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

Prof. (Dr.) Suresh V. Nadagoudar*

1. Introduction

The purpose of global legal education is not only to produce lawyers who can *practice* in a more number of jurisdictions but to create disciplined minds who can handle the cases effectively and efficiently. To produce this type of advocates is a better development for Indian legal education system. National Law School pattern established in the post-independence period, has brought tremendous change of development in Indian legal education with a strong dedication to change the existing legal infrastructure.

The clinical legal education concept refers to practice of law which normally serves a group in the society that are in an under privileged position. For example, the clinics run by legal practitioners which are independent of law schools but with law pupils participating in the form of an externship.

The word ‘clinic’ prompts the inference of trainee doctors meeting real patients in medical clinics¹. The Bar Council has been framing rules² from

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¹ 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).

² 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 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

time to time giving important agendas of the law curriculum, legal methods and its content for the law schools and Universities to follow.³ The BCI Rules of Legal Education, 2008 and subsequent rules further strengthen Clinical Legal Education in the country.

The present research paper includes the historical overview of Indian clinical legal education, its concept, Bar Council of India initiatives and Legal Services Authorities with special reference to the Karnataka initiatives. This research paper also focuses on the key challenges faced in initiations of clinical legal education⁴ and made some recommendations to combat those challenges⁵.

2. A Historical Overview of Clinical Legal Education in India

The Clinical Legal education covers the clinical courses, practice-oriented courses and activities covered in or offered outside the curriculum. Before the Advocates Act came into force, law students were required to finish certain courses on procedural aspects offered by the State Bar Council and had to undergo training for a certain period as an apprentice in the senior advocate chamber⁶.

possible adjustments in details for accommodating local needs and requirements. The BCI Rules of Legal Education, 2008 and subsequent rules further strengthen Clinical Legal Education in the country.

³ 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.

⁴ “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 manner.

⁵ KULJIT KAUR, *Legal Education and Social Transformation*, (May29,2022) <http://alsonline.amity.edu/Docs/alwjlegkk.pdf>

⁶ 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 BCI after discussion with universities, prepared a new curriculum uniformly made applicable throughout the territory of India under which the required practical training was to be monitored by the universities themselves in the three-year law course. The purpose was good but the performance has been again not satisfactory. In the late 1960 the scheme of legal education was introduced but practical training as such was excluded as a mandatory part of LL.B. programme. Courses such as Conveyancing and Pleading, Criminal Procedure, Evidence, Civil Procedure, Minor Acts, were taught primarily through the lecture method and also examined through annual written examinations just like other courses⁷.

There was less scope for legal writing and legal research. In the absence of case method, class discussion and teaching even opportunities for improving reasoning and analytical capabilities were not adequately provided in the curriculum. Further, few universities did make a sincere effort to bring clinical experiences to law students by organizing mock trials, moot courts, advocacy course, legal writing exercises and court visits as not mandatory co-curricular activities.

3. Bar Council's New Dimension on Legal Education

The BCI gave a new look to legal literacy at an All India Seminar organized in 1977 at Bombay, attended by the State Bar Councils and Universities. A new 5-year integrated professional programme (after 10+2 school education) in the year 1982 was outcome of this seminar. The significant features of the fresh pattern of legal literacy which was to come with effect from the year 1987 to 88 are a 2 year Pre-law study introduction comprising of various social science courses and a 6 month

⁷ *Clinical Legal Education: Concept and Concern* (March 30, 2022) https://shodhganga.inflibnet.ac.in/bitstream/10603/148922/6/06_chapter%204.pdf

intensive mandatory clinical education programme of practical training in the final 2 years consisting of equivalent course to 4 papers of four hundred marks⁸.

According to the guidelines established by the Bar Council, Universities should require that law schools and law colleges offer sufficient teaching and examinations on the practical elements of practicing law. It was suggested that these skills may be taught by pleading and conveyancing, court visits, Legal Method courses, Moot Courts and involvement in legal aid clinics. As per BCI demand every college of law offering professional legal education had to establish a Legal Aid Clinic in accordance with the pattern suggested by the Committee for Legal Aid Scheme (CILAS) implementation of the Government of India⁹.

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 advocates, bureaucrats, judiciary, corporate sector, legal firms etc., 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. Legal Aid Schemes Implementation

While the Bar Council of India was reorganizing legal education and giving practical training a significant place, a parallel trend about legal aid led to new thinking regarding the role of law schools in the delivery of legal services, especially to the poorer sectors of society.

