

AN ANALYSIS OF CLINICAL LEGAL EDUCATION IN INDIA: INITIATIVES IN KARNATAKA

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1. Introduction

The objective of global legal education is not only to create lawyers who can “practice” in a number of jurisdictions but to create trained minds who can deal with cases efficiently and effectively. To create this type of lawyers is a great encounter for the Indian legal education system. The National Law School model that was established post-independence has brought considerable change in the development of legal education in India with a strong commitment to improve existing legal infrastructure. The concept of clinical legal education refers to a law practice usually serving a public interest or group in the society that are in an under privileged situation. Few examples include the clinics driven by practicing lawyers which are separated from law schools but with law students participating in the form of an externship. The use of the word ‘clinic’ prompts the analogy of trainee doctors meeting real patients in their medical clinics². In the academic context, these clinics provide hands-on experience to law students and services to various clients. A law clinic is a combination of practical legal education and legal aid.

However, there are no set of definition of what a law clinic or clinical programs should consist of and the activities carried out by a certain clinic can vary greatly from other law. The Bar Council of India, constituted under the Indian Advocates Act, 1961, is endowed with the responsibility by Parliament to prescribe and maintain the standards of legal education. In exercise of this power, the Council has been laying down rules from time to time giving the broad goals of the law curriculum, its content and methods for the University and law schools to follow. The Rules which the Council brought into from June 1982 distinguish professional education from other forms of legal education. Recognizing the importance of dissemination of legal knowledge for promotion of democracy and constitutional government, the Council exhorted Universities to devise ways

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² Clinical legal education, a report on concept of law clinics, available at: https://law.handels.gu.se/digitalAssets/1500/1500268_law-clinic-rapport.pdf (last accessed on May 2, 2022).

and means appropriate to their situations for liberal legal education. However, the Council insists on strict standards in professional legal education, for which it has laid down a required curriculum with some possible adjustments in details for accommodating local needs and requirements³. The BCI Rules of Legal Education, 2008 and subsequent rules further strengthen Clinical Legal Education in the country. This research paper deals with the concept of clinical legal education, historical overview of clinical legal education in India, the initiatives taken by Bar council of India and Legal Services Authorities with special reference to the initiatives in Karnataka. This research paper also deals with the challenges faced in initiations of clinical legal education and has made few recommendations to combat such challenges.

2. Meaning of Clinical Legal Education

Clinical Legal Education is essentially a multi-disciplined, multipurpose education which can develop the human resources and idealism needed to strengthen the legal system- a lawyer, a product of such education would be able to contribute to national development and social change in a much more constructive manner⁴. A learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practiced. It almost inevitably means that the student takes on some aspect of a case and conducts this as it would be conducted in the real world⁵.

3. A Historical Overview of Clinical Legal Education in India

A Clinical Legal education includes not only the clinical courses but also practice-oriented courses and activities included in or offered outside the curriculum. Before the Advocates Act came into force, law students were required to complete certain courses on procedural subjects offered by the State Bar Council and to undergo training for a period under apprenticeship in the chamber of senior advocate. The arrangement was unsatisfactory because of the lack of integration between the University education in law and the practical training. The Bar examinations and the system of apprenticeship were not organized in a manner to provide the best educational and professional experiences to the new entrant to the Bar. The Bar Council of India, therefore, in consultation with the universities, devised a new curriculum uniformly applicable throughout India under which the

³ The Advocates Act, 1961.

⁴ Kuljit Kaur, Legal Education and Social Transformation, *available at*: <http://alsonline.amity.edu/Docs/alwjlegkk.pdf> (Last visited on May 29, 2022).

⁵ Richard Lewis, Clinical Legal Education revisited, Professor of Law, Cardiff University, Wales, United Kingdom, *available at* : <https://www.cardiff.ac.uk/law-politics> (visited on March 30, 2022).

necessary practical training to be included by the universities themselves in the course of the three-year law education. The intention was good but the performance has been again very unsatisfactory. Under the scheme of legal education introduced in the late 1960s, practical training as such was not included as a compulsory part of LL.B. programme. Courses such as Civil Procedure, Criminal Procedure, Evidence, Minor Acts, Conveyancing and Pleading were taught mainly through the lecture method and examined through annual written examinations like other courses⁶. There was hardly any exposure to legal research and legal writing. In the absence of the case method of teaching and class discussion, even opportunities for developing analytical and reasoning capabilities were inadequately provided in the curriculum.

