

IMPACT OF GLOBALIZATION ON LEGAL PROFESSION

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ABSTRACT

According to the Law Commission of India, legal education is a kind of science that imparts knowledge to the students about certain principles and provisions of law enabling them to enter into the legal profession. By gaining knowledge in legal education the student becomes the future judge, lawyer, counsellor, administrator, advisor and they come to know how the legislative, executive, judicial organs of government actually operate. Legal education helps to rationally handle conflicts and settle non-violently disputes. Globalization has gained attention in the last two decades. India is a developing nation. Globalization has increased the legal service demand with changes in socio-economic conditions.

One has to understand the functioning of the international institutions as there is increasing trade and investment across the borders. The law students, judges, lawyers, etc. have a lot of opportunities to collaborate, interact and also learn a lot from each other's experiences. Globalization and the advancement in internet services have brought about a tremendous change in our life and Constitutional Court's decision can be freely accessible through their websites. Globalization has also brought an impact on the noble profession of law by permitting law professionals from every corner of the world to contact each other and to increase the horizon of their knowledge. India is the second-largest country in the world which has approximately 6 lakh lawyers.

This research paper deals with the Indian scenario consisting of global changes required in the legal profession, the impact of globalization on the justice system, challenges faced in the legal system in Indian, challenges faced globally, impact of the World Trade Organization and Globalization.

INTRODUCTION

A profound revolution is taking place in the legal profession due to globalization. Globalization involves a lot of participation, and many countries are involved in the legal profession and also there is excess to the domestic economies. Globalization has brought about a lot of changes in the teaching of law students, training

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of the advocates, the professional skills of the advocates are honed to meet the challenges which have been put forward by globalization and the universalization of law. The standard of the legal industry has increased and it requires the lawyers to be capable of handling all kinds of cases.

There are three prime movers which cause globalization, they are political globalization, economic globalization and technological globalization. Globalization brings together the people in the world to come closer and give rise to a new system of global governance and also a global civil society. Globalization has an effect on the legal profession which has increased the pace and complexity of law practice. Globalization has increased the mobility of lawyers with proper legal skills and experience. In major financial centres of the world, lawyers are practicing in offshore law firms. Within India, domestic lawyers can practice in the law firms here and litigation lawyers can work in arbitration or non-litigation work.

There is the establishment of joint law ventures and law alliances which has given a lot of scope for the young lawyers to take advantage of the benefits of the onshore law practice and integrated offshore law practice, in remuneration and acquisition of legal skills and experience and cutting-edge legal works. They are flocking towards these firms. Nowadays the law firms are much more efficient which is due to an inevitable product of new technology and new approaches to office management. India is trying to liberalize its services in the legal sector creating a positive impact on the judicial service.

GLOBAL CHANGES IN THE LEGAL PROFESSION

It is not very rational to cling to the old. It is necessary to intensify interest in law schools in the teaching of legal ethics. It is not just training in the provision of the professional statute, rules of etiquette, book-keeping and trust account requirements which are been offered at the end of the law course in few lectures. It is basically incusing all the law teaching by considering ethical quandaries which can be presented to lawyers during the course of their professional life. In this manner, the law schools will provide students with guidance on ethical issues and professional responsibility which they face as they enter the profession.

Teaching ethics can not be avoided by law teachers just by teaching the law teachers to incorporate lawyering and also the conduct of the legal profession. The images of law and lawyering are created by teaching doctrine through cases and

hypotheticals. As per Professor Ross Cranston², technical rules can be left to the practical course and it is the responsibility of all law teachers to pay attention to the ethical underpinning of legal practice. The students must be sensitized to the ethical problems which practitioners face by resolving the issues and exposing them to wider issues like the unmet need for legal services.

Huge changes have taken place in international trade due to globalization. Different countries take part in international trade and as a result, they access domestic services. Our environment has changed a lot over the past few years, as a result, law students must be more proficient in their work. The training given to them should meet the requirements of the changing environment.

The Court of Law supervises the legal professional conduct and must also uphold high standards of faithfulness, honesty, competence, diligence and dispassionate legal advice and legal representation. When a large number of fundamental are doubted, questioned or rejected, the ethics of the legal profession must not be doubted by some of its members and attacked by the critics.