⁸ *Supra Note 5*

⁹ *Ibid*

A Government-appointed expert committees submitted two significant reports¹⁰ on legal aid service in 1973,1977 and called for significant participation of law students and teachers in the legal aid services programmes outlined in them.

Both reports dedicate a complete Guide to “Legal Aid Clinics under School of Law” and have advanced arguments on why law pupils should be exposed to learn law under clinical methods in order to improve both legal education and professional service.

The following points¹¹ were taken from the Expert Committee Report on Legal Aid, Govt. of India, May 1973, National Juridicare Report; Social Justice, Equal Justice, Ministry of Law and Justice, Govt. of India, 1977¹².

The most practical and efficient technique for raising the standards of professional legal education is backed by legal aid-related activities through methodology report. There is an ongoing debate among legal professionals in India about the purpose of legal education. It is a topic of debate among legal educators in India. One group believes it should only focus on creating lawyers who are experts in litigation-oriented skills, while the others advocate for a broader role in which the lawyer is equipped with a variety of skills, tools and perspectives with the aim of making the candidate an administrator, social engineer or policy maker.

Further, the National Juridicare Report presents several debates on how and why clinical legal education and student efforts on legal aid clinics may contribute to legal profession.¹³

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).

¹³ *Ibid.*

It is pertinent to note that the establishment of legal services in school of law is necessary from the standpoints of providing clinical legal education¹⁴ to law students as well as from the standpoint of developing a cadre of lawyers who are service-oriented and committed to the cause of justice.

The Committee of legal Aid not only canvassed for the construction of clinics in law schools and also recommended that money be provided from the Central and State Legal Aid Committees/Boards for the efficient functioning of legal aid clinics of law school.

Funding to law school clinics was seen very much the function of the legal aid authority in as much as it provided a dual intention of clinical legal education producing a sensitized cadre of advocates and delivery of a variety of Para-legal and legal services to people who would otherwise be deprived of the advantages of laws. The Committee was very much impressed by outcomes of the few experiments conducted at Banaras and Delhi law schools that it suggested for the Advocates Act amendment to allow senior students under guidance to represent clients in courts in certain cases. According to the Committee¹⁵ one of the most important rationale for the urgent expansion of the students Programme on legal service in the U.S.A is the legislative adoption of the Practice Rules of students in most of the States enabling law pupils to represent in courts on behalf of poor clients.

The Report suggested the need for a cadre of law teacher's clinic throughout the nation and asked for crash course programme for such

¹⁴ As clinical legal education has been influenced and patterned of the lines recommended by the Report, the other observations 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.

¹⁵ *Ibid* at 72.

training. The report recommended the establishment of a National level council for legal services clinics, the exchange of clinical law professors and the creation of a manual for law school clinics, among various law schools in order to ensure proper coordination and the best possible educational experience for law students. The national Council would be funded by the legal aid body and have consultative status with it.

Further, the Report also prepared another draft under which the law pupils may be mandatorily required to do 6 months' internship in an organization of legal aid on a monthly honorarium of Rupees two hundred fifty in order to be entitled for enrolment as an Advocate. The movement of legal aid is an important milestone in the evolution of clinical programmes as concern of law school activity, and the Report of Bhagawati- lyer Committee¹⁶ recommended the desired authenticity and institutional support. From 1979 to 1986 over 60 Colleges/Universities teaching law have established legal aid clinics, some of them are exclusively voluntary, extra-curricular programmes and few others as component of the curriculum.

5. Key Challenges in initiating Clinical Legal Education

In *Bar Council of India vs. Bonnie FOI Law College & Ors*¹⁷, Supreme Court ordered for constitution of three Member Committee on Reform of Legal Education which had discussed various key challenges in legal education.

The committee has proposed its report to BCI on major challenges posed to the legal education in India like:

¹⁶ *National Juridicare Report*, 1977. P 74

¹⁷ *S.L.P. (C) No. 22337 of 2008*

- Despite the BCI's compulsory requirement to have clinical legal education under the curriculum, the institutions don't seem particularly interested in adopting the essential skills.
- Lack of finance in an area as crucial as legal education which is adequate payment to technical and faculties, infrastructural criteria of legal profession to back foot.
- Communities are unaware about free legal aid services of Law School.
- Shortfalls in recognizing and inspecting legal institutions by Bar Council of India.
- Legal institutions should have their own accreditation and evaluation system¹⁸
- The Advocates Act prohibits full-time law professors and students from representing clients in court.
- Due to a number of issues, law schools have not placed a lot of emphasis on providing their students with practical training.
- There are many hurdles in assessment and supervision: Supervising students in the clinic is a challenging responsibility.