The Bar Council of India⁷, while adopting the rules under the Advocates Act for restructuring legal education in 1982, did not appear to have given clear thinking to the nature, content and method of practical training it desired the universities to give through its recommended curriculum. Nevertheless, some universities did make an honest effort to impart clinical experiences to LL.B. students by organizing moot courts, mock trials, legal writing exercise, advocacy courses and court visits as optional, co-curricular activities. Greater impetus has been given for clinical legal education under the BCI Rules of Legal Education, 2008 and subsequent rules by mandating internship of 4 weeks in a year for both 3 years and 5 years LL.B. Courses with the Advocates, Bureaucrats, Judiciary, corporate sector, legal firms etc., establishment of Legal Services Clinics in the Legal Education Institutions and thereby provided for participation of Law students in the process of free legal Aid and Literacy to the poor and needy. This is greatly helping the students to get practical exposure into the profession and hone their lawyering skills.

4. New Structure of Legal Education by Bar Council.

The Bar Council of India gave a fresh look to legal education at an All India Seminar held at Bombay in 1977 attended by the Universities and State Bar Councils. On the basis of the recommendations of this Seminar, a dialogue was initiated by the Council with the Universities teaching law which eventually, in 1982, resulted in a new 5-year integrated professional programme after 10+2 school education. The important features of the new pattern of legal education which was to come into force from the year 1987-88 are, the introduction of a two-year

⁶Clinical Legal Education: Concept and Concern, *available at*: https://shodhganga.inflibnet.ac.in/bitstream/10603/148922/6/06_chapter%204.pdf (visited on March 30, 2022).

⁷ The Bar Council of India. org

Pre-law Study consisting of several social science course and a six-month intensive compulsory clinical education Practical training programme in the final two year comprising of course equivalent to four papers of 400 marks⁸. The Rules framed by the Bar Council suggested to the universities that law schools and law colleges should provide adequate teaching and examination on practical aspects of lawyering. It recommended that these skills may be imparted through exercise in pleading and conveyancing, Legal Method courses, Court visits and Moot Courts and through active participation in Legal aid clinics. The Bar Council of India desired every college of law imparting professional legal education to set up a Legal Aid Clinic according to the model proposed by the Committee for Implementing Legal Aid Scheme (CILAS) of the Government of India.⁹

5. Implementation of Legal Aid Schemes by Committee's

While the Bar Council of India was in the process of restructuring legal education giving a prominent place to *Practical Training*, another parallel development on the legal aid brought about fresh thinking on the role of law school in the delivery of legal services, particularly to the weaker sections of the community. Two major reports¹⁰ on legal aid submitted by the Government-appointed expert committees in 1973 and 1977 called for extensive involvement of law teachers and students in the legal services programmes outlined in them. Both reports devote a full Chapter to "Legal Aid Clinics in Law School" and have advanced convincing arguments on why law students should be exposed to clinical methods of learning law in order to impart better education and to develop better professional services. The following is the observations¹¹ extracted from Report of the Expert Committee on Legal Aid, Govt. of India, May 1973, Report on National Juridicare; Equal Justice, Social Justice, Ministry of Law and Justice, Govt. of India, 1977¹².

Reports on methodology supported by legal aid-related activities provide the most viable and effective strategy for improving standards of professional legal education. There is a continuing controversy among legal educators in India regarding the goal of legal education, one section holding it to be strictly concerned with producing legal practitioners who are experts in litigation-

⁸ Supra Note 5

⁹ Ibid

¹⁰ Processual Justice to the people: Report of the Expert Committee on Legal Aid, Govt. of India, May 1973, Report on National Juridicare; Equal Justice, Social Justice, Ministry of Law and Justice, Govt. of India, 1977

¹¹ Report on National Juridicare, pp. 66-74.

¹² India (Republic) Committees on Juridicare, India. Ministry of Law, Justice, and Company Affairs, "Report on national juridicare : equal justice - social justice" (Controller of Publications, New Delhi, 1978).

oriented skills, while another section advocating a wider role in which the lawyer is equipped with divergent skills, perspectives and tools with a view to make the candidate a policy maker, administrator or social engineer.

