

**DEMYSTIFYING HIGHER EDUCATION IN LAW: A STUDENT-TEACHER
PERSPECTIVE**

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Abstract

Purpose: Pursuing a master's program in law entails various facets. These facets must be comprehensively analyzed to demystify the lacuna in the existing system of higher education in law in India. This work aims to provide a helicopter view into the legal pedagogical decisions for a master's program vis-à-vis the individual goals of the participants.

Design/methodology/approach: The research work is precursor to a larger empirical study to identify the loopholes in the higher education in law, in specific masters in law from students' perspective. Teacher's viewpoint will also be an important factor to undergo qualitative and quantitative analysis. The study will primarily be a doctrinal study with a few case studies to highlight the loopholes in the higher education in law.

Findings/ Probable outcome:

The students' and teachers' perspective of looking at a master's program in law should intersect at some point to effectuate the pedagogy. The debate of effectiveness versus purpose, specialization versus general, all-purpose versus research oriented, classical versus progressive pedagogy shall bring about a progressive higher legal education model.

Research limitations/implications: Due to paucity of time and resources, the authors have not included institution wise inquiry for determination of patterns of legal pedagogy. This research is therefore restricted to the individual experiences of the authors along with a few response gathered through questionnaires to analyze the current issues in the higher education from both

the perspectives. The authors are mindful of the personal bias that may crop up and hence the research implications are carefully drawn.

Practical implications: The research aims to further the course of higher legal education in the country. A detailed analysis of the student-teacher experience in a master's classroom shall facilitate development of an effective teaching methodology that is not only student friendly but also adds value to the legal academia in the coming years.

Originality/value: While only a few studies cater to understand, analyze and evaluate the current legal education system in India, this study zooms in to understand the challenges faced by students as well as the faculty members in the stream of law in the present higher education system. This ultimately leads to facilitate the legal pedagogical decisions with respect to needs and objectives with which a student enrolls in a master's program in India.

Key Words- Higher education, law, pedagogy, student-teacher experience.

Introduction

For a variety of reasons, the higher education system in India calls for an extensive discussion. A bird's eye view of the studies and literature available in this area emphasizes on need to reform and transform the higher education system. Numerous commissions and committees have been established to look into the status of higher education in the country but none have relied on real time and sector specific data to facilitate growth in the respective areas.¹ While most of the literature available revolves around public private sector involvement in higher education, we fail to acknowledge the challenges the faculty members and the learners face. It is significant to note that there is dearth of literature addressing the concerns of students and teachers in the LL.M. Program.

One of the reasons for proliferation of post-secondary education in law is what we refer to as 'Massification of higher education' across the globe. The response to this global movement however, affected the quality of higher education specifically in legal sector. This can be proved logically by the non-appearance of any of the premier law schools of the country in the list of top 100 Universities across world.² To the contrary, simply because none of India's premier law institutions appear in this list does not mean that quality of education is poor. It is rather indicative of the fact that we need a focused review of LL.M. program in law offered by a variety and number of law schools in the country. Studies at micro and macro level are scanty and therefore this study is placed in this backdrop to encourage researches in this area.

Higher education system in India constitutes a significant portion of the government's expenditure. More than 40% of the total education budget is allocated for higher education.³ However, the breakup of budget allocation to centres for post graduate studies varies from university to university and henceforth a master's program becomes a side-wing of any law school in India. With meagre studies and discussion on a variety of issues that affect the career of thousands of students enrolled in LL.M. programs, this research work aims to highlight the various tangents to test the operationalization of a LL.M program in law through lenses of a faculty and a learner.