6. Initiatives in Karnataka for Effective Clinical Legal Education

According to Legal Services Authority Act, 1987, the *National Legal Services Authority compulsorily to develop in consultation with BCI, programmes for clinical legal education and to promote the guidance and supervision of the establishment of work of legal services clinics*

¹⁸ “Professional Legal Education in India: Challenges and the Way Forward Educational Quest” 7 3 INT. JOURNAL OF EDUCATION AND APPLIED SOCIAL SCIENCES (2016).

*in Universities, Law Colleges and other institutions.*¹⁹ Further, it is obligatory on the part of the Law Colleges, Law Universities to set up Legal Service Clinics.²⁰ According to the aforementioned statutory mandate, the Karnataka State Legal Services Authority (KSLSA), a statutory body established under the Legal Services Authorities Act, 1987, has proposed to establish Legal Service Clinics in all Law Colleges by redefining the approach and ensuring greater involvement of law students.

Standard Operating Procedure (SOP) for Establishment of Legal Services Clinics in Law Colleges²¹

Karnataka State Legal Services Authority, Bengaluru has evolved an SOP in consultation with Karnataka State Bar Council, Members of the Bar and the Vice Chancellors/Principals and Deans of Universities/ Law Colleges, which is considered as a panacea for improving clinical legal education in the State apart from helping the poor and needy to have easy access to justice, if implemented in its true spirit.²² 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 KSLSA

¹⁹ Sec. 4(k) of the Legal Services Authority Act, 1987

²⁰ Sec. 24 of the National Legal Services Authority (Legal Services Clinics) Regulation, 2011

²¹ SOP for Establishment of “Legal Services Clinics” in Law Colleges circulated by KSLSA to all Law Colleges in Karnataka dated on 22nd September, 2021.

²² SOP evolved by Karnataka State Legal Services Authority, Bengaluru

deserves all appreciation for this commendable initiative. The important elements of the SOP are as under.

1. 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 public who have no access inside college campus. Hence, i) providing for establishment of 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 with a compliance report to concerned Law University and KSLSA; iv) Efforts shall be made to establish Legal Services Clinics outside College Campus, in co-ordination 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 general public seeking redressal of their legal grievance. vi) As a part of clinical legal education and internship, the student PLV's (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 work load. viii) Every college shall constitute Legal Services Clinics Committee under the

Chairmanship of Principal/ Director, assisted by faculty member. 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 well-furnished room, spacious enough to accommodate at least 6 to 8 persons at a time. In case of 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 to arrange video conferencing facility 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 structure- i). The jurisdictional DLSA's should appoint non-practicing senior counsel or panel advocates of DLSA or a retired judicial officer to every Legal Services Clinic for providing legal aid and services to the public as a "Panel Member" in consultation with and on the proposal of the relevant law colleges. ii) The law colleges shall make a list of panel members so that the jurisdictional DLSA can regularly propose them for deputation to the Legal Services Clinic. iii) The law colleges are free to empanel Panel Members for offering legal aid and services in their Legal Services Clinics through online mode also. iv) The jurisdictional District Legal

Service Authority shall recognize the aforementioned students as PLVs for a temporary period till the end of their legal study.

v.) The law colleges shall ensure priority to fresh law pupils to render service as student PLVs. vi) The Faculty Member is responsible for maintaining the list of student PLVs and assigning student PLVs to the Legal Services Clinic each day. vii) The jurisdictional DLSAs and KSLSA, as the case may be, shall provide the student PLVs with induction and orientation training about the legal services institutions and the tasks that must be fulfilled by them.

3. Working Procedure- i) There will be no charges whatsoever collected from the legal advice/aid beneficiary. ii) The Panel Members have authority to provide services to public or free legal aid either physically or digitally with the aid of student PLVs. iii) The panel member will receive assistance from the student PLVs assigned to the legal services clinic with application drafting, legal research, pleading preparation, etc. The students must constantly be aware that their role is to offer initial guidance and support only. iv) The Legal Services Clinic on and off law college campus must allow simple public access and create friendly environment for the public. v) The faculty member who is associated with the Legal Services Clinic must visit to the Clinic at least once day. vi) The faculty member must make sure that the DLSA-deputed Panel Member's services are always available at the Legal Services Clinic. vii) The student PLVs at the legal services clinic must make sure that the details of Legal Aid Beneficiaries and any grievances are accurately recorded in Annexure-B and sent to faculty members every other day and to the Member Secretary, DLSA once a month. viii) The beneficiary who has contacted the Legal

Services Clinics will be referred to the jurisdictional TLSC or DLSA, if they require "Court based Legal Aid.". ix) The student PLVs should be encouraged to find challenges that have a significant impact on larger group of people and with DLSA approval, they can file social justice lawsuit. x) Each Legal Services Clinic will get logistical support from the jurisdictional DLSA. Additionally, the Member Secretary of the DLSA must visit each Legal Services Clinic often to ensure that it is operating effectively xi) In order to organise legal literacy programmes and camps by DLSA, the concerned law college must obtain the services of student PLVs. xii) The student PLVs and the Legal Services Clinics shall support the DLSAs in the execution of NALSA Schemes, legal services activities, and emergency circumstances.