New subjects with international dimensions have been introduced in legal education. There is a lot of investment in the growing economies and the business activities have increased internationally. Leading to the creation of more opportunities for lawyers. In this scenario the additional roles are required in policy planning, business advisor, negotiator among groups of people, mediator, law reformers, etc. which demands specialized knowledge and skills which are not generally available in the existing profession. These challenges were perceived before the end of the Cold War and the most modest response was the five-year integrated program of education in law.

The NLSUs establishment was to improve the quality of the bar and also the subordinate judiciary but it is seen that the merit students from the law schools are opting for law firms and corporate houses than opting for bar and subordinate judiciary. The quality of legal services cannot be improved unless the students are opting for bar, subordinate judiciary and academics.

There is a lot of competition among the international firms due to which a lot of legal issues are emerging in the corporate environment. Legal education for the companies which are involved in international business is a must so that they are not

² In book Legal Ethics and Professional Responsibility.

on the wrong side of the dynamic international legal structure. The markets which are emerging requires standardize legal services as many partnerships, mergers and also ventures feel that they require parties involved to have some legal structures to carry out their agreements in their business. The structure of one's country has to be adjusted so that it gives way for internationally accepted legal practices.

GLOBALIZATION ON THE JUSTICE SYSTEM

The delivery of justice to nations around the world has been affected by globalization. It spreads the legal developments going on in the world for example the development of laws, concepts relating to human rights, intellectual property rights, competition laws, media laws, etc. the economies of the nation are linked due to globalization which has neither geographical nor territorial connections.

India has opened up its economy by removing the controls during the Economic Liberalization due to which the Indian market faces competition from within and outside the country. So, there was the need to have strong legislation which could dispense justice in commercial matters and led to the Competition Act, 2002. The Competition Commission of India is a quasi-judicial body that was established for enforcing provisions of the competition act.

The laws developed relating to Human Rights around the world provides an insight as to how globalization has made its impact on delivering the justice-related to Human Right laws. There are various conventions and conferences taking place internationally to deal with human rights violations and also to improve the conditions of human beings and their dignity around the world.

CHALLENGES FACED GLOBALLY

The advent of multinationals in India has made the task of lawyers highly technical and imperative. There is a need to have competent lawyers trained in the right legal education as many multinational companies have established themselves in India. So, they must work as per the international requirements as per the demand of the companies as the scenario is unstable. Legal education must prepare the upcoming lawyers to meet the new challenges of working in the globalized knowledge economy. The faculty of law must support the students in the subject in a manner that the students of the new era have a broad and should adapt to the challenging situation provided or faced by them. The need for legal education should be the center of the focus and the curriculum should be reformed.

The globalization of the legal profession has changed the entire method of law teaching and the legal profession in India. According to the need of the hour, there are some changes that have to be made. There is a need to develop an Independent Rating System based on certain agreed criteria to assess the standard of all the law teaching institutions so as to ensure uniformity in the quality of academics throughout the country. The recognition given to the law colleges can either be granted or withdrawn on the basis of these ratings. The ratings of the law schools must be annually revised, updated regularly and must be available for the public to be aware of it.

The curriculum of law must give an integrated knowledge of information and technology, public health, biodiversity, environmental sciences, biotechnology, ocean and marine sciences and also it should be related to other subjects. The law should be related to the issues of the contemporary world and the student should be given free hand choice to choose the subject to conduct research work.

The present examination system must be reformed and the method of evaluation should be developed. The test must be encouraging communication, analytical and writing skills. It should be more application based than rote learning. For improving the quality of the exam more project work, research work should be given, the presentation must be encouraged, subject viva should be taken.

For a lawyer dealing with the global economy, the knowledge of a foreign language is a must. Law students should be given the opportunity to learn a foreign language. They develop skills in such a manner that they are able to apply the knowledge of the law to the given situation. They should be able to deal with long hours of working. If an individual's academic or professional credentials are excellent then there should be flexibility to appoint them as law teachers without having an LLM degree.

