

NATIONAL UNIVERSITY FOR STUDY AND RESEARCH IN LAW

SECOND ANNUAL CONVOCATION

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CONVOCATION ADDRESS

**SOME THOUGHTS ON THE MAKING OF A TWENTY-FIRST CENTURY
LAW SCHOOL FOR INDIA**

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Hon'ble Governor of Jharkhand Her Excellency Smt. Draupadi Murmu, Hon'ble Chief Justice Mr. Justice Anirudha Bose, Vice Chancellor and Members of the University bodies, Faculty and Students, Distinguished members of the Bar and Bench, Ladies and Gentlemen.

I am delighted to be a participant in the Second Annual Convocation of this prestigious National University for Study and Research in Law at Ranchi, in the formation of which I had the honour to be associated several years ago. Thanks to the efforts of the then Chief Minister, Governor and the then Chief Justice of the State, you could build up this sprawling campus in relatively short period and under the leadership of my good friend and colleague, Prof. A.K. Koul as the Vice Chancellor, you could start off academic activities early in this relatively backward region of the country. I understand that despite the inevitable challenges in the formative years, the University could make steady progress in teaching and research and is now competing with the other 23 law Universities in India to become a leading law school attracting students and scholars from far and wide. May I congratulate all those who contributed to the development of this institution, and more particularly the faculty and students, who are the immediate stakeholders and on whose shoulders the future of the University is very much dependent.

Let me also congratulate all those students who are receiving their degrees at this Convocation and particularly felicitate those receiving medals and distinctions for outstanding academic performance. Let me remind the graduates that Universities grow with the patronage of its alumni and you must take continuing interest in its development intellectually and organizationally, so that you can be proud of your Alma Mater and your successors passing out of this institution can look forward to your help and guidance for their professional advancement.

LEGAL EDUCATION FOR THE FUTURE:

Ladies and Gentleman, I wish to devote the Convocation Address to examine how we can take forward the initiative of independent National Law Universities established in 1980's and 90's and now functional in as many as 23 states in India, to the next level of academic endeavour which will serve the needs of good governance and development with Social justice.

It is said that twenty-first century, belongs to Asia, the fastest growing region of the world, with a relative young population, constituting half of total world population! Between India and China, India is the focus of attention of the world because of its liberal democratic framework, because of its commitment to rule of law and human rights, and because of its diversity in culture and record of unity and peace. It is unfortunate that we do not realize our strength and potential and spend much time discussing petty issues of sectarian politics and

transient issues rather than the larger vision our Freedom Fighters and Constitution makers have laid out before us.

The ideals of the Indian Constitution have not percolated down sufficiently to inspire the post-Independence generation of the country to push the development process faster, inclusive and fair to all citizens. The idea of “responsible citizenship” for a vibrant democracy is not appreciated enough to serve the cause of social justice, while individual rights are respected and the unity of the country is ensured. I think when the Nation is celebrating seventy years of its Constitutional functioning as a Republic, the people generally and the academia in particular, have to have introspection of the role and responsibilities the Constitution expects of us in the matter of nation-building and justice delivery through law and legal institutions.

CONSTITUTIONAL GOAL AND OBJECTIVE OF LEGAL EDUCATION:

In this regard, let me share some thoughts on what legal education may look like in the 21st century, given the nature of politics, economics, technology and institutional arrangements for governance at the local, national, regional and global levels. The Constitution, described as the Cornerstone of the Nation, provides the nature of Society, State and citizenry that We, the People of India, should endeavour to construct a happy, progressive, strong nation in this ancient land of Bharat. Therefore, if legal education for the future were to be constructed on the ideals of the Constitution, we need a robust legal framework of institutions and individuals subscribing to its mandate and acting within the limits of its boundaries. In other words, a society abiding under rule of law, renouncing violence and embracing responsible citizenship with access to justice for all is the imperative foundation for the new social order. Hence the importance of “Justice, Social, economic and political” the Preambular promise for nation building. Access to justice for all demands a fair legal and judicial system and independent bar and bench. Preparing a cadre of individuals capable to maintain the liberal Constitutional order under a democratic polity, while providing equal access to justice for all is the primary responsibility of legal education for the future.

