

INFUSING LAW IN YOUNG MINDS-PANACEA FOR CURRENT TRAVAILS?

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Abstract

Human being is a social creature, so his activities are inexplicably intertwined with the fine fabric of collective conscience. Exact knowledge about law makes a person aware of his rights and duties towards the society. If the children are educated about the law at elementary level, the chance that they become good law-abiding citizens are very high and the chance of them committing crime are very low. Certain crimes are such that the act itself is a crime, people are not committing those crimes not because they know the law but due to the reason that it is morally wrong to do it. Whereas certain other crimes are not like that, those acts become crime due to the laws made to that effect and are usually called as statutory crimes. These statutory crimes must be brought to the knowledge of students so that they become aware of it and does not commit any such crimes or else they mind end up in committing such crime due to lack of knowledge about such crimes and since general rule of ignorance of law is not excusable is present, they will not be able to take the defence of lack of knowledge about the law. In Zonal Conference of Bar Council held in 2016 at Bangalore, a suggestion was made to create legal awareness from elementary school onwards. But there was no follow up in that matter. This research article delves into need of legal education at elementary school level and also the challenges met with during this noble cause.

Key words: Legal education, Legal literacy, elementary education, constitutional rights

PROLOGUE

The term law is defined differently in different sources “It denotes different kinds of rules and principles for regulating human behavior”ⁱ. The overall rule is that obliviousness of law isn’t a reason. There is a Latin maxim that "*ignorantia juris non excusat*" meaning of which is ignorance of law is not an excuse. If a State want to preserve that principle, it should affirm that proper legal awareness is imparted in curriculum. Even educated people are not aware of many of legal provisions and punishments.

As per Article.21A of the Constitution of Indiaⁱⁱ, we should give free and compulsory education for children between the ages of 6 to 14 yearsⁱⁱⁱ. Even after

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having a fundamental right to have free and compulsory education, an accused person in a criminal trial may take a defence in the court that he was unaware of any specific branch of study except law or he may even take a defence that he is illiterate.^{iv} The most ironical fact is that law is not a subject of study that is being given in the elementary education given as per Article 21A of the constitution or under the Right to free and compulsory education Act of 2009, but the presumption being made is that every person living in the country is aware of the law of the country.

Government has been undertaking many steps to create legal awareness in the public and has already spent a huge amount of money for the same. The real requirement of the society is not mere legal awareness but legal literacy.^v The reality is that there is no other branch of study the ignorance of which will make our action or omission culpable, except law. When a student starts to learn history, science or mathematics, he or she should learn the law of the land to enable him or her to understand the rights that he has and the duties that he must follow to become a good citizen of that country. In order to achieve this goal, we must add the subject of law to the syllabus of free and compulsory education.

Objective of study

- To know the constitutional perspective of elementary education in India.
- To find measures to improve legal literacy in India.
- To analyze the impact and efficacy of The Right to Free and compulsory education Act, 2009 with improvised curriculum to include legal awareness.

Review of literature

Articles and books

For the purpose of this study, this researcher has gone through *Sharath Jeevan and James Townsend – A Solution to Education Reforms in India* –in this article the authors have addressed the problems in the educational system as a whole and suggested their solutions to tackle the same. Present study is regarding the inclusion of law as a subject in the syllabus of elementary education for tackling the real problem of ignorance of law.

Yashu chandak and Shreeya Maheshwari – Legal Education system in India^{vi}- in this article the author clearly points out the historical development of the Legal education system in India as well as the present position of the legal education system and points out methods to improve the teaching quality in the Law schools. He points out the role of Bar council of India in approving the syllabus of law schools. My study is not on improving the method of teaching law at the law schools rather I am aiming at beginning the legal education at the elementary level itself.

R.L. Narasimham in —IGNORANTIA JURIS NON EXCUSAT:

IGNORANCE OF LAW IS NO EXCUSE¹¹ –Journal of the Indian Law Institute^{vii} – In this article the author began with the origin of the maxim and discussed the various aspects of the maxim. He began with the observation made by Lord Mansfield:

“—It would be hard upon the profession (i.e., legal profession) if the law was so certain that everybody knew it. In the conclusion by quoting the words of the Supreme Court of India in different cases he says that —there is no such presumption that everyone knows law, but the presumption is that everyone is presumed to know law.”

The Constitution of India brought forth a new Article, ie;21A, and the Right to Education became part of right to life. The purpose of Education is to advance self-improvement, fortify, freedoms and ensure of human rights. Thus, to improve quality, the Right to education incorporates to commitment and disposes of the separation in every degree of the educational system and set least standards.