The legal education system of India must run according to the global needs like to have improved infrastructure consisting of various facilities like revised curriculum, national-international training programs, research-based studies, etc. This new era demands committed and dedicated law teachers who can create skilful, hardworking and innovative legal minds whether they are judges, lawyers, advocates, jurists, etc.

INDIAN SCENARIO

India permitted foreigners to compete in Indian markets very late as they were ruled by foreigners for a long period. If at that time India had not restricted the entry of foreigners there would be a lot of risk of colonization again. In 1991, the Government

of India welcomed foreign manufactures and also foreign professionals in the country. Globalization slowly and steadily took the Indian markets by storm and it entered into the different sectors of the market. It has increased the complexity of the legal profession. During this time the Indian lawyers had no option but had to adapt themselves to the situations in a swift manner so as to take full advantage of this opportunity. Legal professionals who were unaware of the changes and were not able to cope up with the pressure were much behind in the competition. Globalization brought new work for the fraternity of law when new economic policies and regulations were needed to be accommodated from the earlier 'closed economy'³. The last decade can be considered as a 'miniature revolution' for the corporate sector of the Indian legal fraternity as there was an increase in the work of the lawyers in the different fields like finance division, patent protection, tax department of corporate firms, etc.

Globalization permitted foreign companies and inventors to export their technology to India. It allowed the domestic law firms to be a partner with foreign firms in some cases. It provided an opportunity for individual practitioners to work with firms outside India. The young graduates of law are benefited a lot from the beginning of their career as they are having a lot of opportunities opened for training themselves to work on projects onshore and offshore around the world⁴. Lawyers are seeking jobs more in the corporate sector than entering into the litigation field as they feel that there is more opportunity to professionally grow in the corporate sector in comparison to a career in litigation. The Indian courts are not permitting foreign litigators to work fully.

A lot of effort is been put by India into the services of the legal profession to permit foreign lawyers and also the firms to find their place in India. Many Indian firms have opened their branches in a foreign country. This benefits the lawyer by giving them a large scope and coverage of the different aspects of the law. The legal research skills of the lawyers must be such that they meet the goals and the aims of the Constitution of India.

Lawyers are also providing services to consumers in the legal sector. If any consumer has any issues then they can hold the lawyer accountable for it. According to the Srinath V. Union of India⁵ case, the Madras High Court held that to deal with claims of advocates, Consumer Redressal Forum will have jurisdiction according to Section 3

³ David B. Wilkins, *The Indian Legal Profession in the Age of Globalization*, The Practice (2017).

⁴ Shruti Garg and Aviral Saxen, *Globalisation and Legal Profession*, Legal Service India

⁵ Srinath V. Union of India, AIR 1996 MAD 427

of the Consumer Protection Act, 1986. The laws related to trade are a matter of subject where a lot of concern should be given to the consumers.

Globalization has boosted international trade and commerce by facilitating the movement of labour, product, capital and services across national borders. Thereby increasing the economic process which would require trained legal professionals. It demands a very good legal practitioner. The present lawyer must be very much skilled in the trade and should have authority on the law as a specialized domain whether he is a criminal defence attorney or corporate professional. The legal professionals working in world purchasers should be able to work themselves during foreign language and should be well versed in international norms. Legal corporations are attuning themselves to global practices to fulfil the needs of clients all over the world.

The legal firms are taking the globalization route by merging with their larger counterparts, creating acquisitions and stepping into strategic alliances. Globalization is reshaping the demand for legal services as the economies of India, Brazil and China is increasing. Nowadays virtual law firms are increasing. Virtual law firms help a lawyer to work in versatile hours and can foster work-life balance among the legal professionals. This facility helps the purchasers to avail highly skilled legal services from any part of the world.

The legal method outsourcing sector (LPO) has also developed in the legal arena. Here the legal corporations which are established offshore operate in locations that are affordable to cost, increase the flexibility and also expands the capabilities. Today new corporate legal elite lawyers working in law firms serving as clientele of foreign and domestic corporations, also lawyers working in the internal legal department of the multinational companies have increased in size and is having a lot of importance in the global world. In India, there are countless languages, different religions and also there is regional diversity which is making the reform in the legal sector more difficult and critical.