The objectives of legal education are articulated by the National Knowledge Commission (October, 2007) in the following words:

“The vision of legal education is to provide justice-oriented education essential to the realization of values enshrined in the Constitution of India. In keeping with this vision, legal education must aim at preparing legally qualified persons who will play decisive leadership roles, not only as advocates practicing in courts, but also as academics, legislators, policy makers, public officials, civil society activists as well as legal counsels in the private sector, maintaining the highest standards of professional ethics and spirit of public service”

A tall order indeed for law schools to structure their programmes for teaching, research and extension work. They cannot be contented with the Bar Council prescribed curriculum, because legal education today has to meet the demands outside courts and litigation, in a vastly changed scenario of trade, commerce and industry in the context of growing internationalization of the profession. The Bar Council would however continue to exercise its power to recommend minimum standards required for practice in the courts and tribunals. Beyond that, each law school has to work out its own vision of legal education to cater to the emerging social, economic and international needs of the present and the future. More importantly, law schools constituted as law universities, are responsible for re-structuring legal education they offer keeping in mind the Constitutional vision and the changing socio-economic and technological order that shape the future of mankind everywhere. Law Universities are not expected to act as law colleges imparting teaching on a curriculum prescribed by regulators with limited mandates. Universities are autonomous bodies who are charged with responsibilities under statute far beyond what is recommended by professional bodies like the Bar Council. What is the reason behind this University being named as a national university for study and research in law with the autonomy to act on its mission on its own? It is intended not just to depend on the Bar Council to do the job for the university; but to assume the role of a centre for creation of appropriate knowledge on how to use law for nation-building activities. This is an agenda that the University has to develop on its own for its programmes of teaching and research.

Knowledge creation for social engineering through instrumentalities of law is part of the function of law universities. What is required is not just conventional doctrinal research but cutting-edge problem-based, empirical, inter-disciplinary research promotive of all round development through rule of law. This requires partnerships with government department private sector establishments, civil society organizations and professional bodies and continuing engagements with problems in society.

Future of legal education will be judged by the capacity of law schools to be able to offer solutions to contemporary problems and their contribution to legal reform for larger public good.

CURRICULUM DEVELOPMENT AND LEARNING OBJECTIVE:

Legal education, unlike many other professional courses, is not considered as a private good; it is more a public good in a rule of law society. As such, the learning objective/outcome of a professional law curriculum has to necessarily reflect the cognitive, socio-cultural as well as behavioral domains of learning. The cognitive domain objective will comprise of comprehension and critical analytical understanding of laws, rules and regulation both in theoretical terms as

well as in their functional institutional settings. This is what is meant by law graduates being made “practice-ready” for the legal market.

The socio-cultural domain objective of law education is meant to make law graduates to become transformational leaders and social engineers with inter-disciplinary understanding of problems and with the socio-cultural skills and attitudes necessary to negotiate action towards changes desired. (Constitutional goals)

The behavioral domain of learning objective includes action competencies to support the larger function of law in society. These competencies should prepare learners to address problems arising out of technological developments, globalization, socio-political changes in the context of expectations of society.

Not all law graduates are interested in all three objectives of legal education; nor all law schools can organize their academic programmes to fulfil the learning outcomes of all three domains. As in many other spheres of higher learning and professional studies, in legal education also, there are two Indias at present: one consisting of the 23 National Law Universities, and probably a similar number of progressive law schools striving to impart quality legal education comparable to the best in the world; while the second India comprises the hundreds of law colleges scattered around the country where getting a law degree is more important than learning law. Every year, the couple of thousand or so graduates of the first category of law schools go on to take lucrative professional assignments in elite law firms, while their less fortunate cousins from the so-called law colleges settle with whatever they can get in government departments, banks and business and in the trial courts earning a fraction of the income of the former group.

