

National Knowledge Commission and Legal Education

Mrs. Sri Vidhya Jayakaumar

Published in "Thane Law College Patrika" in 2007 - 2008

NKC was established in 2005 to recommend and undertake reforms in order to make India a Knowledge- based economy and society. Professional education is one of the important constituents of NKC's functions. NKC constituted a working group on legal education. This working group met in 2006 & 2007 and has submitted a report on 5th March 2007 to NKC. This report has identified the following topics of importance in the matter of legal education.

1. Vision and goals of legal education.
2. Content and scope of legal education
3. Governance
4. Research Centre
5. Access, finance, infrastructure & management

These have been dealt with in different chapters in the report.

Major views of the working committee may be summarized as follows :

1. Vision of legal education is to ensure justice oriented legal education to contribute to the realization of values enshrined in the Constitution of India. Legal education must inculcate the need to observe the highest standards of professional ethics and a spirit of public service. Legal Education shall be broad based, multi disciplinary, multi functional and contextual.
2. Legal Education shall meet the growing demands of the legal service market. Globalization shall be borne in mind and lawyers skilled in dealing with different legal systems and cultures created.
3. **Admissions:** CET shall be introduced everywhere; 45% marks in qualifying examination may be considered. Law Schools may set a higher percentage. Later Minimum 45% in CET may be made compulsory.
4. **Curriculum:** 50% law courses & 50% optional courses should be prescribed.
Human rights law shall be mainstreamed.
International and comparative law perspectives shall be given importance.

Globalization, new technology, changing labour and employment policies, etc. shall be included. Emphasis shall be on theoretical as well as practical skills to match the requirements of expanding world of legal practice. Legal skills including negotiation, research, counselling, advocacy, research publications, analysis of judicial decisions shall be imparted.

Different teaching methods shall be adopted. An all India working group may be set up to devise a model syllabus for all core and optional courses. Clinical courses shall be redesigned to include IPR, corporate law, etc.

5. **Examination:** The simple end of the year/semester examination does not encourage necessary analytical, writing and communication skills. The semester /year end exam. shall be problem oriented and not testing memory. Credit system of evaluation may replace marks system.
6. **Internships, etc:** Internship is critical for professional legal education. Learning in real world settings is essential. Mooting & participation in legal aid programmes shall be an integral part of legal education.
7. Legal knowledge dissemination shall be maximized. Translation of major legal texts may also be considered.
8. LL.M, M .Phil and Ph. D shall be improved.
9. Research tradition in legal field, shall be developed by various measures like improving library facilities, setting up of advanced centers etc.
10. The entire concept of legal education has changed, provisions of Advocates Act, 1961 are no longer sufficient. Globalization shall be considered. There is an enormous need for non-practicing law graduates. Open university system must also cater to legal education. BCI's role shall be only in prescribing the minimum standards of legal education for law professionals. Various types of legal education to prepare researchers, teachers etc. shall be recognized.
11. BCI is exercising more powers although conferred with limited powers. BCI lays down conditions for buildings, appointment of faculty, etc. It has no power to lay down the requirements of legal education for all purposes. Also BCI has no effective consultation with the law faculty. Several law schools with poor quality have been given permission.
12. Rating systems- Law institutions are far from standards. A rating system on criteria like facilities, course, instructors, infrastructure etc. shall be developed and the standards of law schools changed. Fresh graduates are not qualified enough to cater to bar & subordinate judiciary. There has to be fresh probe into the quality of legal education. Schools with poor standards shall be directed to close.
13. Bar examination ought to have been re-introduced.
14. Libraries of law schools shall be improved. Use of computers and internet be made compulsory in all law schools.
15. **A new regulatory mechanism:** NKC in its 2006 report had suggested for an Independent Regulatory Authority for Higher Education (IRAHE) with several standing committees. The working committee on legal education suggests that the new Standing Committee on Legal Education may consist of 25 members -
 - a. One will be a retired judge of the Supreme Court and preferably the retired judge of the Supreme Court who is the Chairman of the Legal education committee of the Bar Council of India.
 - b. Seven members from the legal profession of which five will be nominated by the Bar

Council of India and two will be nominated by the IRAHE.

