



PRIVATIZATION OF HIGHER EDUCATION WITH SPECIAL FOCUS ON THE ROLE OF PRIVATE UNIVERSITIES IN LEGAL EDUCATION : A CRITICAL ANALYSIS

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Abstract: *Almost all the nations are investing huge money on education sector to keep in mind the importance of education as essential as advancement of the country. To cope up with the pressing demands of the changing society, there is shifting of responsibility of imparting education from public sector to private sector. Here the researcher is trying to analyze the pros and cons of the privatization of higher education particularly the focus is on legal education. In a nutshell, there is no clear-cut policy on the part of the government which is needed to be supplemented by the efforts of the non-government organizations and the institutions themselves to generate resources. Being a multidisciplinary in character in legal education not only professional skill is acquired as a part of professional education, but so far its liberal part is concerned it gives some value oriented, social -cultural education.*

Key Words: *Education, Privatization, Higher education, changing society, Legal education, Advocates, Bar Council.*

1. INTRODUCTION :

Education, in true sense, is the basic structure of a nation. The continued existence of society depends upon the transmission of culture to the young. Education has come to be one of the ways of fulfilling this need. The purpose of education is not merely knowledge of some subjects but it is an instrument of character building and to develop those habits and attitudes with which the people may successfully face the future. Further it is more regarded as an agent of social change than an instrument of social control. All the nations of the world are investing huge amount of money on education for it has become an essential condition of advancement in science; technology and industry normally go together. Again formal professional education has also become an absolute necessity today.

Modern system of education is quite different from earlier thoughts of education where much emphasis was given upon character building as well as improving the standard of life to the students. Modern society is a changing society where schools, colleges and universities aim at communicating empirical knowledge, that is, knowledge about science, technology and other types of specialized knowledge to meet the demands of the changing society. This transformation has led to some far-reaching consequences.

The NATIONAL POLICY ON EDUCATION was set up in 1986 which recommended for reorganization of education. The NPE visualizes that higher education should become dynamic as never before. The main features of the programs and strategies to impart the necessary dynamism to the higher education system will consist of the following:

- Consolidation and expansion of Institutions.
- Development of autonomous colleges and universities.
- Redesigning courses.
- Training of teachers.
- Strengthening research.
- Improvements in efficiency.
- Creation of structures for co-ordination at the state and national levels.
- Mobility

2. Privatization of higher education in India :

2.1 An overview:

The recent debates in the education circle in India are revolving around privatization of universities. They claim that it is the road to progress in Indian education; however this needs to be taken with a pinch of salt. There are both



pros and cons of this system. If the universities are privatized, then it will become much easier for the universities in other countries to set up their campus here because they will not have to negotiate with the government then. This will save a lot of money of those students who go abroad every year to study. Better quality education will become accessible to many others who cannot presently afford it. The infrastructure will improve immensely if the universities are privatized, no doubt. However there are some shortcomings too. Higher education will become much more expensive than what it is now. Many people who are humbly placed and are able to educate themselves because the fees is not too high, will no longer be able to attain higher education. If lesser people go to the universities, skilled human resources of our country will reduce considerably, hence affecting the development of the nation. The professors in various colleges fear that the privatization of the universities might lead to deterioration in the working conditions for them. The universities may not be able to maintain the same standards as the ones which exist outside India. They may not grant enough salaries to the professors but work load will increase or the universities might hire people who are not well equipped to teach the prescribed syllabi. In 2011 only 5000 students got admission into IIT though 3 lakhs students gave the entrance. What do you expect the rest to do? Either they have to give up the stream of their choice or go to the private colleges or go abroad if they can afford it. Yes, private colleges need to lower the fees but that doesn't make privatization bad.

In a nutshell there are some benefits of this proposal but a few loopholes too. The government needs to be wary while making such a decision as the entire country's education system is going to get affected by it. Higher education in India today is ridden with problems which are many and various. Some of the most crucial ones that confront us are somewhat controversial and at any rate in need of a thorough scrutiny in the overall interest of the country. The issues are however, inter-dependent and include:

- a. broadening of access in higher education
- b. ensuring equity in higher education
- c. the financial crunch, and
- d. move to privatize higher education as a remedial measure.

