

CLINICAL & CONTINUING LEGAL EDUCATION- INTERFACE FOR CONFIDENCE BUILDING BETWEEN LAW STUDENTS AND LEGAL PROFESSIONALS IN CONTEMPORARY INDIA

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ABSTRACT

Journey of clinical legal education (CLE) and Continuing Legal Education (CoLE) encountered lots of vicissitudes in India. It teaches “learn the law through experiences”. Until 1996, law students only learned legal principles without practical training. Thereafter, apprenticeship began under senior advocates and practical papers were inducted in syllabi to make law students hover around legal problems, acquaint themselves with laws established to articulate solutions. Curricular Clinical training nurtures law students to acquire expertise on legal principles which can boost them to acclimatize to the profession. This paper highlights the relevancy of CLE and CoLE, their impacts, and their necessity in contemporary legal perspectives based on primary and secondary data.

Keyword: Bar Council of India, Clinical legal education, Continuing legal education, and Legal Professionals

1. INTRODUCTION

Difficult roads lead to a beautiful destination. Law students, as of today, have to overcome thousands of hurdles to survive in the legal profession. The course curriculum bereft of practical training and skill honing mechanism hardly garners them to establish their competency, expertise, dexterity in the field. It smacks of, practical study in new horizon, more involvement with sufferers/victims and to guide them to the proper route. For law students or law graduates, clinical training enhances their sagacity, assiduity, and commitment to the profession as social engineers.

CLE entwines learning by doing. Law institutes need to inject new spirit into the content of education to equip the legal professionals towards access to constitutional values. It refers to a non-profit law practice usually serving the public interest or underprivileged group in exposed situations and for lack of access to the legal system. Of course, CLE succeeds only when the trend of continuing legal education (CoLE) occupies a key position. CoLE concretizes scholarly insights to legal professionals for dominant expertise to measure their accountability. Both can foster justice dispensation without hassles to those

who are in need to be legal professionals. Justice delayed is justice denied. Hence, the dynamic role of such professionals is very crucial for maintaining peace in society under the garb of professional expertise. For the explosion of knowledge and demand for specialized skills for better delivery of legal services, CoLE has been the felt need. But lack of adequate infrastructures and effective institutionalized arrangement, in CLE and CoLE, has debilitated their suavity as required in contemporary scenario.

It is discernible that the legal profession has not attained the acclaimed status in India for the nuanced intricacies of learning to a level playing phase. The importance of CoLE has not been mainstreamed with a substantial role for practicing lawyers. Of course, a society reeling under poverty and reeking with unemployment, vulnerability and marginalization etc. marred and mangled with terrorism, drug addiction, juvenile delinquency, ethnic clashes, environmental degradation etc. hardly affords sufficient scope for law students to work clinically. But then untiring efforts are being made to eradicate the grey areas by different organizations.

All-India Bar Committee, 1951, suggested that the All India Bar Council should have a Legal Education

Committee to plug out the loopholes of legal education and incorporate and streamline measures for CLE and CoLE. Now, if appropriate measures are taken by the Bar Council of India under the Rules framed under the Advocates Act, 1961, the targeted features may be achieved. Further, Rules of Legal Education, BCI, envisages for the establishment of a Directorate of Legal Education under its disposal for organizing, running, conducting, holding, and administering inter alia CoLE after a Supreme Court verdict. Moreover, BCI issued a Circular in 2008 which inter alia included 3 clinical courses for law to foster modernization of legal study.

Ethos of legal education is required to change to adapt within the constitutional philosophy for ushering socio-economic transformation of society. Hence, this discussion puts forward a few ideas to execute measures towards CLE and CoLE under prescribed syllabi in collaboration with universities, National/State Legal Services Authorities and appropriate government etc. If Universities imparting legal education prescribes syllabus with practical papers cum clinical study, then it can bring a glimmer of hope to learners.

2. JUSTIFICATION ON THE NEED OF CLEANED COLE

The contemporary Indian society has been gripped with the fastest-growing economic brunt leading towards innumerable happenings. The unprecedented legal tussles have overburdened the legal forums which necessitate brisk attempts to solve the issues within the shortest possible span. But indolent learning and inept attachment to social moorings have increased the indifference towards the weal and woes of disenfranchised people. CLE and CoLE heighten the benevolence through curriculum and active participation of law students who assert and canvass remedy by skill-based competitive services. It enriches the credibility of legal practitioners who from learning stages possess deep penetration in law and develop empathy towards people in oppressed positions to advocate for needs and equal justice for them.