The common myth of world class education is created at the school level education. We need to understand that throughout twelve golden years of our learning, we are made to unlearn the basic instinct of questioning and introduced to ‘not so subtle’ art of descriptive analysis. Our graduate programs also provide us with a framework of heading towards verbatim reading and memorizing of provisions of law. Although there is no harm in verbatim blabbering of the provisions, except for the fact that the learners are refrained from questioning the WHY. There exists a reason behind everything in this world, might be a priori or metaphysical or a combination of both. But the sudden confrontation with such critical and brain storming techniques of knowledge sharing, most of the students in a large group get left far behind the flow. As a student sitting in a classroom, I feel that one’s brain needs an interactive booster to kick-start my thought process. While the traditional method of one sided teaching doesn’t feed a student enrolled in a master’s program well, vox of each brain in the class channelizes the learning process in critical learning and is thus, mutually beneficial.

Need for a master’s program in law

Education is means to enable a person leading towards achieving various goals in life, ultimately paving way towards the Constitutional aim of achieving “social order”⁴ in which social, economic and political justice and welfare of people could be ensured. Higher education brings a person closer to achievement of these goals. In India, parents’ ambitions play bigger role in enrolment in higher education than the students themselves. These goals range between just for the sake of degree, marriageability, social status, to having better prospects of livelihood.

Ideally speaking, a master’s program in law is that additional feather that beautifies the intellect of the learners. The idea of higher education in law was not traditionally an innate concept but the trend of enrolling for a master’s program has emerged for a variety of reasons. A need for discussing higher education in law thus arises when accountability of a master’s degree arises in the legal fraternity. The LL.M. program is in most cases considered as a means to achieve the next step in career or simply time and/or a means to explore career choices, especially competitive exams for civil services and/or judiciary, or to get clarity of career choices. While it is not entirely wrong to enrol in a program with such motivations, but it is at the same time

injustice to a master's program that is designed with set objectives, mainly to hone skills for research (it was majorly the idea behind two years LL.M. Program) or specialize in one stream of law (the purpose of one year law course; this purpose has also moulded the specialization or honours undergraduate courses in law as well). The void thus widens when the design of the program does not fit with the objectives with which the student signs up for the program.

The social recognition of the importance of making higher education systems into national models of growth and development and the value of knowledge and information as factors of productivity and competitiveness has given rise to an increased demand for university education.⁵ However, with the digitization of knowledge; abundance of information through authenticate and unauthenticated content has become easily accessible. To say that it gives competition to the University education would mean quantifying education as a commercial activity. Information boom has given birth to reluctance in students to attend the classroom discussion. With the changing lifestyles and modernization pleas, the attention span per person has reduced. This has made the conduct of class challenging as the attention of the students is needed to be brought back to the class again and again, on the other side it has diversified the discussion of higher education as more than a mere knowledge imparting process. Now, a student can pose a challenge to the teacher with a well-cited content almost instantaneously with help of various search engines available.

The emergence of India as a knowledge-based, service driven economy has made its human capital its major strength and opportunity for growth.⁶ Thereby, we must be mindful of what constitutes this knowledge and how is it produced and shared, and most importantly among whom. More so when master's program introduces a graduate student to philosophical method of investigation.

Knowledge is, thus that permeable factor which helps inject learners' brains into the system of higher education. As Kant suggested the starting point of any philosophical investigation is the mind which can hold the knowledge.⁷ However, the knowledge production and imparting processes need both a priori and metaphysical contributions from the participants. The metaphysical is supported by Hayek's Cognitive theory which says that cognition is a matter of chance, like taking birth in a family, a particular class, or caste or community or place of origin among others.⁸ The knowledge imparting process cannot be understood by Mati Matsuda's

inside-outside⁹ binary perspectives. We thus need a multi-pronged approach to acknowledge the multiplicity of forces acting.¹⁰ Thus, a well-designed LL.M. program aims to converge this process to suit the needs of the learners and make them future and industry ready.¹¹ LL.M. being a professional course it must be cohesively designed to serve the industry needs. However, with growing dynamism of the legal profession, there has been innovation in the program design to suit the various objectives of the learners, not only short term but long term too.