The above excerpts from the National Juridicare report submitted by two eminent judges of the Indian court read like a memorandum prepared by a curriculum reform committee of an Indian law school. The Report further presents many persuasive arguments why and how clinical legal education and student work on legal aid clinics can help develop a professionally significant and socially relevant legal education.¹³ As clinical legal education since 1977 has been influenced and patterned of the lines recommended by the Report, the other observations¹⁴ of the Committee on clinical legal education: The legal services clinic would be able to develop social and humanistic attitudes and motivations in the law student. It would, therefore, be seen that the establishment of legal services in law schools is absolutely imperative both from the point of view of imparting clinical legal education to the law students and also from the point of view of creating a service-oriented cadre of lawyers who will be dedicated to the cause of justice. There has been almost unanimous opinion in the country in favor of participation of law students in the legal services programme through legal services.

The legal Aid Committee not only canvassed for the establishment of clinics in law schools but also recommended that funds be provided from the State and Central Legal Aid Boards/Committees for the effective functioning of law school legal aid clinics. Funding law school clinics was considered very much the function of the legal aid authority inasmuch as it served a dual purpose of clinical legal education: creating a socially sensitized cadre of lawyers and delivery of a variety of legal and Paralegal services to people who would otherwise be denied the benefits of laws. The Committee in this regard was so impressed by the results of the few experiments initiated at Delhi and Banaras law school that it recommended the amendment of the Advocates Act to allow senior students under supervision to represent clients in courts in certain matters. According to the Committee¹⁵ One of the important reasons for the quick expansion of the student's legal services programme in the United States is the statutory adoption of students'

¹³ Ibid.

¹⁴ National Juridicare Report, 1977 pp. 67-70.

¹⁵ Ibid at 72.

Practice Rules in most of the States enabling law students to appear in courts on behalf of poor clients.

The Report anticipated the need for a cadre of clinical law teachers throughout the country and asked for a crash programme for such training. For proper coordination and maximization of the educational experience of law students the Report recommended the creation of a National level council for legal services clinics, preparation of a manual for law school clinics and exchange of clinical law professors amongst different law schools. The national Council would have consultative status with the legal aid authority and would be financed by it. The Report also made another proposal under which the law students may be compulsorily required to do a six months internship in a legal aid organization on a monthly honorarium of Rs.250 in order to be eligible for enrolment as an Advocate. The legal aid movement acted as a catalyst in the evolution of clinical programmes as part of law school activity, and the Bhagawati-iyer Committee Report¹⁶ provided the desired legitimacy and institutional support. The impact has been wide and decisive. Between 1979 and 1986 over sixty Universities/Colleges teaching law have set up legal aid clinics, some of them purely as voluntary, extra-curricular programmes and some others as part of the curriculum.

6. Challenges faced in initiating Clinical Legal Education

Pursuant to orders of the Supreme Court dated June 29, 2009 and October 6, 2009 in case of *Bar Council of India vs. Bonnie FOI Law College & Ors*¹⁷, a 3-Member Committee on Reform of Legal Education was constituted which has discussed various challenges in legal education. The committee has submitted its report to the Bar Council of India. The committee has also submitted major issues posed to the legal education in India like:

- Though the BCI has made it mandatory to have clinical legal education in the curriculum, the institutions are not showing much interest in adopting the necessary skills.
- Lack of funding in an area as important as legal education which is keeping the infrastructural, adequate payment to faculties & technical requirements of legal education to back foot.
- Communities are not aware that the law schools provide free legal services
- Loopholes in inspection and recognition of law colleges by BCI.

¹⁶ National Juridicare Report, 1977. P 74

¹⁷ S.L.P. (C) No. 22337 of 2008

- Separate accreditation/rating system for legal institutions.¹⁸
- Under the Advocates Act, full-time law teachers and students are not allowed to represent clients before courts.
- The law schools have not given much prominence to practical training to their students because of several problems.
- There are difficulties in supervision and assessment: Supervising students in the clinic is a difficult task.