Historical excavation

Gurukula education system was the accepted form of education in ancient India. Any person, irrespective of their age, having a wish to study may approach the Guru for accepting him/her as the student and if the guru is willing to accept so, then he/she may stay as long as he/she wishes or until the guru is of the opinion that the student has studied everything that the guru is capable of teaching him/her.^{viii} Guru does not follow a particular syllabus. But his teaching will enable the student in all walks of life like Vedas, education, family life, science, logic, archery, martial arts etc. He teaches everything ranging from how to lead a peaceful family to complex mathematical equations and other scientific areas. Unlike today ‘s method of memorizing techniques the teaching at Gurukula education system was closely connected to way of life and nature. Since the student was residing in the Gurukula, there existed a strong bond of love, loyalty, care, honesty and respect between the students and Guru.

Present day education system was introduced by Lord Macaulay. He also insisted upon educating the Indians with the English language. The modern education system introduced by Lord Macaulay was very different from the Gurukula system of education. The modern school system followed pre-defined subjects for teaching and disregarded the idea of teaching the students Sanskrit, metaphysics etc. which were taught in the Gurukula system⁷. The modern school system also affected the strong bond that existed between the students and Guru during the Gururkula system. The concept of education in the modern schooling system was very different from Gurukula system of education^{ix}. Those Gurus taught *smrities*, which are the prevailing laws of the land.

Significance of the study

A lot of people including youngsters are falling into crime because they are not aware of the fact that the Act, they are perpetrating is a crime. So, it is essential to provide legal awareness and legal literacy to all citizens. The entire world is developing day by day and the part played by education is so vital.^x The Constitution of India has provision to assure that the state government provides elementary education to all its citizens.^{xi} But our Constitutional framers are mute on providing compulsory legal education to citizens.

The Apex Court, in *Mohini Jain vs. State of Karnataka*^{xii}, after mentioning that “—right to education as such has not been guaranteed as a fundamental right under part III of the Indian constitution, held that reading articles 21, 38, 39(a) and (b), 41 and 45 cumulatively, it becomes crystal clear that the framers of the constitution made it obligatory for the states to provide education for its citizens. Emphasizing on the preamble which promises to secure justice —social, economic and political.”

In *Unni Krishnan vs. State of Andhra Pradesh*^{xiii}, the Indian judiciary has endeavored to declare right to education as part of the right to life.

Approximately after eighty years from the commencement of the Constitution of India, amendment was made to make education a fundamental right. From 1st April 2010, the Indian government implemented the law to provide *free and compulsory education* to all citizens who are of 6 to 14 years. In the year 2002, the constitution of India was amended the 86th time so as to include education within the ambit of fundamental right. In 2009, The Right of Children to *Free and compulsory education* Act was passed by the Parliament. Both the new Act and the Constitutional amendment came into force on 1/4/2010.

Welcoming Right to Education Act, 2009

The Right of Children to *Free and compulsory education* Act, 2009 was enacted to give effect to the Article 21A of the Constitution of India, 1950, which was incorporated in the Constitution through the 86th amendment to it. It is pertinent to note that the 86th amendment to the Constitution as made in the year 2002 and the new statute which is meant to give effect to the said amendment took a long period of 6 years to get enacted.

Even after this much years, provisions of the Act are not fully implemented in letter and spirit. Even toddlers are using mobile phone now. Many young students got trapped in the network of online games and cyber-crimes. But proper awareness is not given in their curriculum. Curriculum should include tips relating to Directive principles of the Constitution, Constitutional remedies, cyber-crime, offences

relating to marriage, crime against women etc. Many boys go for eve teasing because they are unaware of the consequences.

In Criminal law, act done without any premeditation and without calculation comes under Accident. In law of Tort also, there is similar kind of exclusion in the name of Act of God. But when element of *mensrea*^{xiv} comes, even if a crime is committed without knowing the fact that it is a crime, culpability is attributed to that person.^{xv} (*R.v. Prince, State of Maharashtra v. M.H. George*). Hence it is the mandate of the State to impart quality legal education and legal literacy.