A master's program in law is thus the first step towards philosophical investigation in a specialized area. With this aerial view of a master's program, we must address that every student enrolling for the post graduate program has certain short term and long term objectives.

The purposes with which students enrol for a master's program:

1. Gain specialized knowledge in a particular area
2. Clarify further career ambitions in life
3. Pursue a career in academics
4. To fulfil the mandatory requirement for pursuing a doctorate degree.

The overall design of the LL.M. program refracts a few debates viz. General versus specialization; one year versus two years; objective of the learner versus goals of the institution; regular versus part time among others. We shall deliberate on the same as they are needed to clarify whether the goals of the institution and those of the students intersect at one or more point in time.

General LL.M. versus Specialization LL.M.

With a notion that a master's program has to be a specialized program, I entered my law school to pursue my LL.M. As the orientations began which are a must, I gradually began to understand that this law school being India's premier University is steered for research. My program was

designed to feed the hunger of an academician. But the question was if I was ready to be an academician?

The ironical choice

After the completion of the CLAT PG examination, as per the ranks and choices made, the students can choose. Most of the National Law schools in the country have fixed their domains area for specializations, most common being IPR and Business laws. So at this stage the student has to either choose the National Law School or the domain for specialization. For example, X got AIR 115 in the CLAT PG examination and he is interested in constitutional law. X can either opt for NALSAR Hyderabad or NLIU Bhopal subject to the rank list and preference list mandates. But if X wants to opt for NLSIU Bangalore, he will have to choose either between IPR or business law domain. So for records, there exists a choice with the student, but does it really exist?

According to the objective a learner decides for himself, as per the above-said permutation and combination of limited choices available, choosing the subjects becomes necessary. Then the next choice that is offered is for opting for electives, apart from the three mandatory subjects, to complete the requisite credits. Due to paucity of time and experts, not all law schools can offer an abundant number of subject choices. Moreover, at this novice stage, most of the students enrolled right after their graduation, are not well equipped to make the right choice. Further, such decisions are non-reversible. At nowhere the authors mean to say that this whole process is a waste; instead, they want to bring the attention towards the non-alignment of goals of the learner with the program design for a bunch of students with different objectives.

Whether it is emphasizing on research or on corporate law or any other there must be matching of goals as far as the institution and the students are concerned. Further, would it be right for a research oriented institution to be biased towards a domain or a few domains in law? With a variety of domains that law as a discipline constitutes, the universities must offer a cogent, comprehensive environment to prepare the learners for research, as it is that highest common factor which is present in all domains and sectors where law exists.

One Year versus Two Year Program

After completion of the three year post-graduate graduation in law degree or an integrated undergraduate program of five years, a student can enrol in a LL.M program at any University duly recognized by UGC. Prior to 2012, the duration of LL.M program was two years. The round table on Legal Education set up by MHRD proposed to reduce the duration to one year.¹² The reason given was to make it parallel to the master's program offered by universities in developed countries. In an informal conversation with a renowned professor of Faculty of Law, University of Delhi, it was emphasized that our circumstances are different from the developed countries and blindly copying without understanding the reasons behind hinders the educational growth of the youth.

The expert committee in 2012 formulated the guideline for introduction of one year program in India. These guidelines mention establishment of Centre for Post Graduate Legal studies with a minimum of 4 professors and/or associate professors. While the guidelines vaguely bestow duty upon the institution to bridge the gaps and challenges of reducing the course duration, the quality challenges persist. For long, validity of one year LL.M program was debated. Although, for the purposes of UGC NET, the one year program stands valid but the quality of knowledge that is being imparted is question that calls for extensive research. At nowhere does the author intend to say that one year program is entirely purposeless, but for the programs that aimed at research, one year proves to be insufficient.

