

CLINICAL LEGAL EDUCATION: A TOOL FOR ADVANCING HUMAN RIGHTS IN INDIA

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Abstract

The proclamation of social justice is elevated in the Preamble of the Indian Constitution. One of the most successful ways to enhance social justice across the nation is via clinical legal education. The concept of clinical legal education primarily alludes to a non-profit contribution to society or generally benefiting the marginalised who lack access to legal representation. The safeguarding of the right to equality is a fundamental birthright of every citizen of this nation. As a result, it is the responsibility of the legal community to defend the rights of those members of society who are most in need of protection yet lack the means to do so. Following this CLE, clinical legal education may be crucial in preserving human rights in India. There are numerous regions that require legal aid. The State is required by law to ensure that the functioning of the legal system promotes justice based on equal opportunity and to provide free legal aid to ensure that no citizen is denied the chance to obtain justice due to a lack of resources or other obstacles. This is mandated by Article 39 A of the Indian Constitution. Due to this, attention has occasionally been focused on how CLE should be conducted in law schools and universities. Students can run the clinic completely independently of a classroom setting, giving them the opportunity to obtain real-world experience and hone their communication skills. Also, how the CLE system may promote and uphold the human rights of socially vulnerable groups.

Keywords: *Clinical Legal Aid, Legal assistance, Social Justice, Human Rights, Legal Services, Ethics.*

I. Prolouge

“Education is The Manifestation of The Perfection Already in Man”

-Swami Vivekananda

Education is not just an assemblage of information. It is a way of obtaining information throughout life from the surroundings alfresco. Through cultivating the appropriate education, only a man can fulfill his potential. It is an overall harmonious development of humankind.(Bhoje, 2015). Now the objective of education can only be worthwhile if someone can utilize the same for the refinement of society. Legal education plunges under one of those

categories of education. The approach to studying law and its practical practice is interdisciplinary. Society and education are two interrelated factors that have a big impact on one another. The goals, objectives, and curriculum that educational institutions choose are formed by society, and education gives people the knowledge, values, and abilities they need to actively participate in and contribute to society. By enabling people to become contributing members of society and to develop as critical thinkers and lifelong learners, education has the potential to mould and reshape societies. In turn, society has an impact on education's quality by offering people the tools,

encouragement, and chances they need to develop as people.(Francois, 2015). A successful, just, and sustainable society must therefore be built on the foundation of a good educational system. The purposes of legal education include exploring the use of the legal system to address societal issues. Additionally, the idea of law itself has connections to other academic fields like economics, sociology, history, psychology, etc. It also contains a national and worldwide perspective, which opens the door for more expansive considerations. Law schools have long produced advocates, lawyers, and leaders who transform a whole country. A lawyer is regarded as a gatekeeper, the defender of moral and professional norms, and a role model for society. The major objective of legal education is to produce graduates who, using their judgement and analytical abilities, attempt to resolve a conflict amicably by upholding everyone's rights.The exercise of law is not just a notional cognitive and scholarly exercise. It has a deep-rooted influence on the lives of the masses. Hence, the importance of legal education should be a concern for each individual. The present-day consequences of commercialization, privatisation, and the competitive market system have somehow degraded the quality of education. (Gupta, 2006). Instead of a concentrated curriculum for a limited number of students, legal education is now a part of mass education. A legal student or advocate today must be prepared to handle the complexity of today's cases. To meet their challenges, individuals must also be familiar with a professional skill set. The work of a lawyer has grown increasingly specialised with the expansion of international corporations in India. Also, this industry demands qualified attorneys who have received the appropriate legal education. The notion of clinical education has been utilized to describe a bunch of styles of learning in the legal field that include live client clinic, actual scenario handling, transactional works in society. The term clinic commonly has

law chambers with no academic affiliation. The fundamental objective of such a curriculum is to provide law students an experience as actual lawyers with real clients.(Wilson,2017). This kind of curriculum does not include seminars, consortiums, or workshops primarily conducted for legal research. There is a great potential for the utilization of the teachings of Clinical legal aid in India specially for the downtrodden people it will be a blessing.

II. Research Objective

The objective that the author wants to put forth through this research manuscript is to find out the utility of clinical legal education in solving critical problems in the society at ground level. The author also will try to highlight the main aim of imparting legal education. How proper legal education can set the path of students in the legal field or how a para lawyer or a law student how will try to provide relief to the client and what will be the role of CLE in this regard that will be covered in this piece of literature.