CONSTITUTIONAL PERSPECTIVE

The matters pertaining to education is in the State list that is in the seventh schedule of the Constitution of India. But now it gives concurrent legislative powers to the Union and the States in List III, legal profession also comes in List III. In respect of the legal profession, Parliament enacted the Advocates Act, 1961. So as to have uniformity in the system of legal practitioners as advocates and provided for setting up

the bar council of India and in States, State Bar Councils. As per Section 7(1)(h)⁶ of the Advocates Act, 1961 India's Bar council has the power to fix the minimum academic standard as a precondition for commencement of studies in law.

Under Section 7(1)(i) of the Advocates Act, 1961, the Bar Council of India also has the power to recognize the law Universities whose degree in law should be considered as the qualification for enrollment as an advocate and for this purpose they must regularly inspect the University.

The provisions of the Advocates Act, 1961 and BCI Regulation are very strict. Section 24⁷ of Advocates Act, 1961 states that only those advocates can practice law who are recognized under the Act and the person should be qualified as an advocate on State roll. If the person is an Indian citizen and has got the law degree from BCI recognized University. A National of another country according to this act may be permitted to practice law if they are citizens of that country, duly qualified and allowed to practice law in that country. Section 33⁸ of Advocates Act, 1961 states that no person shall on or after the appointed date, be entitled to practice law unless he is enrolled as an advocate under this act.

Since 1995 the foreign law firms were subject to controversy. When firms like White and Case and Chadbourne and Parke of US and Ashurst of UK were allowed to set up liaison offices in India, they were granted to start liaison activity under the Foreign Exchange Regulation Act, 1973 and they were not allowed to actively participate in the legal practices. In 1955 the Lawyers Collective, which is a public interest set up by advocates move to the Bombay High Court challenging the right of foreign law firms to practice law in India that is practicing law should include not only appearing as a pleader before the Court but also drafting legal documents and advising the client. The Central Government said that Advocates Act prevents foreign lawyers from practicing law in the Court and from giving advice to the clients.

In 2009 Bombay High Court held that foreign law firms and lawyers could establish their offices in India only on condition that they have been enrolled as advocates under the Advocates Act, 1961. In February 2012 the Madras High Court held that unless the foreign law firms and foreign lawyers full fill the requirements of the Bar Council of India Rules and The Advocates Act they can not practice law in

⁶ Functions of the Bar Council of India.

⁷ Specifies the qualifications of a person entitled to be enrolled into the Bar.

⁸ Advocates alone entitle to practice

India, neither on litigation nor on non-litigation. They could on a fly-in and fly-out basis visit India for advising clients on foreign law. No restriction was there against their visiting India for conducting arbitration proceedings in disputes involving international commercial arbitration.

The Hon'ble Supreme Court recently held that foreign law firms can neither open offices nor practice in the country but the foreign lawyers were permitted to come to India on a fly-in and fly-out basis for giving legal advice to the client on Foreign Law.

CHALLENGES FACED IN THE LEGAL PROFESSION IN INDIA

Though globalization has caused a drastic change in the legal profession there are certain difficulties faced in the legal sector due to globalization in India. Universities of India must widen their connections internationally by organizing programs. There should be student exchange programs with foreign countries and the education provided should be having the norms and the standards equal to the Universities abroad. The span of education of law should be organized in such a manner that if a student after studying in India wants to study abroad must not face any problem in losing time for admission.

For the legal profession, the infrastructure should be at par with the international law universities. Proper infrastructure helps the student to gain knowledge of law without any hindrance. For the law students to acquire proper skills the University must have a very good library and teaching faculty. In comparison to the international Universities, law schools of India have to be structured in such a manner that good training must be given to law students and the resources should be available to the faculty as well as law students so that they can develop new analytical skills. The facilities like moot courtrooms, legal aids, excess to e-resources library and legal language program must be upgraded. There is a big challenge for our legal practitioners and lawyers to compete with the legal practitioners and lawyers of the globe. They have to be groomed under learned expert lawyers.