- c. Seven from the faculty;
- d. One from the government;
- e. Two to be nominated from the industry, trade and commerce;
- f. One from civil society;
- g. Two from other professions;
- h. One from management or other institutions having a legal component;
- i. One parliamentarian; and
- j. Two students of the final year, one representing the NLSU's and the other representing the other law schools (Non-voting representation)

BCI will recommend minimum standards and they will be binding on IRAHE.

The standing committee on legal education shall recommend to IRAHE on matters like broad standards of legal education, conditions for admission of students, prescribing curriculum, qualifications of teachers, work load, attendance requirements for students etc.

16. Urgently 4 Centres for advance Legal Studies and Research (CALSAR) shall be established- their role and functions have been detailed in the report.

17. Accessing, attracting and retaining talented faculty and financing legal education has also been dealt with in the report. The need to explore methods of attracting talented faculty members has been emphasized. Report is of the view that current UGC scales are not attractive. Report suggests incentives like awards, promotional schemes, fully paid sabbaticals, free faculty housing etc.

The quality of the legal professionals and the efficiency of the legal system will directly depend on the quality of legal education. It is heartening to note that legal education has been considered to be professional education and therefore within the scope of function of the National Knowledge Commission. The working committee of the NKC has done a commendable job indeed. Its report is very succinctly brought out the need to have courses in law for non-practicing purposes. The non-availability of such courses dilutes the standards of professional law course.

The report has meticulously touched upon the various aspects of legal education right from curriculum to regulatory body. However the report is disturbingly silent on certain significant issues.

UGC regards law as a humanity

Till date UGC has not recognized 'law' as a professional course. It has dumped it under the classification 'Humanities'. Law teachers are put on par with humanities teachers for pay scales and service conditions. Whereas law teachers put 7 to 8 years to

complete P.G. other teachers put only 5 years. Full time teachers are not permitted to practice although no non-practice allowance is paid to such teachers. These are the days when science and humanities teachers have started demanding 'non-practice allowance' for not engaging in tuition classes.

Curriculum

The report has dealt with curriculum, compulsory subjects and optional subjects. It has talked about drawing syllabus in a better fashion. Lack of uniformity in the syllabus, even in compulsory papers has not been projected. The report is silent about the syllabus suggested by the UGC Curriculum Development Committee. The report has also not expressed its views on the existing diversity in passing criteria, award of class and question paper pattern.

Common Eligibility Test

Bar Council of India has laid down 45% as the minimum Eligibility criteria for admission into LL.B (3 years & 5 years) courses. But students securing less than 45% are eligible if they pass Eligibility test conducted by the university. The practice as to the test differ from university to university; there does not seem to be any syllabus drawn nor pattern suggested by the Bar Council of India. Although the report talks about entrance test and eligibility criteria, no views are expressed as to the existing common eligibility tests conducted by universities.

Attendance requirement and medium of instruction

Bar Council of India prescribes minimum 66%. Universities prescribe minimum 75% attendance in the lectures as compulsory. Condonation of shortage in the attendance varies from university to university.

There has been growing demand in various pockets of the country to provide lectures in vernacular language. Several universities permit the law student to write their examinations in vernacular languages and even provide vernacular version of the question papers.

These aspects are not taken note of by the committee; no views are found in this regard.

Faculty : full-time-part-time

There are more than 700 law institutions in the country and almost all of them engage part-time lectures. In a large number of colleges, the part-time lecturers outnumber the full time lecturers. The report does not suggest any policy on this matter.

High expectations are quite natural when National Knowledge Commission has intervened. But it is again a wait and watch situation.