The Fifth Ashutosh Mukherjee Lecture Developing A Sense of Injustice: Reimagining Legal Education in India

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I. Introduction

I am extremely thankful to NUJS for inviting me to deliver the 5th Sir Ashutosh Mukherjee Memorial Lecture. When we recall the contribution of Ashutosh Mukherjee in these days of super-specialisation, we are compelled to dwell on the vastness and unbounded nature of knowledge. The boundaries of disciplines and sectors did not limit Sir Mukherjee's search for knowledge. He was well versed in both, Arts and Science, and could be described as an educationist, a barrister, and a mathematician. Unlike the wont of our times, he was no right ear specialist. It does seem that when learning was more arduous the quest was more wide-ranging and ambitious. In remembering him and dwelling on his work, we hopefully raise the bar for ourselves. His spirit of inquiry and generosity of spirit has guided me in selecting the title and theme of this year's lecture. I am asking us to re-imagine legal education by developing what Edmond Cahn terms **"A sense of injustice".**

The delivery of legal education has progressively severed its connections with justice. We impart education in law; and in doing so, we do not really worry on whether the law that we study or teach is or is not related to justice. I make this statement without denying that justice is a disputed concept, and the evaluation of law on the touchstone of justice would necessarily require us to uncover the many layers of this elusive concept. And in the process, we may construct our own indigenous definitions of justice.

Having acknowledged the schism between law and justice and asserting at the very onset that developing a sense of injustice could help us bridge the gap,

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I next reflect upon what Cahn meant by a sense of injustice and the significance of the sense in this re-imagining enterprise, an exercise which is necessary to undertake when an overwhelming majority of students seek to pursue legal education because they aspire to seek and deliver justice : yet the manner in which we impart legal education causes them to abandon their noble pursuit. Therefore, there is a need to document the manner in which legal education is imparted and deliberate on how it can it be changed. It is my contention, in this lecture, that Cahn's **"A sense of injustice"** project could assist in this reimagination.

II. Sense of Injustice and its Significance

Cahn, it needs to be noted, speaks of **"A sense of injustice"**. It is important to focus attention on the use of the term 'sense'. The sense of injustice is like all the other senses we have-our sense of hearing, of seeing, of smell, of touch. These are physical senses that we possess. Cahn categorises the sense of injustice as a sentiment- a feeling which we possess by the fact of being a human. It is in Cahn's opinion, a sense, which is analogous to the other physical senses.

Once such an assertion is made, the next logical question is 'what is the basis of this claim?'. I would go along with Cahn when he holds that the claim is being made on the strength of 'experience'. The existence of this sense is sought to be validated by the lived experience of human beings—you and me. Let us think about every time we reached out to someone because we felt that how they had been treated was not fair, and every time somebody reached out to us because they felt what had happened to us was not fair. It is a kind of empathy that we feel for another human who has been given a hard time, and I think if all of us were to look inwards and think back, we could testify to having experienced the sense of injustice as an actor or recipient.

According to Cahn, the sense is primordial- it is inbuilt in all of us. Everyone would agree that this sense is activated when we are wronged. I do not think there is a need to prove that at all. At the core, the sense also admits to a proclivity in humans to empathise with others. I am making the point that it extends to significant others. It can even be experienced in relation to strangers. Even if we concede to the existence of this sense and it being activated when others are harmed, we have to next ask: Is this sense activated with similar intensity for all people? How many people do we empathise with? Which kind of people do we empathise with? How encompassing is the sense in its operation? Will it be critical in determining its functional effectiveness in justice struggles? I acknowledge that deliberation on these questions is imperative. However, for the present, I am keeping these questions on the back burner and will return to them after we have examined how legal education is imparted, and the role we allocate to emotion in the pursuit of the study of law.

III. Imparting Legal Education

As already stated, I want us to re-imagine legal education. My agenda is largely prompted by what I have learned from my two decades-long experience as a law teacher. Whenever I ask my first year law students, "Why are you here in this college?", at least eight times out of ten, the answer I get is, "to help people get justice", "to fight against injustice", "to ensure access to justice". Those first-year students saw an inextricable relationship between law and justice and entered law school to further that cause. They did not see the study of law or the practice of law, disjunct from justice.

