 49: General power of the Bar Council of India to make rules.**—(1) The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe—

- (af) the minimum qualifications required for admission to a course of degree in law in any recognized University;
- (d) the standards of legal education to be observed by universities in India and the inspection of universities for that purpose;

Reform by National Law School

Justice M. Jagannadha Rao Former Chairman, Law Commission of India has said that, Education is not only for collecting information and acquisition of degree. It is Motivating force behind the character and personality that moulds him into good human being.¹⁵ After recommendation of several committees a concrete decision was taken in the year 1984 when various proposals were made to modernize legal education by the legal education committee of Bar Council of India which made an attempt to improve legal education in India¹⁶. This initiative has given the pace-setter for legal education reform which introduced for the first time the integrated Law (L.L.B.) curriculum. Same was stated by the Prof. N. R. Madhav Menon in his blue paper series that it has given birth to first autonomous National Law School at Bangalore and also stated that National Law schools in India offer quality legal education to near about 2000 students every year¹⁷. The establishment of this Law school was been done my passing National Law School of India University Act,1986 by the legislative assembly of State of Karnataka, through this implementation of this reforms in legal education is been done. Legal education has got new shape which improves the quality of legal education and also it has been seen it improved the infrastructure of legal institution¹⁸.

Through these reforms researcher has found that from time to time several committees were been established which has developed the legal education and after seeing the problems that has been arises in legal profession. As it has been found that earlier an individual can possess the degree of law after completion of their graduation but some universities provide the degree after completion of intermediate which was been redrafted in year 1986 when first National Law School has been established which was also been formed with an object to enhance the legal education by which the legal profession cannot be affected. Researcher has also found in his practical experience there are law colleges which has its infrastructure in a two floors of 7 story building. For Example B.V.D.U.'s New Law College, Sangli at Maharashtra which has its law college in two floor only. This was creating an image of ill equipped Law College. After Interaction with the student researcher also found that students were planning to go for practice without having basic principles of law. The Students whose who are been pass-out from these type of law college generally go for practice and at lower court only and due to this the environment and image of legal profession creates the corrupt feeling in general public.

Degradation of Standard of Legal Education

In India, education has always been one of the reasons to worry about. The problem of education which has been existed in India from ages has shifted to the problem of standardization which was also observed in the field of legal education later on. Earlier the scenario was that law graduates were considered as one of the most educated and learned citizens of the society but over the period of time it has been observed such recognitions by the society are degrading. 'Legal Profession is the profession of justice', which protects the rights and provides the remedy to every individual whether citizen of state or not. It had been observed by researcher that the standard of legal education is been degrading and in his practical experiences also researcher has found that there is huge disparity between law colleges. It is well known line that an ignorance of law is no excuse; everyone is supposed to know the law. It has been found that law graduates obtain their law degree under liberal education not for the knowledge purpose but for the purpose of enrollment as an advocate and practice just for the status in the society which unfortunately shows the status of legal education in India¹⁹. The issue related degradation of legal education has also been dealt

¹⁵ The Hindu Dated on 27-02-2007, 'True purpose of education is character-building' Available At <http://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/true-purpose-of-education-is-characterbuilding/article1803121.ece> Accessed on 04/09/2016

¹⁶ By Sushila "Legal Education in Goblised World: Challenges and Opportunities" (2013) PL June 67

¹⁷ By N.R. Madhav Menon "Transformation of Indian Legal Education" published by Harvard Law School Program on Legal Profession
P. 6 Available at https://clp.law.harvard.edu/assets/Menon_Blue_Paper.pdf Accessed on 29/08/2016

¹⁸ Supra (16)

¹⁹ Dr. E. Vijay Kumar, "Legal Education with reference to the role of Bar Council of India", "Establishment of Law Colleges- Management of Standard of Legal Education- Role of Various Agencies" edited by Prof. G. Manohar Rao & Prof K. Shrivasa Rao Ashia Law House, Hyderabad P. 49.

with the Apex court in the landmark case *State of Maharashtra v. Manubhai Pragaji Vashi*²⁰ has acknowledge the fact that there is fall in the standard of legal education and state has been given step motherly treatment for legal education.

