

**LEGAL EDUCATION IN A GLOBALISING WORLD**

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**ABSTRACT**

*Globalisation and growing transnational legal complexities have deeply influenced legal education and the methods through which new generation of lawyers receive training. The traditional methods and domestic legal system- centric legal education have been facing a growing need to adapt to a law practice which crosses national frontiers. The present paper investigates the manner and impact of globalisation on legal education, focusing on redesigning of the curriculum, pedagogical strategies and emerging challenges. The paper explores the amalgamation of comparative and international law, the adoption of interdisciplinary approaches and the integration of informational technological tools to train law students for an international — or rather, global — law practice. Furthermore, the paper explores various hurdles, including access to resources, relativity or differences in culture, and aversion to transformation. The paper offers insights into the changing nature of legal education in a globalising world and provides suggestions for making it more accessible and maintaining its relevance.*

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## I. INTRODUCTION

Globalisation is a phenomenon in which the social, economic, and legal structures of various states are becoming increasingly interconnected. Globalisation has been defined as “*the intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice versa.*”<sup>1</sup> In the context of law, globalisation has led to convergence of legal norms, the practice of law, the development of international regulatory frameworks and the increasing influence of international institutions and organisations such as the World Trade Organization, the International Telecommunication Union, the International Monetary Fund and the United Nations, among others. Varying from trade contracts to the investigation and prosecution of crimes under international law, the legal world in which modern law practitioners operate extends beyond their national frontiers and domestic jurisdictions.

## II. TRADITIONAL METHOD OF TEACHING

Traditionally, legal education has emphasised on municipal law, focusing on student training while considering a singular municipal legal system. Nevertheless, transnational disputes, globalisation, international trade and commerce along with international regulatory complexities, mount a challenge to the adequacy of such a traditional method.<sup>2</sup> Legal

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<sup>1</sup> N. L. Mitra & Manoj Kumar Sinha, *National Education Policy 2020 and Challenges to the Bar Council of India*, 10 ASIAN J. LEGAL EDUC. 7–22 (2023); A. GIDDENS, *THE CONSEQUENCES OF MODERNITY* 64 (Cambridge Polity Press 1990).

<sup>2</sup> LAW COMMISSION OF INDIA, REPORT NO. 184: *THE LEGAL EDUCATION AND PROFESSIONAL TRAINING AND PROPOSALS FOR AMENDMENTS TO THE ADVOCATE ACT, 1961 AND THE UNIVERSITY GRANTS COMMISSION ACT, 1956* (2002).

practitioners are now faced with diverse legal regimes, both municipal and international, and thus are required to deal with international issues and challenges such as global climate change, complying with international human rights frameworks and addressing issues such as the refugee crisis and migration.<sup>3</sup> Legal education needs to develop in order to acknowledge and provide training which includes a global perspective and nurtures transnational competence in law students.<sup>4</sup> The National Education Policy of 2020 recognised that there is a need to adopt new technologies and better practices, in the field of legal education.<sup>5</sup> Simultaneously, there is a need to retain and uphold the basic constitutional values of justice and work towards national reconstruction with its foundation in democracy, rule of law and human rights. Legal education must be reflective of the social realities and practice of jurisprudence.

Legal education was revamped by the Parliament of India in 1961 following the recommendations of an expert committee, by enacting the Indian Advocates Act. This brought the legal profession throughout the country under uniform standards, while also creating duly elected bar councils at the state and central levels with the authority to manage the profession including setting standards for legal education.<sup>6</sup> Globalisation has influenced and altered the legal order at the municipal as well as the

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<sup>3</sup> UNITED NATIONS OFFICE ON DRUGS AND CRIME, REPORT ON GLOBAL STUDY ON LEGAL AID (United Nations, New York 2016).

<sup>4</sup> MINISTRY OF HUMAN RESOURCE DEVELOPMENT, NATIONAL EDUCATION POLICY 2020 ¶ 20.4 (Government of India 2020).

<sup>5</sup> *Id.*

<sup>6</sup> N. R. Madhava Menon, *The Transformation of Indian Legal Education*, HARV. L. SCH. PROGRAM ON THE LEGAL PROFESSION (2012).

international level. This necessarily requires that legal practitioners are equipped to navigate diverse and complex legal regimes. The expression 'globalisation of law' hints at an ever-intensifying dialogue between various municipal and transnational legal systems. This calls for a change in the stance of legal education; emphasis should be placed equally on municipal and international legal regimes.

### III. COMPETITIVE LEGAL EDUCATION

The role of lawyers is growing, with legal practitioners increasingly needing to deal with transboundary legal disputes, international agreements for trade and commerce and the international legal regulatory framework. International organisations, multinational conglomerates and corporations, non-governmental entities and organisations play a crucial role in the evolution of the globalisation of law and the growing need for legal practitioners skilled in navigating diverse legal orders.<sup>7</sup> As such, legal education should aim to develop student competence by equipping them with the required skills to effectively navigate the global complex of legal regimes.