III. The Clinical Legal Education Defined

The notion of Clinical Legal Education (*referred to as CLE after this*) is mainly developed for the legal practitioners to attain skills, attitudes, and other aspects of the legal profession.It is basically based on experinecial learning.(Mcfaul,2021). The objective of CLE in legal education is much higher. It helps the student in his career and allows them to understand from their clients' perspective. The term clinic is correlated with a psychological term as well. Just as a patient arrives in a clinic for restorative and gets analyzed with the disorder for an antidote, similarly in the legal field, a client approaches an

advocate when he has to resolve some issue or get a legal remedy from a loss. The advocate also tries to comprehend his client's tribulation and then approaches to counter it. The CLE also strengthens the affinity between the lawyer and the client. It also provides strong example of relationality. (Jones, 2020). According to the definition of Richard Lewis, "*Clinical Legal Education is essentially a multi-disciplined, multi-purpose 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.*" (Grimes, 1996). The CLE offers a lively and practical method of studying law. It also includes exploratory learning, enabling a person to apply knowledge and assess, probe, and reassess the situation. A pupil becomes more committed to his job and self-motivated as a result. Although implicit, the shift from a legal student to a candidate who is cognizant of the business world is mostly unexplored in a law school atmosphere. Students learn about the reality of the legal profession through clinical this curriculum and acquire a variety of knowledge and skills. (McConnell, 2022). The development of abilities in during CLE is essential for an advocate's actual practise. Simply expressed, CLE refers to the empirical and experiential skills that allow a student to understand how well the legal framework functions in practise. Every law student must have this information since, among other things, it has become clear that the academic and practical applications of law are wholly dissimilar. In addition to the above these specific skills encompass several aspects that are captured under the umbrella term '*social justice*' (Mckee & Hall, 2018).

Based on the aims and objectives of the service to the society, there are normally three kinds of legal clinics are there where the students

participates and gains the field experience. These are as follows,

- A. ***In House Real Client Clinic***: In this kind of model, there is the actual scenario with an actual client that a student has to face. The clients are selected from the public. The Law school monitors the whole activity. (Talukdar, 2017) Such a legal clinic typically provides aid and legal counsel. The majority of client interviews and advice are conducted verbally, as is the case with the Organization of Legal Aid camp in remote areas.
- B. ***Simulations***: The majority of law schools include these kinds of exercises in their curricula. In these fictitious clinics, the student must prepare and research in order to address the specific issue raised. The pupils show up for the pretend court session and argue their cases in front of the judge. In addition to these drills, several law schools also hold workshops, competitions in moot court, and competitions in arbitration.
- C. ***Internships***: For a legal student, internships are crucial. The student is required to work as an intern in an advocate's office during such exercises. This enables a student to get knowledge of the technical facets of the legal industry. These kind of internships at a real, functioning law clinics have been seen to be beneficial to many students in their careers.

IV. The Essence of CLE in Contemporary Society

There are several essential factors behind applying the CLE method in the curriculum. The

significance of this educational system is as follows,

i. Practical Understanding

The opportunity for exploratory learning offered by CLE is one of its most important benefits. The implication is that, in contrast to the previous traditional learning approach, a learner gets information by doing work practically. As a result, the student's role in this process is considerably more proactive. They work to find a solution to their client's issue. The trick is not just learning information; it is applying it to the real world. CLE offers the chance to put the relevant knowledge into practise. This gives the students the chance to reflect on, discuss, and reassess their choices and the reasons behind them. In the legal profession, there are fewer possibilities to consider any problem in depth. In the real world, students might take on the role of an advocate while wearing the cloak of legal ethics.

ii. Cognitive development

The CLE will help students develop their cognitive skill set. Those who work in legal clinics are highly driven and completely committed to their jobs. Also, it will allow for the development of responsibility. The CLE programme will help the students understand what the law schools are teaching and how to proceed in the future.

iii. Community service

A university can benefit the local community in addition to improving society through its scholarly endeavours. Several problems can be resolved, for instance, by holding legal aid camps or providing assistance and advice for daily life. The most disadvantaged members of society will benefit from this. Also, participation in such an activity might force kids to learn and appreciate various circumstances. Also, these CLE-related activities will help them develop their maturity and feeling of responsibility. In addition to

changing attitudes towards the conventional ways of dispute resolution, clinical education in law schools has the ability to affect structural changes in legal policy and practise as well as attitudes of attorneys, judges, and other law enforcement agencies. Hence, the main goal of clinical legal education is to ensure that the legal system does not allow for the use of the law to oppress those in society's weaker positions. The subsequent innovative programmes have been started by legal institutions under the purview of CLE for the benefit and service of the general public. These are,

- Legal Literacy camps/ Legal Aid Camps
- Public awareness Campaigns
- Para Legal services
- Pro Bono Representations in public Quasi judicial Tribunals

iv. Accumulating essential aptitudes

The skills-based approach, which gives the various facets of legal practise great relevance, is heavily emphasised in the CLE programme. The professional obligations and conduct of an advocate are conspicuously absent from most medical schools, in contrast to most law schools. The majority of the top law schools in the nation now place a strong emphasis on CLE in their curricula because to the growing popularity of this topic. The students can hone their professional aptitudes, including counselling, writing, pleading, negotiating, interviewing, communication, research, and organising skills, by going through such conditioning.