CLE and CoLE is essentially a multi-disciplined and multipurpose education that can develop the human resources and idealism needed to strengthen the legal system. They make lawyers, product of such education, to contribute to national development and social change in a much more constructive manner. Contemporary reviews have shown that CLE and CoLE have stalwartly played key strategies in strengthening professional capabilities in the USA and UK. In the USA, American Bar

Association has promulgated model CLE rules and attorneys must earn a minimum number of CLE credits over a set period of years.

In 1901, Russian Professor Alexender Lyublinsky proposed CLE as a component of reform. First time in 1949, the Bombay Legal Education Committee showed disillusionment over legal education and recommended that practical courses may be made compulsory. 14th Report of Law Commission of India (LCI), 1958, also recognized professional training for a balance. The Gajendra gadkar Committee is credited for articulating the objectives of legal education dedicated to rule of law, constitutionalism, and socio-economic justice. It insisted on making good lawyers to master and tailor law and philosophy in the legal landscape. The crucial debate of 5 years started in 1977 over 3years vs. 5 years law courses in a National Seminar in Bombay on legal education paved the way of 5 years course and BCI unanimously recommended practical training in law. Reports of UGC also played significant roles towards potential CLE which emphasized developing law as a hermeneutical profession with a variety of skills and sensibilities. National knowledge Commission also stressed to revamp the interface of CLE to envision its decisive roles for multidisciplinary study for paradigm shift of law learners. In 1973, the Ministry of Law and Justice, GOI, formed an expert committee headed by Justice V.R. Krishna Ayer to assess the need for legal aid and it culminated in the enactment of the Legal Services Authorities Act, 1987 paving the way for robust CLE. Bar Council of India recommended the practical training in law curriculum. In India also apprenticeship existed u/S 24(1)(d) of Advocates Act, 1961, where under junior advocate was trained and taught by senior fostering CoLE but was omitted in 1973. Re-attempt to introduce apprenticeship was not possible because of non-insertion of omitted Section 24 of the Advocates Act, 1961 and barred by Supreme Court subsequently. Likewise, CoLE can be viewed akin to mediation that rejuvenate, rebuild, and re-energizes our mind, body etc. CoLE also draws fresh vision to legal earning and pays rich dividends to synthetic knowledge while practiced to nurture judicial capacity.

Supreme Court also observed the need for CoLE and well-organized legal education as essential under the garb of ever-growing challenges encountered by the legal profession. CLE engages students in community outreach programs including women's groups, support groups of people with HIV, Juvenile Detention Centre, community center and helps to acquire versatility on right of stateless

persons, criminal law, consumer laws, land law, housing rights law, etc. Both CLE and CoLE can successfully result once the gap of legal order and social order is bridged by legal professionals, judicial officers, and human resources of clinical approach.

Juxtaposed procedural requirements smack of competent legal services in the emergent legal arena to heal the pernicious wounds. Acme of legal remedy can fulminate if relishing measures are concretized with satiation in legal avocation and satisfaction can gush out copiously. Now, a single iota of contrition if not shown by learners of law to tackle the grievance-ridden issues rudimentarily, they cannot adapt. It justifies the CLE initiated by Universities, law colleges, and Legal Services Authorities to dispense legal aid to poor and needy ones and convey a message that justice may be ensured, equalized, and executed. Knowledge reciprocated through CLE and CoLE represents the juridical conscience of learners disciplining them coherently. CLE and CoLE encapsulate a catalogue of techniques inextricably linked with the legal profession impeccably perpetuating learner's spirit.

Hiring excellent faculties have been a major challenge to legal education. If it is accomplished, it will serve a greater purpose. If the attainment of smart lawyers is not adequately incentivized with satisfactory protection to faculties to bring reform in this domain also, the objective of CLE and CoLE cannot be achieved. Moreover, for inadequate academic and examination systems, legal education has not reached patronage and now unable to respond to new challenges.