So, we have this constituency of people who come to study law because they wish to pursue the cause of justice. In contradistinction to the aspiration of these young students who enter the portals of national law schools, what is the dominant paradigm of legal education? What is it that is done in the teaching and learning of law? I find that the *dominant* operative model is to impart information on the rules of law. Let me stress that I mean dominant and not exclusive.

So for example, if we are talking in terms of 'what is a contract' or 'what is a State' under the Indian Constitution, or 'what is a tort', or 'how do you understand divorce', or 'what is marriage'; most of the time the discussion would revolve around how these concepts are defined in the rules of the law. Rules are presented to students as incantations that they have to master. They must really know those rules; they must have them at their finger-tips. What is also important is, they must not get emotional about the manner in which a particular question has been addressed or dealt with either by the legislature or the judiciary. It must be done as an objective and a neutral exercise because that is how the study of law is to be undertaken. If you are leaning towards one or the other side, you are rebuked for getting your feelings involved. If you let your heart speak, then you are not seen to be legitimately practising law.

I started out with the sense of injustice which was in terms of feelings and emotions and empathy. I have also said that people come to law school primarily because they want to fight injustice. What does a law school do? Law school basically gives them the rules of law and says, "this is what you have to practise". If it makes you unhappy then you are told, "no, please deny your unhappiness; you are meant to be this neutral arbiter, you are meant to speak up for or do what law requires you to do."

What happens as a consequence? What happens to justice? What do we do to justice? I would say that it's largely forgotten, or if not, it is subsumed within the majesty of the law. This manner of addressing contentious issues is not limited to law teachers; even judges do this in courts–you often hear them telling advocates, "show us the relevant rule, we don't want to hear about justice". Increasingly, stress is being put on each one of us that law and justice are two

disjunct entities. The sense of justice with which a lot of students come to law school is instead, disciplined by the force of law. We somewhere require our students to subsume their sense of justice to what the law deems possible. That is the way in which legal education is largely organised and we believe that the more competence we impart to our students in relation to the rules of law, the better we equip them to practise law. Whether such practice of law helps the ends of justice is one question that law teachers have progressively forgotten to ask.

Most law students are taught some Jurisprudence and Legal Methods at the undergraduate level. Such study brings home that it is the positivist thinkers who treat rules of law as sacrosanct and accord overwhelming importance to the values of neutrality and objectivity. At its core, positivism is a very lineage driven body of thought. So, when asked,"What are the rules of law?", it authoritatively responds - "those which come from designated authorities." It is almost similar as using Nussbaum's analogy, that the dough which comes through the pasta-maker must be pasta. If a rule is pronounced by the legislature or the judiciary or the executive, whoever are the designated authorities to make law, then it must be law. It is these rules of law arrived at by the designated authorities that are to be mastered as they provide the basis for all legal decisions.

There are other theories of law that challenge this lineage driven way of looking at the law. Thus, for example, the Realists started off by saying, "Look at practice. Don't just look at what is in the books. Look at what is happening in action." The Critical Legal scholars brought home to us the various kind of political predilections of laws – feminism showed the privileging of a particular gender, and the Critical Race Theory demonstrated how Caste and Race influenced law-making. The point I am making is that there are theories distinct from positivism which do not see law-making as a neutral exercise. To name a few more theories, post-modernism hassh own that the law is actually fungible, it breaks up depending upon the lens from which it is viewed. Queer theory throws light on the dominant paradigm of sexuality which results in the exclusion of all those who do not affiliate with the dominant outlook.

These varied theoretical approaches bring home that law is a multi-faceted concept and these varied ideational sources can be drawn upon to deepen legal meaning as well as to persuade legal institutions why they need to alter their way of looking at a particular legal question. A matter of some acknowledgement, as it admits to the fact that rules of law are subject to change. The only condition for change to happen is to make a credible case for change. And what could be a more persuasive argument for change then that the extant rule is unjust? These varied standpoints show there is no one way of looking at the issue, and contrary to the Dworkinian claim, there is no one right answer.