The Indian system of higher education is designed in manner that facilitates extensive in depth learning. If we compare with master's program in other domains of inquiry, there is hardly any professional course that offers a master's program as short as one year. As readers, one might feel that this is a fallacy of analogy, but at the same time we must not ignore the subset to which this program belongs. For academic prospects, research is the centripetal. Thus, academic research is often concerned with broad-based questions, the answers to which provide guidance to wide array of situations and contexts.¹³

The respondents who have completed two year LL.M. have responded with astonishment that completing LL.M. in one year is like eating a five course meal in 5 minutes. LL.M. program is

not a cake piece and hence, the duration of the program is one of the factors to judge the effectiveness of the master's course in India.

Objectives of the students versus goals of the institutions

The classroom is a formal depiction of intersecting goals of the students and the institution. As a student enrolling for LL.M program, one tries to match his or her own career objectives with the institution that aims to work on similar grounds. Alignment of these goals is not only essential for the student for his short term and long term professional career but is also vital to the institution. An institution must prove its record of performance to the monitoring and accreditation agencies like NAAC. Since, there is no independent agency to keep a continuous check on the research pedagogy and other course standards; it is easier for institutions to swipe through the goals.

To mitigate the gap between the goals, the faculty acts as a bridge. One must acknowledge the challenges that the teacher faces, from both the sides. The effectiveness of a LL.M. program is thus strongly dependent upon this bridge. As a student enrolled in LL.M. program, the guide performs the fundamental action of polishing the philosophical skills and thereby preparing the student as per his/her career goals resonating the goals of the institution in parallel.

However, the ideal situation is not always expected. Thus, there is a continuous need for monitoring the quality and effectiveness of the program not only through the performance of the teacher, but also through the achievement of career goals of the students vis-à-vis the goals of the institutions. There is a possibility that my short term goals get moulded due to the long term goals of the institution but the effectiveness must be mapped carefully on these grounds.

Regular versus Part time

Regular LL.M. program is the one where the classroom interaction is on a regular basis. Unlike the part time, here the learner can be a student alongside being a working professional. Many

look alike of the part time program are now popular. In a distance learning LL.M. program or an online program, the material is available online and the student must devote time as per his own schedule for the same, followed by a final examination pattern. A correspondence program usually is designed to provide limited hours of classroom interaction usually over weekends. While all these prototypes have their own pros and cons, these options cater to the multiple objectives with which a learner might want to enrol in a LL.M. program.

While we debated over the reduction in duration of the LL.M. program, a part time program makes it even difficult to achieve the alignment of the goals of the institutions and the learner. For academic programs particularly, a part time program is a bane. However, for the executive programs where mostly the program adds to the market value of the learner as an asset to the organization he/she is associated with, it is a smart choice.

Effectiveness thus depends on a variety of factors and cannot be objectively decided. The comprehensive analysis must be done on both qualitative and quantitative terms from both individualistic and pluralist lens.

Teaching learning process

Whether it is admission UG or PG programs in law we have barely seen the institutions asking for statement of purpose or interviewing the prospective student only on the ground of purpose. In some private institutions, where the author has worked earlier, she has found out that the interviews taken were of very basic nature and not looking for the purpose, why the student is seeking admission. After the admission, once the classes start, the students are clueless which subjects they are studying and why.

Further, the course plan is not drafted in consultation with the students who are the primary beneficiaries of the course, nor the pedagogy is discussed with them. Further, their diverse background is also not taken into account. They are all treated as if the class is a homogenous entity with a background of basics of core subjects taught to them in UG course. The teacher starts teaching the course with this premise with the purpose of building up critical approach. While teaching the course through the trimester or semester the teacher comes to know that the

student either lacks in the medium of study, or in having basic knowledge or conceptual understanding of the subject. While the teacher is grappling through creating basis of the subject for the students, and further invigorating them to have critical thinking it becomes problematic. While going through the dilemma the course comes to an end, in some cases without the syllabus being completed.