CLE and CoLE recapitulate and assert on the evolution of social science and humanities disciplines against the overwhelming exegetic and dismally doctrinal teaching. The future of occult learning creates seething results. CLE and CoLE encapsulate to learn law by revisiting and researching outdated evaluation of social heresies. It enlivens our understanding on the fulcrum of piquant incarceration of mystified facts for lived realities. If CLE and CoLE inculcate the young Indian law students and professionals for a fertile legal field, then the appetency of learning comparative law may be satiated.

CLE and CoLE promote the eradication of abysmal misery pent up in the mind of vulnerable people groping in dark for justice. But the manpower, artificial intelligence, and human resources play a vital role in emboldening their sanctity. Disruptive technology (DT) i.e. new technology may render traditional learning inefficacious and offers convenient and user-friendly gadgets at affordable price.

DT deploys methods to acquire more knowledge and to communicate with a spate of facilities in different platforms like on Youtube and other internet blogs. For law students, massive online open courses (MOOCs) may serve a greater purpose to earn knowledge. If the measures are implanted flagrantly to help under CLE and CoLE drive, then a bodacious and resurgent legal interface can groom in India.

3. PROBLEMS IN ADOPTING ROBUST CLE AND COLE DRIVE

It is inherent that every conducive measure is followed by disruptive factors. Though CLE is considered to be a strong measure for law learners but then latent factors stymie its growth. According to UNDP, the key difficulties against CLE may inter alia include,

1. Lack of institutionalized approach towards CLE and lack of enthusiasm of faculties and students.
2. No credit is given to students and professionals undertaking CLE and CoLE activity respectively which is a disincentive for them.
3. No workload reduction for faculties designated for CLE.
4. Lack of community awareness about CLE and CoLE.
5. Full-time faculties and students are not allowed to deal with clients before courts.
6. Difficulties in supervision and assessment of student learners and professionals.
7. Apprehension of conflicts between CLE driven students for offering free legal service with local legal professionals.

So, CLE and CoLE should move ahead simultaneously and strive to reach the destination for a strong legal education interface under the sweep of international approach also.

4. CONSTITUTIONAL AND STATUTORY PERSPECTIVES OF CLE AND COLE

Today, law should be an experienced reality. Grievances are superfluous and infecund laws are full of sack. Hence, the law should encounter all subversive radicals, inculcate zeal and zest to douse some trauma and macabre agony. Indian Constitution under socialistic goal vows to provide justice irrespective of social background rather it fosters an environment where all vile attempts to silence the voice of rationalists, who do not submit them to the whims of irrational obscurantist, are beheaded. It is

possible when the law students are trained sufficiently in practical fields with glaring issues to tailor the skills and capacitate with inherent guts. Practical training enhances skill development whereas CLE augments omnibus capability of learning contextualizing the role of law in society. So, under Constitution, CLE pivotally can integrate doctrinal and empirical study to penetrate social enigmas and provide justice under the spirit of Article 39A of the Constitution.

Pragmatic study accumulates knowledge which alone cannot cognize truth. It needs intellectual research. Constitution is a living law that warrants study with scientific temper, inquiry, and reform. It reveals that conversance with social problems and expedition endeavoured to solve them is always encouraged. Interviewing and counselling the clients/people on their legal issues motivates CLE through disclosure and communication. CoLE also fuels it. Lawyers or law students know the crux in catena of issues which strengthen them to fight a legal battle. Internship of law students also prescribed under syllabi now carries them one step ahead to excavate knowledge against deficiency of inter-personal skills. Post the acquisition of law degrees and turn to CoLE sharpens the talents of lawyers. Now, it is imperative for the officials visiting the law institutes for inspection to be more concerned about upliftment of quality of education, infrastructure, faculty and incentives etc. to garner CLE and CoLE. Moreover, the father of modern legal education in India, Prof. Madhava Menon said that “hegemonic globalization cumulatively changing the societal landscape must be diagnosed under the framework of the role of law distinctively otherwise any mismatch will showcase realization of goals as distant and unrealistic.”

Many legal luminaries advocate those curricular reforms are quintessential to prepare the graduates to practice in the legal fields in which alternative dispute resolution (ADR) mechanisms are the order of the day. It can be argued that CLE and CoLE should imbibe ways to incorporate dispute resolution to acclimatize students in multiple lawyering skills and strategies to counteract the risks of acculturation to adversarial adjudication.