7. Initiatives in Karnataka for Effective Clinical Legal Education:

Section 4(k) of the Legal Services Authority Act, 1987 mandates National Legal Services Authority to develop, in consultation with the Bar Council of India, programmes for clinical legal education and to promote the guidance and supervision of the establishment of work of legal services clinics in Universities, Law Colleges and other institutions. As per Regulation 24 of the National Legal Services Authority (Legal Services Clinics) Regulation, 2011, it is obligatory on the part of the Law Colleges, Law Universities to set up Legal Service Clinics. In consonance with the said statutory mandate, Karnataka State Legal Services Authority (KSLSA), which is a statutory body constituted under Legal Services Authorities Act, 1987 has proposed to establish Legal Service Clinics in all Law Colleges by re-defining the approach and ensuring greater involvement of law students by captivating young minds and by instilling service motto at the budding stage, not only the young law students will be benefitted, but in the long run, the institution of Legal Services will achieve Excellency to cater to all the weaker and marginalized sections of the society.

Standard Operating Procedure (SOP) for Establishment of “Legal Services Clinics” in Law Colleges issued by Karnataka State Legal Services Authority, Bengaluru¹⁹

Karnataka State Legal Services Authority, Bengaluru has evolved an SOP in consultation with Karnataka State Bar Council, Learned Members of the Bar and the Vice Chancellors/Principals and Deans of Universities/ Law Colleges, which is considered as a panacea for improving clinical

¹⁸ “Professional Legal Education in India: Challenges and the Way Forward Educational Quest” 73 Int. J. of Education and Applied Social Sciences (2016).

¹⁹ SOP for Establishment of “Legal Services Clinics” in Law Colleges circulated by KSLSA to all Law Colleges in Karnataka dt. 22-09-2021.

legal education in the State apart from helping the poor and needy to have easy access to justice, if implemented in its true spirit. The KSLSA is making its all-out efforts for effective implementation of the SOP in coordination with University Law College, Bengaluru and KSLU, Hubballi by organizing Zonal Workshops for the Faculty Coordinators and Para Legal Volunteers of the Legal Services Clinics of Law Colleges in the State and SALSA deserves all appreciation for this commendable initiative. The important elements of the SOP are as under.

1. Establishment of Legal Services Clinics both in and Off the College Campus. Traditionally the Legal Services Clinics are established inside the college campus and it may not serve the needs of the public who have no access inside college campus. Hence, it is proposed to establish Legal Services Clinics both in and off the College Campus. ii). The Legal Services Clinics already established and working in the Law Colleges Campus to be streamlined as per this SOP. iii) In case the Legal Services Clinics are not established in the Campus, the concerned college shall establish Legal Services Clinics on or before 01.10.2021, with a compliance report to concerned Law University and KSLSA. iv) Efforts shall be made to establish Legal Services Clinics outside College Campus, in coordination with jurisdictional District Legal Services Authority (DLSA). As far as possible, the location and timings of such outside Legal Services Clinics shall be at places where the public demand is high. v) In the Legal Services Clinics established in and off the Law College Campus, steps shall be taken for easy access of the general public seeking redressal of their legal grievance. vi) As a part of clinical legal education and internship, the student PLV (Para Legal Volunteers) shall be deputed to serve pro-bono in the legal services clinics run by the DLSA. vii) Every law college shall designate one Staff Coordinator as a Faculty Member to monitor these Legal Services Clinics. The work of the faculty member shall be considered as an academic workload. viii) Every college shall constitute a Legal Services Clinics Committee under the Chairmanship of Principal/ Director, assisted by faculty members. ix) The Legal Services Clinics shall contain such infrastructure as determined by the concerned college and DLSA. x) As far as possible, the Legal Services Clinic shall have a well-furnished room, spacious enough to accommodate at least 6 to 8 persons at a time. In case of a Legal Services Clinic situated inside the College Campus, it shall have one room adjoining to it, where the students may be addressed by the Faculty member. xi) The law colleges arrange video conferencing facilities in the Legal Services Clinics to enable the legal advice seeker to access online legal consultation, whenever it is needed. xii) The registers for attendance and legal aid provided shall be maintained by the Law

college students and monitored by the Faculty member concerned as per Annexure-A & B of SOP. xiii) The college authorities and the DLSAs shall give wide publicity to the legal services clinics established.