Mushroom Growth of Law Colleges in India

The system of legal education must be designed in such a way to achieve the ultimate objective of preparing person for legal carrier but also to impart legal skills for good legal practitioner who will function in court and also to prepare academicians researcher scholars. But situation is different with the mushroom growth of ill equipped law college with dull rooms, lacking in adequate faculty and some of them in short duration of evening classes. This can be described as fee collection centers rather than law colleges.²¹ As it has been also observed that when a student fails to get admission in a medical, engineering, Commerce etc. they choose for law as the last resort. In this Law College which is the part of this mushroom growth plays an important role to degrading the standard of legal education by filling their vacant seats which creates the casual atmosphere and approach which decrees the enthusiasm of students as well as the teachers which causes degradation of environment of legal education in India.²² It has been found by Dr. E. Vijay Kumar that there are more than half a million lawyers in the country and every year 40,000 law graduates are getting law degree and out of them 5% are coming to successful lawyer which brings the picture about the standard of legal education in India . Author has also commented that many candidates know their name of subjects while appearing the examination of law.²³ By several reasons it can be said that the legal education and profession is overcrowded. It has been also been experienced and has complaint that there are rarely good and trustworthy lawyer.²⁴ Legal education is the base of legal profession is structure which is been constructed with an objective to touch sky if the base will be weak then how it can be possible that the structure will be athletic.

Attendance and Class Room Teaching

The Attendance is another factor which plays an important role in degradation of legal education India. As per rule 4 of Bar Council of India (Part IV)²⁵,

“The student shall be requested to put minimum attendance of 66% of lecture on each of the subject as also at the moot courts practical training course. The provision of compulsory attendance is been observed that it remains on paper only and hardly it is enforced.²⁶ Due to of these kind of practices a large number of students are joining Law (LL.B) course without a serious objective. Especially if we will talk about the three year course of law, it has been found that they are in either some kind of job or business or pursuing some other courses. These kind of practice are done by many law college special located at rural places where students get admission and never come to college which leads to degrade the standard of legal education which reflect in legal profession. There is a situation where one college maintains the standard and another is casual, which create the disparity among the law college.

A strict rule is been applicable with respect of attendance which compel the student to come and attend the lecture and it result a proper and good grooming up. Apart from this there are several other factors which are responsible for deteriorating the

²⁰ (1995) 5 SCC 730

²¹ Justice A M Ahmadi “*Repairing the Cracks in Legal Education*” (1993) 1 SCC-J 3 P.4

²² Ibid.

²³ Supra(21) P. 50

²⁴ SathyaNarayan, “*Selected WorkofSPSathe, Social Justice & Legal Transformation*” Vol. 3, Published by Oxford University Press, 2015 Edition P.703.

²⁵ THE BAR COUNCIL OF INDIA RULES Part IV

SECTION A: (Five Year Law Course After 10 + 2 or 11 + 1)

Rule 4: The students shall be required to put in a minimum attendance of 66% of the lectures on each of the subjects as also at the moot courts and practical training course.

SECTION B (Three year Law Course after Graduation)

Rule3. The students shall be required to put in a minimum attendance of 66% of the lectures on each of the subjects as also at tutorials, moot courts and practical training course.

Provided that in exceptional cases for reasons to be recorded and communicated to the Bar Council of India, the Dean of the Faculty of Law and the Principal of law colleges may condone attendance short of those required by the Rule, if the student had attendance 66% of the lectures in the aggregate for the semester or examination as the case may be.

Available at ‘Ministry of Law’ website: <http://lawmin.nic.in/la/subord/bcipart4.htm>

²⁶ Dr. Krushan Chandra Jena, “*Role of Bar Council and Universities for Promoting Legal Education in India*” Edited by Indrajeet Mohanty, Indian Bar Review Vol. XXIV(3&4) 2002 P. 154

legal education, which explain lacunas by which legal profession is been hampered.