The conventional or traditional approach of teaching law, which incorporates learning through rote memorisation and emphasises on municipal law and cases, does not sufficiently prepare students for the operation of law in a globalising world.<sup>8</sup> The modern approach to teaching

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<sup>7</sup> FRANCIS SNYDER, *THE FUTURE OF LEGAL EDUCATION IN A GLOBAL WORLD* (Oxford University Press 2015).

<sup>8</sup> Upendra Baxi, *A note towards a socially relevant legal education*, 5(1)-(3) J. OF THE BAR COUNCIL OF INDIA 1, 11-20 (1976).

law emphasises on interdisciplinary learning while incorporating disciplines like economics, international relations, political sciences, and environmental sciences. For example, to understand the operation of international trade law calls for an understanding of international economic policies and trends.<sup>9</sup>

The phenomenon of globalisation has led to the crystallisation, or rather the evolution of a global regulatory regime wherein subjects such as human rights, environment and trade have emerged as significant aspects of legal curricula. Additions of this nature highlight the increasing significance of the evolving global regulatory regime. For example, the formulation of the Sustainable Development Goals (“SDGs”) have stressed upon the need to include and study various aspects of law, development studies, economic, political and environmental strategies, in order to meet all critical targets of the 2030 Agenda<sup>10</sup>

With the growth of globalisation and transnational transactions, comparative legal studies have also become a prominent area of legal teaching and research, since legal practitioners are required to know and apply laws from varied jurisdictions to function in an international arena. The study of comparative law assists in broadening the understanding of

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<sup>9</sup> TOM GINSBURG AND TERENCE C. HALLIDAY, *GLOBALISATION AND ITS IMPACT ON LAW* (Cambridge University Press 2012).

<sup>10</sup> United Nations Department of Economic and Social Affairs, *The 17 Goals*, UNITED NATIONS, <https://sdgs.un.org/goals>.

law students and enables the students to deal with legal disputes of transnational nature.<sup>11</sup>

Advances in digital and technological learning tools have provided a drastic impetus to legal education by making resources and content available through global online databanks such as Hein Online, JSTOR and Westlaw. Such online databanks equip law students with the ability to gain access to and learn from a variety of sources, about different jurisdictions, international organisations and institutions.<sup>12</sup>

Developing a curriculum to teach law in the context of globalisation presents its own hurdles, which may be in the nature of resource constraints as well as the requirement of balancing domestic and international perspectives. Such hurdles are particularly prominent in developing and least developed countries, given the challenges in accessing digital resources, global online databanks, the lack of training facilities and specialised teachers.<sup>13</sup> Furthermore, issues may arise regarding the cultural or social acceptance of global or international norms, particularly when they conflict with native ethical values. These may present themselves as challenges in teaching or practicing law within the global context. As such, legal education must address such challenges by promoting cultural sensitivity and ethical awareness in legal training.

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<sup>11</sup> WILLIAM TWINING, *GLOBALISATION AND LEGAL THEORY* 56 (Cambridge University Press 2009).

<sup>12</sup> RICHARD SUSSKIND, *TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* 123 (Oxford University Press 2017).

<sup>13</sup> Snyder, *supra* note 6.

#### **IV. TRANSITION FROM TRADITIONAL TO MODERN TEACHING**

##### **APPROACHES**

Transitioning from traditional to modern teaching approaches, legal education has evolved from a passive model to an interactive teaching and learning experience. Students are now encouraged to cultivate critical thinking, engage in experiential learning, and gauge the real-life implications and nuances of legal norms in an international context- for example, through moot courts and case studies.

Notably, the utilisation of technology is critical to modern legal education. The use of virtual classrooms and digital simulations help students participate in mock dispute resolutions mechanisms. For example, services like the Global Legal Hackathon offer avenues for students to engage in and resolve real-world legal issues while applying novel and innovative legal solutions.

Furthermore, collaborative ventures between universities across jurisdictions help students gain insight into various legal systems. Additionally, with the support of university LL.M. degrees, students can pursue careers in corporations or similar entities with a multinational presence and operations.

Notably, in 1990, the American Bar Association began the Central and Eastern European Law Initiative (“**CEELI**”) which collaborated with the newly independent states in Central and Eastern Europe, connecting American law schools with law schools in these regions.<sup>14</sup> This program

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<sup>14</sup> *About Us*, CEELI INSTITUTE <https://ceeliinstitute.org/about-us>.

was further extended to countries in Africa, Latin America and Asia, allowing for the development of ideas on globalisation and evolution of the legal profession. It has been observed that associations between law schools from different jurisdiction have contributed to the germination of law courses in international and comparative law. Such associations have led law schools to become more cognizant of legal education and practice in a globalised world.