V. Undertaking CLE Paradigm in India

At India's legal schools throughout the post-Independent era, doctrine and traditional education predominated. Just providing lectures for classrooms was the goal. As a result, the likelihood of practical sessions decreased. It was justified on the grounds that only recent

graduates would be familiar with the legal profession once they began practising. Yet, this strategy started to change quickly. There was a clamour to emphasise the importance of practical training for those seeking careers in law. Seminars, simulated trials, and moot court competitions were given the highest importance. The significance of legal aid also increased with the ongoing industrialization and modernization of urban life. The proliferation of litigation was also increased due to the technicalities of the legal system. *The 14th law commission report* also has cited the state's duty to support legal aid schemes. A trained advocate is also indispensable for implementing justice and administration, and his knowledge in his profession makes him one of the critical segments for doing that. Legal work also owes a sense of duty and responsibility to society.

Different committees also recommended renovating the legal studies. Following all the recommendations, the Bar Council of India directed all the law schools and universities across the country to revise the current ongoing curriculum and incorporate practical papers which includes, participatory experiences in trials, drafting, pleading, convincing, Moot Court exercises, Professional ethics, Paralegal services, etc. Thus it becomes a prime responsibility of law schools and universities to train their students in these directions. In the Indian context, there are arguably social deficiencies. Legal aid is one of the primary constitutional mandates, and for that basis, the law school legal aid clinic and paralegal services have also been augmented. (Rao, 2013). Legal Education ensures that legal reforms and judicial reforms reverse motions and exposure of lawyers and citizens. Legal Education is an integral component of legal and judicial reform planning that attaches to the authority of law and shows a nation's social worth. Law education builds professionalism, community, and a focus on further improvements. The interpretation of every legal

expert improves the usefulness rate and facilitates general admiration. This profession supports the courts and the organisations before which we require a high degree of success and cannot be maintained without ongoing support in a variety of other cognitive tasks, which also helps the lawyers advance their careers.

VI. CLE as an Instrument for Uplifting Human Rights

Human rights are one of the foremost rights that is ingrained in mankind. There are various conceptions and definitions of human rights. (Zajda, 2020). Despite numerous rules regulations legislations and protocols, it is very difficult to protect and preserve all the rights of an individual due to its complexity. The character of human rights has philosophical implications. (Freeman, 2022). Thus under this context technical education such as CLE comes into play. Even though being necessary, the relationship between the law and society is complicated. Hence, each community must decide what its legal system's objectives are, especially if that legal system is meant to make the welfare State idea a reality. It is crucial to conceptualise and implement legislation in terms of rights and obligations as well as judicial and extrajudicial enforcement procedures. Change in the method of legal education has an impact on society. The different patterns of legal aid, paralegal services, and other welfare schemes pave the way for various institutions and NGOs to turn to the court to pursue a change.

a. Service to Society

The pedagogical perspective of clinical education also aims to disclose a student to practical legal practice's rich cultural and jovial ambit. (Mittal, 2012) Now how Clinical legal education is connected with the upliftment of human rights. Every legal fraternity encloses to serve society, especially the downtrodden and impoverished

people of the country. The sole purpose of organizing the legal aid camps is to assist and advise the people who cannot get justice. In a country like India, where people mainly from rural areas are afraid to approach the judiciary and unaware of their basic fundamental rights, Clinical education will construct the students worthy to assist and help such individuals. Nearly 60% of the Indian population now has access to free legal aid and other legal services thanks to the passage of the **Legal Services Authorities Act, 1987**. It is nearly impossible for a state to provide a high-quality service for free when there are so many applicants. The Section 12 of this act has prescribed the criteria for getting legal services from the state. The section runs as follows,

Section 12. Criteria for giving legal services.—

“Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is—

(a) a member of a Scheduled Caste or Scheduled Tribe;

(b) a victim of trafficking in human beings or begar as referred to in article 23 of the Constitution;

(c) a woman or a child;

(d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

(e) a person under circumstances of underserved want such as being a victim of a mass disaster, ethnic, violence, caste atrocity, flood, drought, earthquake or industrial disaster; or

(f) an industrial workman; or

(g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956), or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 1986), or in a psychiatric hospital or psychiatric nursing home within the

meaning of clause (g) of section 2 of the Mental Health Act, 1987 (14 of 1987); or