In India, formal legal education was first launched in the three most important places those times- Madras, Calcutta and Bombay.^{xvi} Since India was under the British rule, their legal system was prevalent in India during those times.^{xvii} Their system of law made it necessary that the legal education system of India must be formalized. Since the enactments of those times were framed by the British, it was made in English language. So only those persons who studied English language were able to study the British laws and they were the only eligible persons to become pleaders.^{xviii}

Introduction to Legal awareness

Legal awareness is the strengthening of people in regards to issues related to law. Legal awareness assists with advancing cognizance of legal culture, support in the arrangement of laws and the rule of law.^{xix}

Legal awareness can enable individuals to approach justice, demand justice and fight for justice. Legal needs consistently remain to become emergency situated in light of the fact when they become mute, keeps them from foreseeing legal difficulties and moving toward a lawyer for counsel and guidance in time. This amplifies the effect of their legal difficulties and troubles when they come. Without proficiency in legal matters, individuals can get scared and be distanced from law.^{xx} This may advance into a circumstance which brings about individuals clashing with the law, or being not able to get help from it. Now and again, education necessities have been utilized to square access to rights and advantages.^{xxi} The idea of legality incorporates —the implications, sources, authority and social practices that are generally perceived as legal, paying little heed to who utilizes them or for what closes.

If we did not provide legal awareness through proper means, people start to acquire it through improper means—for example, from films. In some films, it is portrayed that when a police official come to arrest a person, he is asking the police officer, “where is the arrest warrant?”. There are permitted situations where a police officer can arrest a person without warrant. Through proper, systematic legal education only a lay man can acquire the capacity to differentiate both situations.

After *D.K. Basu v. State of West Bengal*^{xxii}, 11 guidelines were given to protect the rights of arrested persons. For protection of rights of women, various enactments were made in India^{xxiii}. If the target group's non awareness of these rights as well as perpetrator's non awareness of punishment will retard the efficacy of these attempts. Citizens should be made aware of their right to get necessary information.^{xxiv} Children should be made aware of the difference between good touch and bad touch and bad touch is punishable under POCSO Act.^{xxv}

Things relying upon a person's area in the different progressions of status, glory, and information related with enrollment in a social class. Public legal education will create legally empowered citizens and ultimately Public Interest Litigation realm will be widened so as to attract social justice to weaker section of India. Anna-Marie Marshall clarifies that *"so as to understand their privileges, individuals need to step up to the plate and eloquent them. This activity, thus, relies upon the accessibility and the importance of legal blueprint to individuals going up against issues."*^{xxvi} This is on the grounds that laws exist as a feature of a bigger hierarchical biological system in which the interests of the association just as those of the on-screen characters become inseparably connected to the manners by which they are ordered.

Public legal education is mainly focused on individuals who does not have legal background. The expression "public legal education" (PLE) is identified with, and may include, a few comparative terms. The expressions "public legal data" and "public legal education and data" (PLEI) underscore a contrast among teaching and giving data. The expression "network legal education" is basic in western countries, where it often alludes to network based public legal education exercises drove by legal guide associations. The expression "law-related education" become part of elementary education in such countries, but in India, it is still in primitive stage.

Discourse of legal literacy

More than 65% of the people are living in rural areas and the majority of them are unskilled and considerably more than that level of the individuals don't know about the rights to which they are entitled due to the existing laws of the land. Indeed, even generous number of the proficient individuals living in the urban communities and towns don't have the foggiest idea what are their privileges and qualifications under the law. It is this nonattendance of legal awareness which is liable for the double dealing, misuse and hardship of rights and advantages, from which the individuals endure in the state. The hopeless condition wherein the individuals wind up can be lightened somewhat by making awareness among the individuals.

Lack of legal proficiency can lead individuals to get threatened and estranged from law. This may develop into a circumstance which brings about

individuals confronting with the law. Low proficiency may hinder individual's access to justice.^{xxvii}

NALSA^{xxviii} alongside other Legal Services Institutions embraces different awareness exercises so as to make individuals mindful of their privileges and about the job, exercises and working of the legal administration's establishments. An assortment of devices is utilized so as to accomplish this target like directing courses, addresses; conveyance of handouts; cooperation in Doordarshan programs, broadcasting jingles, live telephone in programs and so on; skimming versatile multi-utility vans for spreading awareness through public connections, short narratives; social projects by younger students on legal issues; different modalities like artwork, exposition composing and discussions on legal issues.

Vivid issues are taken up for legal education programs changing here and there relying on the necessities of a territory and its target group. Entry level position programs are composed for law graduates to advance the job and significance of legal service activities. Legal Aid Clinics are additionally being run in law schools to promote the fulfillment of targets of Legal Services. Different Legal proficiency programs are sorted out at school and college levels.