It may not be out of place to say that globalisation offers new career avenues for law practitioners, including international dispute resolution mechanisms, human rights advocacy and legal counsel roles for international organisations and multinational corporations.

To understand and resolve global challenges, legal education needs to incorporate interdisciplinary and solution-oriented approaches. Providing affordable access to digital and online learning tools, along with fostering beneficial collaborations between universities from various jurisdictions, can help bridge the gap between developed and developing or least developed states.

Various law schools, such as New York University, Yale University, the National University of Singapore Law School, Shanghai's Fudan University Law School, along with newly established and emerging law schools across Asia, are developing curricula that provide opportunities to explore avenues of legal education in the context of both the Global North and Global South. These programs are designed not only to study law in a

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global context but they also aim at globalising the experience of legal education by including peers from various jurisdictions and cultures and learning from teachers immersed in diverse pedagogical methods. Notably, law teaching and practice now draw from globally recognised legal textbooks, internationally recognised case law materials and legal principles.

Such broad and pervasive trends in legal education have also been subject to criticism. Proponents of the globalisation of legal education view it as a positive development. However, for domestic critics, it is a worrisome trend since it diverts attention away from domestic needs and context. Some critics argue that the globalisation of legal education contributes to the commercialisation or corporatisation of legal education and law schools. They contend that this shift is influenced by currents of neo-liberalism and redirects legal education to serve the priorities of the market. What this group of critics assert is that the deliberate alignment of legal education with the priorities and needs of capitalism establishes a standard for evaluating teaching and scholarship, determining the extent to which a law school fulfils its educational goals.

When considering the requirements of lawyers practicing or advising across multiple jurisdictions, international organisations and transnational corporations engage law practitioners to interpret, translate and apply legal rules in various legal systems. As a result, law schools are developing legal curricula that provides opportunities to study law in different jurisdictions, bringing teaching faculty from diverse legal backgrounds, and implementing various competitive initiatives to familiarise law students with legal exposure in a global context.

However, critics argue that an excessive emphasis on fulfilling the agenda of the global market may disrupt the domestic pedagogical goals of legal education. It has further been argued that the globalisation of legal education may exacerbate the inequalities among law schools and legal academia. This discrepancy becomes particularly stark when comparing private and public law schools. In most countries, public law schools often lack the resources to be competitive or at par with private law schools, which may have greater access to funding and infrastructure for teaching law in globalised context. As a result, a two-tier legal education may arise, with private law schools strongly emphasising on globalisation, while public law schools focus primarily on domestic jurisdiction.

Further, the forces of globalisation call for the homogenisation of legal education. This undermines the scope for nurturing intellectual diversity and disorients critical pedagogical approaches.

Nevertheless, as argued by Richard Wilson, the global dissemination of clinical legal education should not be simply reduced to a product of a neo-liberal agenda devised to spread the American method of legal pedagogy. He posits that clinical legal education is critical for the dissemination of law and development – an area that, while allied with the neo-liberal project, also presents radical challenges to such an agenda.<sup>15</sup>

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<sup>15</sup> Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 PENN. ST. INT'L. L. REV. 421, 428–31 (2004).

## V. CONCLUSION

Contemporary discourse on the state and status of the legal education system in India highlights concerns regarding the lack of quality legal research and the absence of critical legal thinking, even within reputed institutions. Apart from the lack of critical engagement with the conceptual aspects of law, it has been noted that young law graduates often fall behind in their knowledge of procedural law, as observed by Hon'ble J. Dipak Mishra in the meeting of Vice Chancellors of NLUs held at ILI in 2018.<sup>16</sup> Justice Mishra further emphasised that despite the existence of National Law Schools for several decades, India has yet to attain international standards in the field of legal research. This requires that we invest in upgrading our research techniques and methodologies. A key reason cited for the lack of adequate legal research is the absence of incentives for researchers and teachers. It has often been pointed out that marginalisation and non-recognition of law teachers negatively impacts the quality of their work and commitment.<sup>17</sup> Consequently, the overall quality of legal education is deeply influenced by the calibre of law faculty, the commitment and analytical capabilities of students, and the availability of resources within teaching institutions.

It may be appropriate to state that the dissemination and evolution of legal knowledge is a complex and multi-directional process. While concerns about the currents of globalisation in legal education exist, the

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<sup>16</sup> Justice Dipak Mishra, Speech at Conference of Vice-Chancellors of National Law Universities on Legal Education Reforms, Indian Law Institute (Sept. 1-2, 2018).

<sup>17</sup> *Id.*

debate should not centre solely on whether legal education should adopt a global or domestic focus. Instead, it should revolve around the competing perspectives on the global legal framework, particularly the interests vested in both international and domestic law. The globalisation of legal education should not be measured or ascertained merely by the number of law schools providing international partnerships or study abroad arrangements. Rather, it should be assessed based on whether globalisation of legal education has empowered the law student, practitioner, and academia to fruitfully question, engage and enhance legal thought and practice