The education of law should be a continuous one with practical skills and research work in process. The law schools apart from providing theoretical knowledge must also give exposure to the practical knowledge so that after completing the course they can fit well in any law firm, corporate sector, NGO, individual advocacy and consultancy, etc. In international Universities, a lot of emphasis is given to research skills and in India, there is a lack of emphasis on research in the law field. In our Indian

legal education system, the observation and active participation of law learners in lacking. The theoretical knowledge can help us to some extent but to reach on top one must have research analytical skills. On looking onto the worlds top law schools faculty profile, it is observed that a lot of emphasis is laid on the research and publications among the academic, but in India, a lot of improvement has to be done in this field. The Indian legal education system must incorporate clinically teaching.

The International Globalization of trade and business has caused a dramatic change in the legal profession. In the Indian law education system foreign direct investment is nearly 100%. It has given the Indian legal profession to improve its standard. It has created competition among the institution the Indian laws in the Indian law schools are centralized in their teaching and also in their research work. The students of law are participating in National as well as international webinars, moot courts, conferences, research paper presentations, etc. The law institutions are focusing on teaching and research in the Indian and International laws. The law students of India are participating in seminars, conferences, moot courts, etc.

Article 246 of our Indian Constitution deals with the Central, State and Concurrent List which has the power to make laws. The entry numbers 66, 67 and 78 of the Central list describes the power to make law with respect to legal professional legal education. In order to regulate the law profession, the Parliament has set up two bodies that are Bar Council of India (BCI) and the University Grant Commission (UGC) Apex Court held that BCI is the highest body that has the power to regulate the standards for legal education⁹. With the help of the State Bar Council, BCI deals with the issues concerning the professional ethics of the advocates, their practice, admission and enrollment¹⁰.

IMPACT OF WORLD TRADE ORGANISATION AND GLOBALISATION

From January 1, 1999, World Trade Organization came into effect, India signed the agreement as to the founder member. The General Agreement of Trade in Services (GATS) imposes general obligations on signatory countries. All the signatory countries are bound to abide by the rules of WTO. As per GATS, a member country must provide both national treatment and market access to other member countries so India can not prevent the entry of foreign lawyers in India. If they are prevented it would lead to

⁹ U.P. V. State of U.P. (1973)

¹⁰ Section 7 of Advocates Act, 1961

infringement of the provisions of GATS and WTO. Due to globalization tough competition is being faced from within and outside the country. Globalization and internationalization of the legal profession, the entry of foreign lawyers in India will become a very serious threat to the legal professionals in India as Indian lawyers will have to compete with the knowledge of foreign lawyers. Hence, the entire legal system in India has to be changed as per the need of the hour. The lawyers at present are required to represent as clients within and outside the national frontiers.

The establishment of WTO has made India get actively involved in Trade Liberalization and equal treatment to law persons from other jurisdictions must be allowed. Hence, the legal profession has to rethink its method of management and delivery of services¹¹.

CONCLUSION

Most of the people are not aware of the laws of their country. They have to take the help of the advice of an expert lawyer who is having good proficiency in the case. Our legal education must have a multidisciplinary approach and should be multipurpose in order to resolve any problem a person faces globally. The law education system must be in such a manner that a law student while dealing with a case considers political, technological, sociological, psychological, etc. aspects. If we have to have some position in the global world of law the lawyers produced should be honest, hardworking, skilled, devoted and committed to their work and they should adapt to the changes taking place in the global world.

The Indian Courts must allow the foreign firms to file 'wakalatnama' in courts which will permit them to work in full capacity in Indian Courts. For this the Advocates Act, 1961 must be modified and words like 'have to be Indian citizen' must be looked upon. The quality of legal education gives a direct impact on the prestige of the legal profession. The legal education which is provided in law schools must be on the contemporary needs of the legal profession. The areas where there are faults have to be identified and should be corrected to meet the changes of the time. If legal education is considered an investment then it will give more beneficial results to the nation.

There is a need for harmonizing the legal systems prevailing in many countries which are operating globally so that it arrives in an acceptable legal structure for all the countries participating. This has resulted in a continuous transformation in the legal

¹¹ Pradip Kumar Das, 'Curriculum of Legal Education to meet Challenges of Globalization'.

world which has to affect lawyers life in the profession. The transformation in the legal profession is required continuously as it has a direct impact on the social, political and business environment of the world. The law generally regulates and guides the activities of human beings to make sure that there is justice to the entire humanity.