There are indications to partially privatize education in India as a remedy to most of the problems and issues raised above. The following crucial questions, therefore, need to be consciously raised:

- What is the rationale for privatizing higher education?
- What exactly are the issues related to access and equity in higher education and how would privatization tackle them?
- Will private effort be able to generate the requisite finance for higher education?
- How has privatization delivered goods in the educational system abroad?
- Will private funding of the university system eventually be a substitute to the statutory and constitutional requirement of the state to maintain institution of higher learning?
- Will private funding be really available for courses other than those concerned with professional and technical higher education?
- Will privatization not lead to commercialization?
- Is commercialization of higher education in national interest?
- Will privatization not adversely affect interests of the poor and other backward sections of the society?

2.2 Private Universities: Growth & Development

India has quite a large system of higher education in as much as we have today 250 universities, over 10,500 colleges and nearly 55 lakhs of students being taught by over 3 lakhs of teachers. And yet the proportion of the university and college going student population in the relevant age group of 16 to 23 is dismal 6%. This is quite low even when compared with developing countries, the figure being 20% for both Egypt and Thailand, 10% for Turkey, 11% for Brazil and 16% for Mexico. In the developed countries, access to higher education is to the tune of 40% and more. Thus, though education in India has expanded generally, inadequate access continuous to cause concern. This issue, therefore, needs critical examination.

On the one hand we are worried about the so-called 'mushroom growth' of the universities and colleges, and on the other, are unable to provide access to education even at par with most other developing countries in the world. Further, while enrolment of women and those of belonging to SC /ST groups and other backward communities has improved, they are still very much under represented. Thus, the twin issue of access and equity needs to be tackled by adopting alternative strategies.

As we know, to meet the challenge of equity and improving the quality of education, access to education has been increased with large investment. It is all the more necessary to ensure continuous inflow of funds needed for



implementing and carrying out relevant programs and activities. But then there may exist the problem of resource crunch. A suggested way out is exploring additional avenues of generating systems own resources instead of being fully dependent on the State exchequer. To improve the higher education system both the Governmental as well as non-governmental participation and contribution are very much essential.

Lack of adequate funds in education is the most crucial issue. While overall investment in education as a proportion of the gross domestic product has gone up from 1.2% in 1950s to 3.7% in the 1990s, it is still below the norm of 6% as stated in the national policy on education. Most higher education institutions all over the country are facing acute financial crisis. Since provision of free and compulsory education at the elementary stage is a constitutional commitment, budgetary allocation for the sector of education is continuously on increase while the university and higher education has got a raw deal for the sixth year in succession. This is in keeping with the declared objective of the Union Government that the lion's share of funding for higher education must come from sources other than the government. The consequence of inadequate investment in higher education is serious. While the universities are at pain in persuading the government for increased budgetary allocations, some of them have simultaneously taken measures for generating funds of their own. It is high time the university system resorted to long-term resource planning instead of taking the state support for granted. Each university will now have to identify avenues of resource generation, internal as well as external, depending upon the nature of its programme offerings and the locale. The Punnayae Committee set up by the UGC and the Swaminathan Panel of the AICTE have made some brought recommendations in this regard, rationalization of fee structure is one of them.

In most institutions of higher education, at present, the tuition fees contribute very little towards earnings while the recurring expenditure on each student is much higher. In fact, an upward revision of fees is overdue. The need to raise the tuition fees to at least 20% of the recurring expenditure per student generally and at a still higher level in higher professional and technical courses is being advocated. Increase in fees from the foreign students at further higher level is being talked about by reserving seats for them in select institutions like the IIT and the IIMs. While measures such as these appear realistic, their repercussions need to be thoroughly assessed before taking some definite decision in the matter. Particularly, interests of poor students generally and those Indian students who are pitted the against foreign students admitted on the basis of higher fees need to be protected.

Thus to keep up in mind the contribution of some leading universities particularly Benaras Hindu University and the Aligarh Muslim University, it can be concluded undoubtedly that private initiation to improve the higher education is not new to India. Again, a large number of educational institutions in the country especially those concerned with general and professional higher education have been established on private and voluntary initiative with or without financial subsidy from the Government.

2.3 Importance of Privatization of Higher Education:

There are views for and against privatization of higher education in India. While some have started criticizing the concept even before it has come to be defined and taken off the ground, others consider it very useful and indeed inevitable. So much so that proposals for setting up private universities affiliating the privately funded institutions are being discussed. For one thing, there is no denying the fact that higher education is comparatively less expensive in India even though under-developed countries like Bangladesh and developed ones like the US, Japan, Australia and many others have successfully switched over to privatization of education without making it a crass. Can India also think on these lines especially if the money earned can be ploughed back into the educational sector for its own improvement?