2. Organizational Set Up: i). The jurisdictional DLSA's in consultation with and on the recommendation of the concerned law colleges shall depute a retired Judicial Officer or a non-practicing senior counsel or Panel Advocate of DLSA to every Legal Services Clinic for providing legal aid and services to the public as a "Panel Member". ii) The law colleges shall prepare a list of Panel Members so that they can be periodically recommended to the jurisdictional DLSA for deputation to the Legal Services Clinic. iii) The law colleges are at liberty to empanel Panel Members for offering legal aid and services in their Legal Services Clinics through online mode also. iv) Every Legal Services Clinic shall be manned by 2 to 4 law students on rotation basis as student PLVs. There shall be a minimum of 20 student PLVs nominated by each law college. The list of the said student PLVs along with their 5 address proof shall be shared with the jurisdictional DLSAs. v) The jurisdictional DLSA shall recognize the said students as PLVs for a limited period until the completion of their law course. vi) The law colleges shall give preference to fresh law students to serve as student PLVs. vii) The list of student PLVs shall be maintained by the Faculty Member, who shall depute student PLVs every day to the Legal Services Clinic. viii) The student PLVs will be imparted induction and orientation training by KSLSA and jurisdictional DLSAs as the case may be, regarding the legal services institutions and the roles to be displayed by them.

3. Working Procedure: i) There will be no fee whatsoever collected from the legal aid/advice beneficiary. ii) The Panel Members are empowered to provide free legal aid and services to the public either physically or virtually with the assistance of student PLVs. iii) The student PLVs deputed in the Legal Services Clinic, shall assist the Panel Member in legal research, drafting application, pleadings etc.,. The students shall always be conscious that they are only to provide the initial advice and assistance. iv) The Legal Services Clinic both in and out of the law college campus shall ensure easy access to the public and create a people friendly environment. v) The faculty member attached to the Legal Services Clinic shall pay a visit to the Clinic at least once in a day. vi) The faculty member shall ensure that every day the services of DLSA deputed Panel Member is available in the Legal Services Clinic. vii) The student PLVs in the legal services clinic shall ensure that the particulars of Legal Aid Beneficiary and the grievances if any is correctly

recorded in Annexure-B and submitted to faculty member every alternate day and to Member Secretary, DLSA once in every month. viii) In case the beneficiary who has approached the Legal Services Clinics is in need of “Court based Legal Aid”, then he/she shall be referred to the jurisdictional DLSA or TLSC. ix) The student PLVs shall be encouraged to identify issues that affect large groups of people and they may institute Social Justice Litigation with the approval of DLSA. x) The jurisdictional DLSA shall provide logistic support to every Legal Services Clinics. Further Member Secretary of DLSA shall regularly visit every Legal Services Clinics to ensure its active functioning. xi) The services of student PLVs shall be obtained by the concerned law college, while organizing legal literacy programmes, legal literacy camps by DLSA. xii) The Legal Services Clinics and the student PLVs must assist DLSAs for implementation of NALSA Schemes, legal services activities and also during emergent situations.

4. Financial Aspects: i) The Legal Services Clinics shall be established by every law college from and out of the sum specified in their annual budget and may include the grant received from UGC or its affiliated University or the donations received for this purpose. ii) The Law College may receive donations from individuals or from other bodies including CSR funds, for meeting the expenses of running the legal services clinics. However, they shall maintain proper accounts of the funds received and spent in respect of the legal services clinic. iii) The honorarium if any payable to the Panel Members shall be fixed and paid by the concerned law colleges. iv) The DLSA in coordination with the concerned law college, may provide staff and infrastructure support as may be feasible. v) The DLSA shall have the power to inspect the accounts of the collegiate Legal Services Clinic functioning in the colleges, universities and other institutions.