As per the NAAC¹⁴ requirement, while preparing the Programme Outcomes (POs)¹⁵, Programme Specific Outcomes (PSOs)¹⁶ and Course Outcomes (COs)¹⁷ the students are not consulted. It comes from the notion of hierarchy and with an approach that the students do not know anything about the course or the program to be “taught” to them. They are considered as only seekers and not givers, who could also contribute. Moving forward, the students also take the laid back attitude by not participating actively in the course being “taught”. There could be other reasons too for this, sometimes they do not muster “courage” to speak, and sometimes they doubt their “knowledge” among others. While the teachers take active and students passive role in the carrying out of the course, we miss out on growing mutually. Most of the students do not read the papers shared with them so that we could discuss the subject in depth, their project or assignments are shallow and largely plagiarised, they do not ask questions letting the teacher teach whatever, without challenging her. This way the path of the teacher becomes easy but she also develops laid back attitude in this process.

Thus, the classroom process can be angled at with Michel Foucault’s power knowledge theory.¹⁸ All the work of the power to discipline its subjects takes place around a very fine body of political technique: to make docile, disciplined individuals without their natural critical thinking.¹⁹ The traditional classroom teaching method has been more of a subtle form of domination over students through the exercise of power to debar learners from the exams and subsequent program completion requirements. This enhances the possibilities of student to simply consider it as a statutory requirement to fulfil the course requirements and thereby hinders the knowledge generation and sharing purpose of the program.

The classroom environment consists of a variety of interpersonal, social, technological forces. These forces create an aura for positive interaction which entails to answer question viz. how to learn, why to learn, what to learn and when to learn. For a classroom with master’s students, the unilateral decisions can hinder the process of learning, especially when the students are coming

from diverse background in the form of gender, caste, class, community, affiliation, medium of learning, disability, and a mix of all these in every case at different level. A classroom, thus, is not made up of the physical beings present therein, but a numerous forces acting influence the intellectual process. The hierarchy based learning structure bound by compliance and accreditation requirements and other administrative challenges must not restrict the classroom to rote learning.

As a student, one might not understand the importance and physics of these forces, but before questioning this teaching learning process, we must be understood with both inside outside lens.

There is a dire need to align a master's program in law with the objectives of the learners. Needless to say, generalization or non-alignment of program design with the learners' objectives has exceptions too. This must be catered to by all the law schools in the country and thereby must be a catalyst in the professional career of the students

The students' and teachers' perspective of looking at a master's program in law should intersect at some point to effectuate the pedagogy. The debate of effectiveness versus purpose, specialization versus general, all-purpose versus research oriented, classical versus progressive pedagogy shall bring about a progressive higher legal education model.

Assessment

There has always been a dilemma in the minds of students as well as teachers regarding the most suitable way of assessing the students' performance. More so, at the level of LL.M. when the students while being taught the critical way of learning are also forced to go through n number of assignments and projects as a part of their continuous assessments. While the most of the students responded, through a questionnaire, that the most suitable form of assessment would be a mix of both continuous and end term evaluation. They preferred that instead of various assignments; it would be better to have research paper writing and end term examination for holistic evaluation. It would not leave much room for a teacher's bias seeping into the assessment, which might be the case in continuous assessment. It has also been seen that some students who have had engaging classroom participation or had fared really well in continuous assessment in the form of research paper writing could not do comparatively well in the end term

assessment. Thus, a balance of both forms of assessment is key to proper and satisfactory evaluation of students.

The students have focussed on quality rather than quantity regarding continuous assessment. Thus, they have responded in favour of one assignment, that too not of one particular type or form. The suggestions have been that they might be allowed for two weeks' internship/volunteering/teaching or research assistance rather than only one of these being forced upon them. Another noteworthy point is that, the institutions offering and conducting these LL.M. programs mostly premise the form of assessment on the hypothesis that the students have enrolled themselves to ultimately turn into a law teacher only, which might not be true in all the cases. This is not so only in private or central/state run government universities, but also the innovative National Law Universities which are very rigid while offering assignments. Most of the Universities, thus, have the last word with respect to the assessment and do not offer flexibility either to the student or teachers.