- **Lack of Practical training:** As it has been observed by the Apex Court in *V. Sudeer v. Bar Council of India*²⁷ that practical training should be mandatory to all universities in imparting legal education prior to getting his degree of law and Bar Council of India has function to promote the standard of legal education in consultation with universities.
- **Regional Language:** Language is set to as important factor for good litigant or legal practitioner, college located at rural areas some time adopt regional language as medium of instruction and examination too.²⁸
- **Infrastructure:** For any institution there is need of infrastructure and a quailed one too. Bar Council of India in its Rules (Legal Education Rules,2008) has made the provision of infrastructure under Rule 11²⁹ Schedule III where provisions for adequate library with online database, reading room even size of class room is mentioned.³⁰ This problem has also been suggested by the CJI T S Thakur to Bar Council to Shut those law college which lack in appropriate infrastructure³¹

Legal Frame Work for Legal Education

The Legal framework if based on the administration of legal education and how the bar council of India rule related to legal education is been followed. Legal education is the bedrock for legal education for legal profession to develop essential rule of law³². Researcher has limited scope with respect to legal frame work of Bar Council of India and applicability of its rules in legal education imparted by the law colleges & universities. To know applicability of rules framed by Bar Council of India to Law colleges, first it is to know what the rules or norms are been made.

Advocates Act, 1961

The Laws related to legal profession is fully governed by the Advocates Act, 1961(Act No. 25 of 1961) enacted during the 12th year of republic of India which came in force on 19th May, 1961. The Advocate Act, 1961 was passed by the Indian Parliament to consolidate and amalgamate various classes of legal profession into one which is known as Advocates. This Act was not been made with only objective for enhancement of legal profession but also to envisage the legal education. Through this Act the Bar Council of India has been established under section 4 which is the apex body of entire legal profession and education and also State Bar Council is constituted in every state under Section 3. As per the provisions of Advocates Act, 1961, the bar council of India mostly deals with the regulation of the conduct and professional ethics of lawyers in the country.³³ Before the enactment of Advocates Act, 1961, the universities were prescribed their own subject but they are bound by the policy of Bar Council of India. Section 7 of Advocates Act, 1961 enumerates various functions of bar council of India. In which one of the function of Bar Council of India is to promote legal education and to lay down standard of such education in consultation within the universities of India imparting such education³⁴ and another which provide recognition to universities whose degree in law shall be qualifies for an advocate and for the purpose to visit and inspect universities or cause state bar council to inspect.³⁵ With functions there are certain general powers which are also with bar council of India by Advocates Act in which BCI has power to make rule for standard of legal education to be observed by Universities³⁶ and also set rule for minimum qualification for law degree.³⁷

²⁷ AIR 1999 SC 1167

²⁸ Sunayana S. Gupta "Legal Education- Challenges and Suggestion" Edited by Prof. G Manohar Rao & Prof. K Shrivasa Rao Ashia Law House, Hyderabad P.169

²⁹ **Rule 11: Minimum infrastructure**

Any institution conducting legal education by running either of the law degree courses or both leading to conferment of graduate degree in law on successful completion of the course shall have minimum standard infrastructure facility stipulated by the Bar Council of India specified in Schedule III of these Rules.

³⁰ BCI Education Rules,2008 Available at "Bar Council of India" Website:

<http://www.barcouncilofindia.org/about/legal-education/education-rules-2008/> Accessed on 31/08/2016

³¹ Business Standard Dated on: 8-01-2016 "Shut law colleges which lack infrastructure: CJI to BCI."