Curriculum development in such a scenario is a challenging task for every law teaching institution. After all, curriculum does not mean a list of subjects to be studied; it includes identification of learning outcomes, the development of appropriate study material and teaching plans to achieve those outcomes, the instructional methods to be employed for the purpose, and the performance assessment system to measure the learning outcomes. It is a task in which the teachers have to take far more responsibilities than what they undertake today. It requires institutional leadership being prepared to articulate an institutional mission and organize the administration to advance the mission in concrete terms: It demands human and infra-structural resources with competencies to fulfill that mission individually as well as collectively. The problem today is an acute shortage of teachers and educational administrators who have the competencies for developing and implementing such a socially relevant, professionally significant, and intellectually challenging curriculum to produce not just litigators but transformational leaders of the type who gave us a Constitution to shape the future of this great country.

Naturally, a task cut out for the National Law Schools in this context is to prepare its post-graduate programmes in such a way that every year, each law university produces at least a dozen law teachers who have the required competencies to transform legal education to world class standards. The country has the talents in abundance; but the systems in place put difficulties for the changes to happen and the leadership seems to be reluctant to take the risks involved. If future legal education fails to fulfill the constitutional expectations, it will be largely due to the failure of the system to make the right choices in faculty selection and retention, rather than of curriculum deficits.

TEACHING ETHICS AND PROFESSIONALISM:

A final point I want to make in respect of organizing 21st Century law school for India is to emphasize the fact that law is considered universally as part of culture of a given people. The legal system has to maintain that link, if it has to have legitimacy and acceptance in society. A legal system imposed by the colonial rulers and continued after independence could successfully replace many ancient laws and traditions but could not redeem the jurisprudential basis of the legal system in Indian philosophy and lived experiences of the people of India. If law has to grow with people and if legal system has to be creative and socially relevant, legal education has to renew its links with Indian traditions and justice systems. One of the entry points in this regard is in the sphere of ethics and professionalism on the part of legally trained persons. It is not just the code of ethics that professional bodies make for its members, we are talking about, but the ethical foundation of a just social order that we seek to construct in a hugely diverse society like India.

To illustrate the point, consider the concept of “Dharma”, known to Indians since ancient times, through its interpretations and applications varied from time to time. ‘Raj Dharma’ carried the elements of modern Constitutional law relating to limited, transparent and accountable government. It embodied the idea of the Supremacy of law. “Dharmo Rakshati Rakshitah” captures the idea of rule of law and more. While Europe constructed a legal system based on Christian ethics, India relied on a system based on Hindu philosophy and ideas of ethical conduct. Both systems considered the idea of justice from different perspectives relevant to their respective origins and contexts. If adversarial adjudication was adopted for dispensing justice in the Western system, conciliatory approaches acceptable to disputants were adopted in the oriental systems. Today, under globalization of legal systems, there is a lot of accommodation and unification happening, though the oriental experiences are submerged under more powerful Western perceptions and articulations.

Imitating the West has become the accepted practice in law reform, though it has started facing strong resistance from some sections of society. This has started creating a clear divide between the English speaking, Western educated elite on determining legal standards

while the non-English speaking rural masses tended to lean towards traditional practices and customs. Teaching ethics and professionalism in such a situation is yet another challenge for legal educators in India.

No profession can survive without public trust and support which is contingent upon the nature and quality of services it delivers. A profession is judged by the standards it keeps and the integrity of its members in dealing with the people who seek its services. If there is a trust deficit vis-a-vis the legal profession today, it is all because of the acts and omissions of the professionals and the management bodies involved. There is need for a fundamental change in the re-structuring of professional standards and the mechanisms for its implementation. This is where we need to re-visit the cultural context of ethics and professionalism in terms of its roots in ancient Indian Legal thought and attempt an alternative narrative on the subject for consideration of stakeholders.

Ladies and Gentlemen, I have spoken too long on futuristic vision of legal education which many of you may think utopian and impractical. Based on my experience in implementing the National Law School idea and the Five Year Integrated BA LL.B course thirty years ago, I can say with some authority that the need of the hour is creative ideas which may appear utopian to some and impractical to the timid and the lazy. Innovation and creativity alone can lead to reform and progress. Mediocrity has no place in higher education. We should not continue to seek alibis for non-performance. This country and its youth deserve better educational services from its universities and let us make a united effort to change the system that come in our way in our endeavour to “reform, perform and transform”, to borrow the words of our Prime Minister, in the legal education for 21st century.

JAI HIND