Recent lockdown due to Covid-19 evoked a wave of uncertainty that gripped the legal fraternity. Dire necessity to reshape the whole gamut of standstill environment resiliently to match the requirements of the day, a section of people from legal background started organizing/hosting ‘webinars’ on relevant topics. It ushered into a fascinating experience to access

knowledge through the spectrum of speakers from various legal fields online which enriched the interface of CoLE. The galaxy of speakers shared thoughts just from a click away with an amazing opportunity to earn knowledge for legal professionals and students. These virtual congregations are perceived to disseminate knowledge on law continuously with practical experiences to touch the world. The webinars, in essence, transcended the contours allowing all to tap into diverse fields of knowledge but we resented for a sheer number of participants present.

Statutory frameworks also redundantly work sans CLE. For example, the real estate industry was a longstanding sector without any statutory surveillance. Flat buyers were duped by realtors after huge investments. The swindling and delaying tactics of realtors on the handover of flats irritated the home buyers. It culminated in consumer disputes on frustrated services. But evocation of community sensation led Parliament to enact Real Estate (Regulation and Development) Act, 2016 (RERA), which now spells out the remedies to flat buyers against any hemmed and heckled miseries. Fortunately, RERA now prevents the administration to alienate the investors and from being looked askance. It also mechanizes alternative dispute resolution (ADR), a widely accepted and reliable settlement mechanism, to remedy the homebuyers against cunning realtors outside court and CLE laden volition can emphasize on remedies. Family Courts Act, 1984, also prescribes court assisted conciliation to conciliate between litigants. So, the legislations devising ADR keep rooms for law students to make litigants come to amicable settlement through pre-trial meetings against apprehended estrangement or rife. Accordingly, CLE and CoLE seem to widen the knowledge culture and deference towards human rights.

5. ANALYSIS AND VIEWS OF DIFFERENT PEOPLE INVOLVED IN LEGAL STUDY

Due to paucity of time only 50 (Fifty) nos. of people, attached with law as students or professionals, were submitted questionnaire to respond on adaptability of CLE and CoLE. With satisfactory response, respondents welcome the intrinsic strength of CLE in Indian perspectives but resented on infrastructure and lack of awareness evoking drive. They appreciated the gravity of CoLE towards mobilizing skill honing professionalism to acclimatize for the nascent professional entrants. Students are having utmost faith in CLE but expressed their anguish and agony on infrequent training conducted by law colleges or Universities in and around Guwahati

especially. Of course, the interests of the students towards CLE and CoLE reflect their sense of allegiance to the profession to assess the plight of marginalized people.

From the views collected, studied, and assessed, it can be inferred that a meaningful work culture must be adopted by budding lawyers to justify CLE and CoLE to acclimatize to a vibrant and dynamic Indian society. It needs to be financially enriched and kept under constant surveillance, so that in the social milieu people hardly get the opportunity to question the willy-nilly and lackadaisical approach of the government. The institutions imparting legal education should not dilly-dally and slumber on CLE and in organizing CoLE to augment professional ambiance. Else, piecemeal efforts will deteriorate scenario making the need stale and grievance will always remain over-sighted.

The potential of inter-disciplinarity is persuading the present society. Law students should equip themselves with community-based learning for value-oriented culture in society. Knowledge of law can reinforce the panacea against the juridical intricacies perpetuating the risk to languish. CLE and CoLE assure a pluralistic approach. They work in a complex matrix of pedagogic and cultural ethos. CLE and CoLE stress is centrifugal and peripheral in terms of 3D malaise, i.e. discrimination, deprivation, and disparity. It palliates against enfeebled poignancy for entitlement, enablement, and engagement. If legal education is made intellectually stimulating, horizon-expanding and participatory then lingering social vices may be deracinated against smouldering and simmering lots.

Paradoxically and paradigmatically, it is candid that social dilemma enigmatically introduces bull in the china shop. CLE and CoLE imbibe inquisitorial quest focusing more role of lawyers and fresh entrants to civil law jurisdictions, unlike the adversarial system that depends more on the evidence adduced by litigants. Teacher-centered traditional legal education proved inadequate making students less participative and passive recipients of practical knowledge. So, if the clinical education rivets the problem and remedies as spree of solution in wee hours, people need not run from pillar to post for the result.