5. Stimulus and Incentives: i) Every law college shall submit its half yearly reports on the functioning of the Legal Services Clinic to jurisdictional DLSAs who shall forward it to KHALSA via a separate report. ii) On the basis of the reports submitted, KSLSA will announce zone wise “Award” for best Legal Services Clinic (College), Best Legal Services Unit, Best Student PLV etc.,

6. Other Activities: i) The law college concerned in consultation with jurisdictional DLSA shall prepare an annual calendar of programmes. ii) The Student PLVs shall be actively involved in the Legal Literacy Programmes conducted by DLSA and TLSCs. iii) The student PLVs as a part of their duty in the Legal Services Clinics shall pay visit to Court complex, Jail clinics, Police

Stations, Medico-Legal Section of Government Hospitals and Psychiatric Centers etc., in consultation with jurisdictional DLSA. iv) The DLSA shall organize Legal Literacy Camps in disadvantaged areas/remote villages in coordination with the Law College Legal Services Clinics. In such Camps the Student PLVs may be encouraged to identify local issues which can be sorted out through the Legal Services Institutions. v) The student PLVs shall conduct door to door surveys to identify the existing court pending cases or pre-litigation cases. With this exercise, the Law Colleges in coordination with DLSA may strive for “litigation free village”. vi) Every Law College shall adopt two or three villages and conduct Camps in coordination with jurisdictional DLSA or KSLSA. vii) KSLSA shall organize Zonal Level Workshops either physical or virtual by involving Legal Services Units of Law Colleges. viii) KSLSA to organize an annual Mega Event in association with all the Law Universities, to inaugurate the Legal Services Clinic functioning for the academic year.

8. Conclusion and Suggestions

The Law Commission in its 184th Report (2002) in Para 5.16 have discussed the issues of higher education as: *revolutionary changes which have come into legal education by reason of developments in information, communication, transport technologies, intellectual property, corporate law, cyber law, human rights, ADR, international business, comparative taxation laws, space laws, environmental laws etc. The very nature of law, legal institutions and law practice are in the midst of a paradigm shift.*

With the introduction of the national legal services schemes in the country, the climate for legal education has improved considerably and students have become active agents in the delivery of legal services to the poor while improving the content and methods of legal education in the process. Several Law Colleges have established Legal Services Clinics on and off the campus. Legal literacy and para-legal services became the main thrust of these Clinics. Law Colleges have also been actively involved in offering legal literacy in association with local Legal Services Authorities.

In the State of Karnataka, the Law Colleges became more vibrant with forging collaboration with Karnataka State Legal Services Authority. With the active involvement of KSLSA, the Law Colleges are organizing workshops and seminars aiming at redesigning the Clinical curricula, and

legal services. The introduction of clinical legal education programs in Indian law schools has been facing critical issues in teaching essential skills to law students and to make them understand the importance of social justice.

In the light of the above discussion, the following suggestions are made.

All the law colleges and the authorities have to take steps to initiate clinical legal education in an appropriate and effective manner as per the SOP issued by the KSLSA, which is worth emulating by law colleges in other states also. 2. Law professors in law schools and colleges should develop clinical work skills for better implementation of effective legal education. 3. The Bar Council of India has to make rules to allow law professors to practice in the course of teaching clinical class and encourage law schools to appoint faculties with clinical work skills and students must be offered credits for participating in clinics. 4. Non-governmental organizations have to work together with law schools to advance social justice. 5. Legal services authorities have to broaden the scope of legal aid by supporting law schools and also to make legal aid easily accessible to communities within the premises of law schools. 6. Required funds must be made available to encourage the clinical legal education for strengthening democracy and improving governance for the advancement of justice and the rule of law. 7. More awareness about the legal aid and clinical legal education must be spread in the society. In addition to this awareness related matters must be in Vernacular language which makes justice more accessible to ordinary people. 8. Young law students must contribute to Socio-economic parameters by taking projects in rural areas. 9. Using technology to provide basic legal aid facilities be initiated. A network Zone be maintained by each High Court, involving law students and stimulating the use of clinical legal education in India at performing a Pro-bono club. Technological integration provides immense opportunity to access justice through legal aid. 10. Providing an Artificial Intelligence chat box will be an important milestone wherein legal advice could be generated through the automated legal machine. It has been already implemented in Mexico, Russia & U.S.A. Therefore, it is worth exploring in India as well. The clinics must be given further recognition of para legal services such as legal opinions, drafting applications, pursuing alumni based representations assisted by clinics. It is also necessary to recognize the Clinical Legal Education credit based and mandatory which reflects the academic performance of students similarly in law schools across the globe. 15. Finally, creation of a case type specific database is the need of hour.