³² Nilendra Kumar "A NEW LOOK AT THE ROLE OF BAR COUNCIL IN LEGAL EDUCATION" Edited by Major General N. Kumar, "VISION OF LEGAL EDUCATION", Published by Thomus Reuters Legal,2015 Edition P. 188

³³ Supra.(10) P.85

³⁴ Section 7(h)

³⁵ Section 7(i)

³⁶ Section 49(a)

³⁷ Section 49(af)

Bar Council of India Legal Education rules

As bar council of India has the power to make rules for the legal education and to promote legal education. Rule on Standard of legal education and recognition of degree in law for the purpose of enrolment as advocate and inspection if universities for recognizing its degree in law under Section 77(1)(h) and (i), 24(1)(c)(iii), and (iii)(a), 49(1)(af),(ag),and (d) of the Advocates Act, 1961 made by the Bar Council of India in consultation with Universities and State Bar Council which is Part IV of Bar Council Rules which also known as BCI Legal education rules, 2008. This contain bundle of rules related with standard of legal education, in under Section 2(iv)³⁸ center for legal education is been define which bring the definition of place where practice of legal education is been done. These rules clearly explain about the recognition, Minimum Infrastructure, qualification of Students & faculty and also contain prescribed syllabus for law course. Dose It is been found during the research that Bar Council has power to make rules but it does not have independency, because BCI being an apex body fir legal education and legal profession has to take consent the universities. It can be observed by several president made by Hon'ble Courts in India. In *V. Sudeer v. Bar Council of India*³⁹, rules for pre-enrolment training were challenged *ultra vires*. SC held that practical training is mandatory to all universities imparting legal education.⁴⁰ In *Pruthavi Educational trust v. Bar Council of India*⁴¹ BCI has declined the permission to start the law course with a reason that there was no building of its own and had no library. Court held that rules were aimed to ensuring maintenance of standard in legal education in country and did not transgress rule making power of the Bar Council.



³⁸ “Centers of Legal Education” mean

- a) All approved Departments of Law of Universities, Colleges of Law, Constituent Colleges under recognized Universities and affiliated Colleges or Schools of law of recognized Universities so approved. Provided that a Department or College or Institution conducting correspondence courses through distance education shall not be included.
- b) National Law Universities constituted and established by statutes of the Union or States and mandated to start and run Law courses

³⁹ AIR 1999 SC 1167

³⁹ Dr. A K Avasthi “Legal Education - Role of Bar Council of India Judicial Intervention/Suggestions” edited by Indrajeet Mohanty Indian Bar Review Vol. XXIX(3&4) 2002 P.17

⁴¹ AIR 2001 Kant. 24

Researcher's Practical Experience in Implementation of Rules

Knowledge is power. It makes man a Perfect. Legal Knowledge makes an exact man or women much more powerful than other person knowledge.⁴² Legal knowledge can be brought by legal education. There are many problems which are directly faced by the law students and which later affect the legal profession. As we know that legal education is the base of legal profession and if the base that is legal education will be weak then how the legal profession can be strong. Researcher has found in his practical experience that there are many problems related to implementation of legal education rules and which also explains in what extent the rules are been followed by the law colleges in legal education system.

Attendance as mandatory Provision

Researcher in his survey to law colleges within Maharashtra by interacted with the students of different law college and of different year. Researcher visited Shahji law College where he found infrastructure was old and satisfactory, after interacting with Mr. Raghuvanshi one of the faculty of Shahji Law College and Students from different year researcher found that how bar Council Legal education rule are been implemented, while asking question regarding attendance which is compulsory under Rule 4 Section A & Rule 3 of Section B of BCI legal education rules, 2008⁴³ students were having very casual feeling and while answering they state that although 75% attendance is said to be compulsory but there is no serious implementation. And when same was asked by the faculty he has given immediate reaction on question of attendance and replied that 75% attendance is compulsory. After visiting several colleges in Kolhapur and Sangli of Maharashtra researcher has came into conclusion that provisions related with attendance are on paper only there is no serious implementation of rules with respect to attendance. Similar was found by Dr. Krushna Chandra Jena in his article of Indian Bar Review⁴⁴ where he states that compulsory norms of attendance remain on paper and unenforced.