Empirical study carried on here reflects that CLE and CoLE in still the spirit of hypothetical reasoning of law pursuant. They intellectually act to ascertain the truth by syllogizing logical parameter in ground zero level for alternative possible remedy which remains covert and occult in external look. Their effective drive can recuperate the

jargon of indecisiveness of victims towards a remedy. Law students can, in the form of legal aid camp and literacy drive, community service program, pre-litigation conciliations and para-legal services etc. help people in society to unearth the doldrums.

Trial advocacy is also another way of simulation-based legal education system. It outlines the alacrity of students to a skilled professionalism by boosting the discrete curiosity in the chamber of senior advocates. Of course, barring the law faculty to practice in courts to acquaint with contemporary legal issues inhibits the amplitude of CLE and CoLE. Embarrassing social problems exacerbate for handling them in-dexterously. They ameliorate once-massive resolution drive is launched under CLE and CoLE assisted institutionalized framework on a perfect course design.

Prof. N.R. Madhava Menon insisted on the expeditious san's jejune disposal of grievances of people through relentless and untiring legal efforts. Unflinching, deft, and adept legal services vanquish procrastinated professional culture. Inept and inadequate knowledge on subjects multiplies incredibility and hence CLE and CoLE seem to sharpen the indolent lethargy removing adjournment tactics frequently resorted by mercenary professionals.

6. CONCLUSION

The success and outcome of CLE and CoLE can be evaluated through the summative feedback of the trainees/law students etc. The prevalence and advocacy of liberalized Indian economy and entry of India in world competitive market has enhanced the role of universities, law faculties, law students to be familiar and versatile with comparative business law, international law, etc. So, if collaborative multidisciplinary aspects in legal study on its lacunae, pitfalls, and shortcomings are incorporated for assessment then social hurdles can be evaluated. If umbrella organization, like Clinical Legal Education Organization (CLEO) of UK, Clinical Legal Education Association (CLEA) of US, Australian Clinical Education Association etc. relentlessly work, monitor, oversee and play supportive role to synergize the CLE and CoLE based education outcome in India, a productive environment can ensue.

It is reiterated that obstacles lurking in the assessment of problems and waylaying their impact study must be eliminated. Recalcitrant anomalies should be researched and remedies need to be explored for consecrating the ethics of the legal profession. Misconception and indifference on CLE and CoLE should be ostracized so that

it can fructify and metamorphose vehemently. It depends on how far lawyers and law students are votary of truth to generate hefty-lofty results without adulating on the farcical profession.

Let us remember Prof. N.R. Madhava Menon who pioneered the CLE and CoLE drive in India to ferret out the latent befuddlements of traditional legal study indoctrinating the clinical parameter. CLE and CoLE were intended to encompass the new social developmental trend for enjoying rights, fruits of affirmative action etc. Today, in India, lots of legal adventure-oriented domain like Skill Development Mission, Digital India Mission and Stand Up/Start-Up Project etc. has emanated to feed the needy people which is likely to be countenanced by CLE and CoLE for cultivating knowledge. The more message of marginalization is disseminated the more is the possibility of perceiving the existence of rights. Hence, the National Law Universities, Academic Staff Colleges, and traditional Universities should give more freedom to teachers and students to learn and apply law/legal principles through these avenues.

Here, it is worth mentioning that National Knowledge Commission also stressed to standardize the legal education for path-breaking and paradigm shift responding to the need under the Indian Constitution. But everything seems to be possible only when the need of CLE and CoLE is implanted in the heart of pursuers as to its sacrosanct vision to imbibe dexterity and deftness for the legal profession.

There is a need for a radical transformation in both content and methods of legal education because of multiple challenges posed by globalization. Now to challenge the status quo and intricacies to reform the arena, we should streamline the system from conventional to contemporary needs to facilitate the removal of nuanced drawbacks and deteriorated legal education. Greed to monetary incentives should be lessened if we want to serve people from marginalization and vulnerability. Wholeheartedness, volition, and devotion can mitigate this bizarre incidence of legal services grappled under mercenary barons.

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