(h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.”. Thus the plain reading of this section can depict that any person is entitled to free legal aid if the person falls within the above-stated criteria. His act further enumerates that National legal Services Authority compulsorily to develop after consulting the BCI various programs for CLE and to promote guidance and supervision services to the legal aid clinics in law colleges and universities. Nevertheless to run the society as envisaged by the framers of the Constitutions and to the proper implementation of the socio-economic and political guarantees of the Indian constitution has made legal education extremely important. A just society must have access to competent legal services that are also cost-effective. Only when legal education creates competent but socially conscious lawyers would competent legal services be accessible.

b. Role of Law Institutions

In contrast to other educational institutions, law colleges focus on providing legal education to aspiring attorneys, judges, counsellors, and lawmakers. These are the places where the nation's law students learn about the legal system and clinical legal education. Due of the nature of the legal education they provide, law schools have a responsibility to raise awareness regarding legal assistance. They have established organisations like legal aid clinics that serve as the hub for clinical legal education activities including raising knowledge of the law, identifying those in need of legal assistance, assisting them with legal issues through legal

advice, etc. India has the most law schools per capita in the world, so it has a lot of potentials to increase access to justice for disadvantaged groups. Thus law schools can take the lead and build a path to advance access to justice through their clinical programs that offer various kinds of free legal assistance. In addition to changing attitudes about the conventional means of conflict resolution, clinical instruction in law schools has the capacity to affect fundamental changes in legal policy and practise. Hence, the main goal of clinical legal education is to guarantee that the legal system does not allow for the use of the law to oppress those in society's weaker positions. By offering paralegal services, legal literacy, and legal awareness, law students are also expected to contribute to the obligation of providing legal help in this process. It is the obligation of the law colleges and legal insitutions to set up legal service clinic. Clinical education is closely linked with paralegal services in a society where students undertaking legal studies have a huge role. Eventually, there is a need for legal aid and assistance to the community in India. The apex court has also roused this issue in miscellaneous landmark matters. The apex court also has mentioned the relation of the right to free legal aid under the personal right and liberty under **Article 21** of the constitution of India in the famous case of *Hussainara Khatoon v. State of Bihar*. The state has to fund the legal assistance and the aid of a person's whole life and liberty is in jeopardy for a fair and unbiased procedure. The right to free legal aid and the duty of the State has even found a place under the constitutional provision as well. The countrified locations will be benefited directly by implementing the CLE incorporated curriculum. The students will also comprehend the social reality apart from their traditional educational method and attain experience for their forthcoming prospects.

VII. Issues And Challenges

Nowadays, lawyers play an essential role in society. Thus it becomes a duty of the educational institutions to impart quality legal education to their students. The CLE in India is facing multiple challenges from many sectors. The distrust due to the manner and function of the legal profession has resulted in the loss of prominence of this occupation and social commitment as well. Even if this country has produced highly skilled lawyers, advocates, and legal professionals, society might not benefit from such professionals because India needs not only technical expert advocates but socially sensitive advocates as well. Despite the criteria and regulations set by BCI, clinical legal education is not given much emphasis at many institutions across India where law students are now trained. The apex court recently mandated the constitution of a three-member committee to improve the legal education sector. The main factors behind that are as follows,

- The lack of sufficient stable funds creates a hindrance to imparting legal education.
- On many occasions, the students don't get the deserving credit for conducting these activities, which discourages them.
- The lack of proper training and practical knowledge among the law faculties also creates problems in Clinical education.
- It also has been seen that the free legal aid camps sometimes impede the affinity between the universities and the provincial legal practitioners. (Sjarma, 2017)
- Many institutions with legal cells are administered by students and not under the direct supervision of the institution.
- The most crucial aspects of the legal profession—drafting, pleading, and ethics—are generally taught in the classroom and evaluated by examinations.

- Many law schools do not oversee students' work from internships in lawyers' chambers and court visits.
- Sometimes the local communities are not aware of the services of legal aid camps and free legal services. (Nadafouadar, 2022)

VIII. Conclusive Remarks

Legal education right now in this country is going through a vital phase. Notably, India is considered one of the largest producers of legal practitioners globally. In this ultra-competitive society, law schools play a critical role in sustaining legal education. Thus, the method and manner of the conventional education system are also modified to cope with the current trend. Right now, clinical legal education should concentrate on training the students to enhance their competency in advocacy and other skills. The main terminus of CLE should be to complete the professional education of a lawyer because when the goal is achieved, no doubt the notion of the Rule of Law will conquer all corners of the country. As the words of Prof. Menon suggest, *“The law curriculum does not adequately reflect the changing role of law in a developing society, and law teaching does not take account of the new skills of social engineering required from the future lawyers.”* (Gopal, 2009)

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