Infrastructure as Basic Need

In a present scenario for education infrastructure is basis need. In BCI rules Part IV i.e. Legal education Rules, 2008 say rules has made separate provision for infrastructure where in Schedule III of rules has provision that shall have minimum capital fund is required of rupees ten lakh for future development and other very important provision of Property in the Item 2 of Schedule III⁴⁵ Freehold or leasehold Property which should be Land is been use in the provision and other sports facilities are also been included in same provision. Researcher was surprised after visiting BVDU's New Law College, Sangli because the college was only of two floors of a seven storeyed building. There was no separate land for the college and no such other facilities as mentioned in the item 2 of Schedule III. Under Item 5A of Schedule III of rule, specific strength of students is been mentioned in a class room. After visiting several college researchers found that colleges were having separate record of strength of students but single class room, after interacting with students researcher got to know that there are more than 60 students in a class room. This bring the picture that the rules that are been made by the BCI to improve the standard of legal education within India is not been followed properly.

Academic Facilities

As internet is very essential need in present scenario, like a science students have its apparatus test-tube, chemicals, burner, lenses etc. similarly law students are also having their apparatus in form of Books, Journal, Bare Act, Judgments, and Compilations etc in which Internet and legal data base is additional apparatus. Researcher has found that in colleges like Shahji Law College, Kolhapur and BVDU's NLC, Sangli students were not aware about the legal database like www.Manupatra.com, www.SCCOnline.com, www.Westlaw.com, etc and also stated in form of complain that the internet is accessed by faculty members only. The problems are never ending until and unless it has been solved. Degradation of standard of legal education is serious issue for the standard of legal profession which may hamper the legal profession.

⁴² Supra(12) P. 82

⁴³ Supra(27)

⁴⁴ Dr. Krushan Chandra Jena, "Role of Bar Council and Universities for promoting legal education in India", edited by Indrajeet Mohanty, Indian Bar Review Vol. XXIV(3&4) 2002 P. 154

⁴⁵ **FreeholdorLeaseholdProperty:** Each Centre of Legal Education providing education in law either in the Department of Law of a University or its constituent or affiliated college must have either on freehold or on long leasehold land adequate to provide academic buildings, library, indoor and outdoor sports facilities, halls of residences for male and female students separately, as the case may be, in the name of the Centre of Legal Education or organization running the Centre of Legal Education. However, lease in the name of the Centre of Legal Education shall be for a period of not less than ten years.

Conclusion & Recommendations

• Conclusion

Researcher came to the conclusion that, there are rules, law, statutory bodies, accrediting agencies, qualified teachers & professors, and all other funding agencies which is responsible for the legal education but the reason behind this downfall of standard of legal education and legal profession is, there implementation and how they are implemented. Researcher in his practical experience found that rules are been less implemented and more shown in records only. After observing several reforms related to legal education researcher found that legal profession is novel profession because in the changing situations need and law should be modified and developed. Now time has changed in this globalization if standard of legal education will be raised or improved then automatically standard of legal profession will be improves as they are vise-versa.

• Recommendations

The quality and standard of legal education acquires at the law school is reflected through the standard of Bar & Bench and consequently affects the legal system.

Researcher want to express that if the legal education is not taken seriously and not providing a proper guidance to perform in the legal profession then it may lead to degrade the legal profession. The Authorities should be responsible as guardian, like parents are responsible for the act of their children. The Law Students are children when they are in Law school and authorities are guardian which should be responsible. Researcher wants to present certain recommendations which are as follows:-

- Legal education should be promoted by granting aid to Private Law College as it is part of constitutional mandate to promote legal aid to poor and needy person.
- Law College should be attached to court in same way as the medical colleges are attached to hospital, this will impart practical training. Because it is the process of learning through doing.
- Defaulter colleges should be shut down to reduce the overcrowd of legal education which can bring result in legal profession also

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