4. Financial Matters- i) The Legal Services Clinics must be established by all law colleges using funds from their yearly budget, which may also include donations received or the grant taken from the UGC or a university which has affiliation. ii) The Law College may get donations by the individuals or by other bodies which covers CSR funds, costs of operating the legal services clinics. However, they must keep accurate records of the money they receive and spend on the legal services clinic. iii) The concerned law colleges will determine and pay the honorarium, if any, to the panel members. iv) The DLSA may offer staff and infrastructure assistance if it is feasible to do so in coordination with the concerned law college. v) The DLSA shall have the authority to inspect the audit of the collegiate Legal Services Clinic functioning in the universities, colleges and other institution.

5. Incentives and Stimulus- i) Every law college shall produce a half yearly report on the operation of the Legal Services Clinic to jurisdictional District Legal Service Authority who shall send it to Karnataka State Legal Service Authority vide a separate report. ii) KSLSA will announce zone-wise "Awards" for the finest Legal Services Clinic (College), Best Legal Services Unit, Best Student PLV, etc. based on the reports submitted.

6. Other Activities: i) The law college concerned in coordination with jurisdictional District Legal Service Authority must prepare an annual schedule of programmes. ii) The Student PLVs are required to participate actively in the Legal Literacy Programs run by DLSA and TLSCs.iii) The student PLVs as a part of obligation in the LSC shall pay visit to Jail clinics, Court complex, Police Stations, Psychiatric Centers and Medico-Legal Section of Government Hospitals etc., on the recommendation of DLSA jurisdiction. iv) The DLSA shall organize Legal aid camps in under privileged areas/distant villages in consultation with the Legal Services Clinics of Law College. The Student PLVs may be encouraged in such Camps to recognise neighborhood problems which can be resolved by the Legal Services Institutions. v) The PLVs student shall make door to door investigation to identify the present pre-litigation cases or non-disposed cases. Through the help of DLSA, the Law Colleges may work toward a "litigation-free village" with this activity.

vi) Each Law College shall adopt minimum 2 to 3 villages and hold Camps in cooperation with jurisdictional KSLSA or DLSA. vii) A Zonal Level Workshops shall be organised by KSLSA either in online or physical mode with the active involvement of Law Colleges Legal Services Units viii) KSLSA to host an annual Mega Event in

collaboration with every Law Universities, to launch the Legal Services Clinic operation for the academic year.

7. Conclusion and Suggestions

Since the national legal services programmes were launched throughout the nation, the environment for legal education has greatly improved, and students have taken an active role in providing legal services to the underprivileged while enhancing the methods and substance of legal education in the process.

Several Law Colleges have established Legal Service Clinics on and off the campus. Legal literacy and para-legal services became the main thrust of these Clinics. Law Colleges have also actively involved in offering legal literacy in association with local Legal Services Authorities.

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

In the light of above discussion following suggestions are made.

1. All the authorities and the law colleges have to initiate clinical legal education establishment 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 BCI has to make provision for law professors to practice during the course of clinical class teaching and promote law schools to recruit faculties with clinical skills and students should be provided credit points for active participation.
4. NGO have to work along with law schools to advance social justice.
5. Legal services authorities have to broaden the scope of legal aid by supporting law schools. Required funds must be made available to encourage the clinical legal education for improving governance for the rule of law and justice.
6. More awareness about the legal aid and clinical legal education must be spread in the society. In addition to this awareness related matter must be in Vernacular language which makes justice more accessible to ordinary people.
7. Young law students must contribute in Socio-economic parameters by taking project in rural areas.
8. Using technology to provide basic legal aid facilities be initiated. A network Zone be maintained by each High Court, involving law students and stimulate 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.
9. Providing Artificial Intelligence chat box will be 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 to explore in India as well.
10. The clinics must be given further recognition of para legal services such as legal opinions, drafting applications, pursuing alumni based representations assisted by clinics.