Summing up, a clear-cut policy of the Government of India regarding privatization of higher education is unfortunately not available at the present moment but it is indeed true, that there is a need for supplementing Government measures by the efforts of the non-government organizations and the institutions themselves to generate resources. This, in a way, does amount to partial privatization calling for caution against, amongst other things the following:

- resultant commercialization of education,
- obstacles in merit based admission,
- deterioration in academic standards,
- encroachment in institutions and autonomy,
- service conditions of teachers,
- education becoming subservient to market logic advanced by the private sector in the country.

3. Legal education : A dynamic profession

So far legal education is concerned, the main purpose of pursuing this degree is to become lawyer or legal practitioners. But however this degree is very much needful in other domains for example, business field, academic field



or also in the fields of politics. The main difference between legal profession and other professional courses is that that the former is both professional as well as non-professional/liberal unlike the later. By pursuing legal education not only professional skill is acquired as a part of professional education, but so far its liberal part is concerned it gives some value oriented, social -cultural education. Therefore it can be concluded that unlike other social sciences, legal education are multidisciplinary in character. Because we find in many law subjects, a scientific background is not only necessary, but is essential. Similar way some financial studies and accounts has also become necessary in many law subjects.

Professional education has been fast growing in India including law as a very bright career option to its aspirants. There are a number of academic programs in legal education offered by various Law schools and Universities in India and these courses may be of 5 years, 3 years or of 2 years of duration. Apart from that, there may also be 1 year or even 6 months diploma courses of having specialized knowledge in various fields of law.

Under the provisions of Advocates Act, 1961 the Government of India constituted the Bar Council of India (BCI) which is the main statutory body in this regard along with the state -level bar councils working under its control apart from laying down the standards of professional conduct and etiquette.

Once the legal profession was considered as very noble profession and lawyers were held in very high esteem in every society. But, however, it was confined only to few people of the society, very restricted families did not allow their children to study law. With the changing scenario of economic as well as social development all over the world today it has become one of the fastest growing professions. Besides being profitable, it is very dynamic profession which attracts a great number of students for its adventurous and exciting career.

Following are some of the career options of legal field:

- Advocate
- Advocate General
- Attorney General
- Author
- Company Secretary
- District Attorney
- Legal Advisors
- Legal Process Outsourcing (LPO)
- Magistrate
- Notary / Oath Commissioner
- Public Prosecutor
- Solicitor
- Teacher

There are law courses in India both at the undergraduate and at the postgraduate level which the students can either enroll for a five year BA LLB course straight after your 10 + 2 or join a 3 year LLB course after graduation that legal education has been offered by both the traditional universities as well as the specialized law universities and schools after having completed undergraduate degree(LLB) or as an integrated degree(BBALLB/BALLB etc. Therefore what we find that program of Legal education are now among the top 10 programs in India which generally refers to the education of becoming a practicing lawyer.

Though traditionally in India there has been offered a three years graduate degree in legal education whose title is LLB (Bachelor of Laws) or BL (Bachelor of Law) after having a Bachelor's degree in any subject from a recognized institution. But since 1987, this structure has been changed. Now in this regard the Advocates Act is the prime law under which both the aspects of legal education as well as the conduct of legal profession are to be controlled. For the granting of a law degree, in this regard the bar council of India prescribes the minimum curriculum which every legal institution is required to follow for eligibility. For this purpose the Bar Council observes a period of supervision for every institution where it evaluates their teaching methodology and curriculum and if it is found that the institution meets the required standards, then it recognizes the institution for conferring the law degree.

4. Role of Private Universities in Legal Education: An Overview

4.1 An overview

In the wake of reformation of legal education as suggested by the Law Commission of India, the Bar Council of India started establishing specialized law universities on experimentation which is entirely devoted to legal education for raising the academic standards of legal profession in India. This was the event decided somewhere in 1985 and as a result of which National Law School of India University, popularly known as NLS, was established in Bangalore as



the first Law University in India. Thus opened a multidisciplinary and integrated approach of legal education for the first time by this university and a law degree other than LLB or BL was recognized in India titled “BA, LLB”.