Objectives of Legal Literacy programs

Some of the objectives are as follows: -

- To spread the data and augment the information on law.
- To help the people to utilize law
- To give grassroot level information about the fundamental legal rights and remedies gave under different laws and making the people especially women, children, poor and victims fit to confront the difficulties.
- To make it to known of different component and organs of the justice conveyance framework accessible for redressal of their issues and complaints.
- To make the individuals mindful of the job of courts in accomplishing sexual orientation equity, in particular the ideas public intrigue case, help them to get redressal from executive and legislature.
- To make the awareness among the individuals about the job of District Legal Service Authority, Free Legal Aid and Lok Adalat.

Relevance of Legal Aid Clinics

Now there are legal aid available in each judicial complex and in each central prison. The advocates are accessible in these centers to offer little guidance to any individual who approaches them with any legal issues. Therefore, these Legal Aid Clinics likewise help in making awareness about the legal rights and obligations of the residents. National Legal Services Authority has planned a plan called National Legal Services Authority (Legal Aid Clinics) Scheme 2010. After

covid outbreak, many law colleges has started E-legal aid clinic, which is the need of the hour.

Legal Literacy Club

In each High School and College, there KELSA^{xxix} will set up a Student Legal Literacy Club containing chosen students of class IX and above in schools and second year and beneath in universities as individuals and the quantity of the individuals will be at least 10 and not surpassing 25. More than one club might be set up in a High School and Colleges, if so required. The club will run under the direction of an instructor called —Teacher-in-charge to be selected by the Headmaster and Principal in relationship with the National Service Scheme (NSS) and under the general oversight of the Headmaster and Principal of the individual High School and College.

Classes for Club members

The legal literacy classes are sorted out in each secondary school and school where the club has been built up. The Representatives and Advocates of the State Legal Service Authority will take those classes for preparation the individuals from the club just as the educator in control about the legal services by State Legal Service Authority, Pre-prosecution settlements of questions. Lok-Adalat and Alternative Dispute Resolution by and large. —Services of the Local Judicial Officers, Administrative Officers, experienced advocates and law educators, may likewise be benefited of in these legal literacy classes for concentrating on the laws and government assistance plans of the Government identifying with the women, kids, workers, individuals underneath the neediness line or experiencing mental or physical incapacities and individuals in any case staying hindered or minimized in the general public, and additionally in regards to the fundamental legal system on criminal side regarding the matter of FIR, Arrest, Bail, about various gatherings accessible to prosecutors and so on.

The State Legal Service Authority will prepare booklets, reading materials, leaflets, pamphlets etc. in local language with contents appropriate to the objective of the scheme and functioning of the club and cause distribution of the same to the members of the clubs for the purpose of their self-awareness and mass awareness. The State Legal Service Authority may take help of the Local Administration in different departments such as Education, Health and Family Welfare, Social Welfare, Development, Forest and Environment, Law, Labour, Employment and other departments and other voluntary organizations to share with them the expenditure to be incurred in preparation of the materials and meeting the other expenditure. Those Government Departments and N.G. O may also render help in providing these materials, or collaborate with the State Legal Service Authority in organizing and sponsoring different legal aid programmes under the scheme^{xxx}

Legal awareness programs at grassroots levels

Legal awareness programs at different levels are conducted on different occasions. Generally, most of the legal awareness programs are short term program speaking of which say for one or two sessions on a particular day. The national legal service authority with the aid of state legal service authorizes and the district and Taluk level legal service authorities conduct many legal awareness programs. The different occasions and classes of beneficiaries of the legal awareness programs are;

- i. Students at school level
- ii. Students at college level
- iii. Villagers.
- iv. Victims of acid attacks, disasters etc.
- v. Employees of different sectors.

Conclusion

Legal literacy is a right of every citizen of India. Similarly imparting legal literacy should be attributed to Bar Council of India and National Legal service Authority. Children are studying Mathematics, Science and Social studies from Elementary school level. Many of the principles they are studying at school will not assist them in their future life; many of them are useless. Principles of trigonometry, polynomials and Le Chatter principles have no effect in making a person a good citizen. But if a person violates law without knowing that it is an offence, he will be punished. Without imparting legal education how it is morally right to punish a person for its violation? So, it is high time that legal education should be made part of curriculum from elementary school itself.

Suggestions

1. Bar Council of India should initiate steps to make a draft legislation for compulsory legal education.
2. After enrolment, it should be made mandatory for every advocate to spend 30 hours per month in the activity of KELSA for giving free legal awareness.

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