A teacher not only effectuates the course plan aiming towards attainment of the COs, PSOs and POs finally aiming at achievement of the vision and mission of the institution but also helps the students achieve their objectives. Thus, she becomes a bridge between the two, the institution and the students. In such scenario, the academic freedom, autonomy of the teacher becomes really crucial and helps the institution retain a valuable faculty member. With such an important role to play, it becomes very important for the teacher also to meet educational responsibilities towards the students and the institution and maintain integrity throughout the course. They need not be affected by misdemeanour or courageous act of the student(s) and should be strong and dependable in times of crises. They should maintain a balance between their academic goal and the expectations of the students. While in classroom, the teacher should aim at completion of the syllabus while maintaining the quality of teaching. New perspectives, content and interdisciplinary approach should interplay while having interactive class deliberations.

Grading

Teachers' grading practices may also reflect varying conceptions about the function and status of subjects in the national curriculum relative to one another.²⁰ While the grading effects

standardization process in the country for significant academic and professional purposes, for a LL.M. program we must constantly endeavour to adopt grading practices that sufficiently cater to the objectives of the student and the same time must be globally acceptable.

From a student's perspective, the current grading system that is being followed does not appropriately bridge the gap between the objectives of the learners and the institutional goals, since the participation of those who are being graded is not invited. For many subjects, the students aren't even aware of the parameters over which they are being graded.

When asked if they were satisfied with the grading practices, the respondents clearly refused. Innovation in the grading practices must be appreciated so as to mitigate other administrative and academic challenges. Also, since the duration of the course is shortened now, cogent grading practices must be adopted in consultation with the students.

In one of the previous organisations, where the author worked, there were certain issues with marking system. Firstly, there was grading system, which made the students compete and she had seen most of the students bully a few "studious" students, because it might harm them with an adverse grade. Further, it was forced upon the teachers to have a bell curve while grading the students. She remembers that in one of the batches, most of the students had got more than seventy per cent marks in the end term exams. She any how maneuvered the grads and achieved the bell curve at the cost of wrong grading for most of the students. It brought out the bias of the institution that only a few of the students could be at top and even at the bottom. Thankfully, it was not applicable to the courses offered to a small group of students. , still relative marking was an issue. It is submitted that normal percentage system of marking is better than such a manner of manipulative grading system.

Grading becomes a major issue when the students though being of more than average intelligence could not achieve more than 2 pointer(out of 4 scale point) and therefore could not get employed by few of the niche firms, corporate departments or PSUs. Among all of these issues, one moot question is that what are we aiming at market ready products (PG degree holders) or a well-equipped person in terms of legal system. Why not rethink this issue with a humane approach, whether it be a student, teacher, institution or employer, whether private or government run.

Conclusion

Since independence, various reports, studies and research work has been undertaken to acknowledge the institutional level challenges that hinder a cogent higher education system in the country. Moving through the various 5 year plans, Government of India has allocated funds for the growth and effectiveness of Indian brains that shall foster the higher education in the country; still it has not yielded to desired results. Cribbing about brain drain and not having market ready graduates or post-graduates as on-going loss to the country shall not help. Classrooms give a light of positive interaction that can help guide the learning process. This learning process is a bilateral process and thereby the design and structure of the program must entail all the facets. The debates listed on various tangents have allowed us the aerial view of the problems in a LL.M. program in general. In this backdrop, we must understand the micro-level root causes of the problem so as to strengthen the Indian higher education system. It's time now to review the behavioural and psychological factors that emanate from and for the participants in this process. Now, the big challenge the government faces is how education may be rewired to focus on imparting knowledge that responds to market demand. In Toffler's words, how can education make students future-ready. Unless it does this, education and employability cannot be correlated.

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