After that a number of law universities were established where 5 years integrated law degree is offered with different nomenclature for example, Bhopal in 1997, NALSAR University in 1998. Further another integrated law degree of “BBA LLB (Honours)” was offered in 2001 for the first time by the National Law University, Jodhpur, then National University of Juridical Science offered the “BSc., LLB (Honours)” degree and after that BA/BBA/ BSc., LLB (Honours), three different streams and honours specialization was started by the School of law, Bhubaneswar in 2007 for the first time in India.

But however, the traditional way of offering three year law degree (LLB) are still continuing in India by other institutions in spite of development of these specialized law universities. Again it should be mentioned here that as for the 3 year LLB degree the eligibility criteria is of a bachelor's degree, similarly for being eligible for the 5 years integrated law degree, the applicant must have successfully completed class XII from a recognized Boards of Education in India.

After having 3years LLB degree as well as 5years integrated law degree (BALLB/BSc.LLB/B.COM LLB etc. the students are entitled for enrollment with the Bar Council of India on fulfillment of eligibility criteria and after having the requisite score in the examination of All India Bar Council Examination popularly known as AIB Exam and then after enrollment can start practicing as a lawyer before any court in India.

Here the courses of law along with its criteria are mentioned below:

- LLB, 3years law course - it is the traditional way of offering of a duration of three years. Almost all Law University follow a standard LLB curriculum, wherein students are exposed to the various required law subjects.
- 5 years integrated undergraduate law degree- BA. LLB, BSc. LLB, BBA. LLB, BCom. LLB which have been offered in most of the autonomous Law schools for 5years duration.
- LLM (MASTERS OF LAW)- Master degree of Legal education is generally of 2 years course and it is very common nowadays as it is an essential criteria for promotion in Judicial service and other domain.
- Master degree course in Business Law
- Doctor of Philosophy (Ph.D) in law.
- Integrated MBL- LLM/MBA-LLM- Generally three years double degree integrated courses with specialization in Business Law.

Further, so far admission of law is concerned we find that, most of the traditional universities, the students are admitted on the basis of an admission test, though, some traditional Universities and affiliated colleges also admit students on the basis of merit in the preceding examination. But however, as of 2012, in most of the National Law Schools in India a Common Law Admission Test which is popularly known as CLAT exam is taken for admission to LLB and LLM with few exceptions for example, the National Law University, Delhi and some private autonomous law schools conduct their own admission tests most prominently LSAT Examination by which admission to Jindal Global Law School is done and this LSAT examination originally conducted by Law School Admission Council, USA through its affiliation in India.

Legal occupation had witnessed turn around in the past 10 years. Be it in practice, research or corporate law, the landscape of the legal profession has had a dramatic change. Along the way, has also been observer to these remarkable transformations. The making of a good lawyer takes a lot of things from listening to counseling, from drafting to negotiating and from researching to arguing. To give all these things shape, there is only one path and that is to study law. A professional degree in law will give an aspirant a strong foundation in this line of work where perseverance is the name of the game. Elucidated below are some grounds on which can be considered as a prospective destination for studying law.

4.2 Law As Versatile Career Option In India

Gone are the days when lawyers is used to be perceived as proteges of Satan in black defending the criminal and blurting out the trademark ‘mee lord’ much to our amusement. Law students are employed as corporate counsels and consultants in various firms with them playing crucial roles in the overall functioning of a company with the job being extremely ideal for those good at administration. Ambitious lawyers also have the autonomy of starting their own firm and can work on a contractual basis with various companies and commercial houses. Starting such firms would be advisable only for those who are ready to experiment and prepare to take a risk.



Lawyers interested in working for the government can get selected in the central services (Indian legal services) through the exam conducted by the Union Public Service Commission. Posts offered by the government range from law officers to Assistant Advisors, Deputy Legal Advisors to Legal Advisors.

A report prepared by a leading online firm confirms that legal counsels and consultants have started earning well in with pay packets starting from Rs.4 lacs per year.

All those who yearn to share all their knowledge with others can also seek employment in various law schools and Universities as professors and lecturers. This requires the candidate to be very outgoing and friendly towards all the students. If the Contender wants to go the conventional way, then nothing gets better than litigation. It is highly recommended for those who are analytical. Diverse cases keep coming in all the time and a thorough case study is required so that the litigator has strong points in his armor while supporting his argument. Students who feel strong about a certain cause and who want to make a difference to the society can take up social Work where they would be taking up causes to support individuals and communities.

4.3 Availability of Good Law School In India:

India has a decent number of law colleges which toil hard to impart legal education in totality. With the presence of acclaimed law schools like the National Law School of India University, NALSAR University of Law, Symbiosis Law College, the Faculties of Law in the University of Delhi and the Banaras Hindu University and other such renowned colleges, legal studies in India have been designed in such a way that the students are able to cater to the needs of all kinds of legalities and are equipped to make a mark on the international Dias.

These law schools whose names are mentioned are the most significant ones and our superb in factors like industry and peer reputation, academic standards, quality of faculty, recruitment statistics, student community, hostel quality and infrastructure. A graduate degree in law from such schools would lay a strapping foundation for one's career.

Prosecutors and Defense attorneys from all over the country who have made a mark in the field conduct workshops in all these institutions to give students an insight into the environment that a notary experiences insight a court room. The claimants are also given opportunities to intern with legal firms, lawyers, judges corporate houses etc. With such kind of exposure, the aspirants can expect a sparkling career in the future.

4.4 Demand For Legal Professionals:

According to a report prepared by the Financial Express, attorneys who have specialized in market issues connected to assets and investments are in massive demand courtesy the fact that purchases and subsidy raising activities are on an all-time high. Litigators and consultants also depict a very high requirement on the radar. Firms visit these Law schools on a regular basis to scout for the best talent which has a wide-ranging knowledge about the venture markets.

A research analysis revealed by hrworld.com discloses that the portfolios up for the grabs are first year associates, in-house attorneys, intellectual property legal secretaries, patent attorneys and litigation paralegals. Areas like intellectual property, bankruptcy, security and litigation involve a remarkable amount of research which is forcing companies to go on a talent hunt across all the law colleges in and hire intellectual hopefuls who are capable of providing good legal services. This has resulted in most of the candidates earning huge wages apart from attractive perks.

Based on the most recent assessment, contains over 100 Law schools with 80,000 law aspirants graduating every year. The number of attorneys have been estimated at over 1 lakh

4.5 India - A Varied Destination To Practice Law:

There are lots of civil courts, district courts and high courts in the nation which gives budding lawyers a pedestal to prove their mettle and test the waters. All law enthusiasts who wish to explore other avenues than litigation can practice in fields like corporate finance, business outsourcing, international trading, property disputes, immigration and employment and product accountability. Such assorted alternatives spoil the aspirant for choice and give the concerned person enough food for thought.

There are other sub divisions in the above mentioned division. Corporate finance includes mergers, acquisitions and equity compliances. This would be suitable for those who love to get into the complexities of numbers. Outsourcing involves negotiations about various agreements. This would be tailor made for those candidates who are good at conciliations. International trade is about discussing issues on trade, investigating into excise cataloging and representing firms in front of the Foreign Assets Control Department. With so many options at hand, the contender will get a chance to explore lots of genres in his specialization.



5. Conclusion & Suggestion:

In the wake of globalization, privatization and new economic policy, legal education throughout the world has been posed a great threat. More specifically mentioned that due to drastic change in the information and communication technology the whole system of law is experiencing a new vista. To meet the pressing demands of the society there should be best approach on the part of the state to strengthen the system of legal education including the teaching standard, research and other activities. In this regard following things must be taken into consideration-

- Practical legal education should be emphasized- It includes speaking, reading and thinking abilities with boldness, certainty and without hesitation. Moot court is one of the ways to improve this.
- Internship – a great professional exposure should be encouraged.
- Collaboration with international law schools should be done – Some national law universities for example NLSIU (Bangalore), NALSAR (Hyderabad), and NLU (Delhi) have already started collaboration and get very dynamic results.
- Faculties of law – to keep in mind that law teaching is a difficult task there must be best program and policy regarding qualification, experiences, training in probation and also remuneration structure.
- Scope of extracurricular activities must be increased.
- Development of law library must be up to date which is one of the important criteria of every legal institution.
- Collaboration with the legal practitioner particularly there should be organized classes by senior lawyers in every law school. In United States there is found one unique characteristic in legal education in its collaboration with law firms, corporations, NGOs and other concerned organization which should be adopted in India.

In short, modern legal education should be developed in such a way so that it fulfills all the changing needs of the society.

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