This effort is further strengthened by the quality of indeterminacy which subsists in the law. By indeterminacy, I mean that the exercise of finding or defining the law is not done 'once and for all'; it is an evolving enterprise. This evolution is driven by changing social realities when it comes to legal discourse and legislation, and the letter of the law in interplay with the social context when it comes to adjudication. Consider how the judiciary has ruled with respect to Article 21 of the Constitution. From *Gopalan* to *Maneka Gandhi*, it was an incremental exercise. *Maneka Gandhi* did not happen overnight; its pathway was paved through a range of judicial decisions. In *Gopalan*, 'procedure established by law' was read to require –'a procedure prescribed in a legislation enacted by Parliament'. Over time, this changed to such an extent that the same court that had rejected the notion of a due process, started to hold in its decisions that the mandate of Article 21 can only be met when the procedure depriving life and liberty was also just, fair and reasonable.

It is possible that the constant interaction between the 'is' and the 'ought' of the law may cause a certain free-play in joints. The 'ought' is a beacon light guiding the direction in which the 'is' of the law should proceed. Every one of us, in whichever area of law we practise, will be able to give examples of this kind of evolution in law. Evolution in the way both the substance and form may change at different points of time and change by reason of circumstances which are outside of the law. It is critical to our understanding to recognise that such evolution happens and such amorphousness exists in the law.

Having made this exposition in relation to law, let me briefly ponder on how we understand justice. There are substantive expositions on justice, most of them concentrating on questions of distribution and redistribution. However, legal engagement with the concept of justice is predominantly a procedural one. It is believed that people should be heard; no one should be condemned unheard. For this hearing to be real and not notional, it is important that an individual is allowed to show cause, to be allowed to examine the materials against him, and cross-examination, and provided with legal representation. Continuing with the natural justice catechism, a person should not be a judge in his own cause. Decisions should be accompanied with reasons explaining why a particular decision has been reached. Our understanding of justice is, to a large extent, driven by a procedural understanding of justice as this swift unpack of rules of natural justice shows. We are made to believe that if a person has go this day in court or given a fair hearing by the powers that be, then justice has been done.

This approach to justice does not look at the ground situation, and the kind of resources that need to be invested in ensuring substantive security to humans. Socially and economically vulnerable people require an embargo on certain kinds of deprivation, not whether they are inflicted with or without a hearing. So long as denial and deprivation of a certain kind are permissible, injustice is being

permitted. And this injustice cannot be mitigated by the procedure used to inflict it. Can a Constitution claim to have guaranteed freedom if the resources required to exercise that freedom are not made available? Yet these questions are not raised when life and liberty are deliberated in the constitutional law course. These questions are relegated to courses like law and poverty, which are often only offered as optional courses. Even when provided as compulsory fare, social justice questions are not being accorded the serious consideration they deserve if engagement with them is limited only to the course on law and poverty, whether offered as an optional or a compulsory.

In order to look at this ideational marginalisation from another angle, let us ask what the essential marker of being human and thereby to be a bearer of human rights is? Liberal thinkers at a minimum require possession of reason. Only such rational people can have their will and preference respected and be guaranteed autonomy and independence. So necessarily people who are deficient in rationality, people whose cognitive capacities are impacted due to other deprivations, say an adequate and nutritious diet, could be denied rights without any concern being expressed on the cause of that deprivation. It is contended that a precondition has to be fulfilled before a right can be exercised, and since this precondition has to be fulfilled by all, the mandate of equality has also been met. The category of people which stand to lose by reason of this requirement is a further question, but that is not asked. If persons disadvantaged by virtue of caste, class, gender, disability, sexual orientation are disproportionately present in the excluded constituency, should questions not be raised on the criterion of selection? Is the criterion not weighted against the socially and economically vulnerable? If yes, then is it just? Would a fairer system of participation have been put in place if the precondition a la Tobin Siebers had been fragility instead of reason?[1] If the essential condition for being human was fragility and not reason, then necessarily the most vulnerable would be at the centre of the discourse and hence could not be excluded. A justice informed discourse would need to ask why an exclusionary criterion is being preferred over an inclusionary standard in determining humanness? Such issues are not discussed if students are informed of the essential condition of being human and not provoked to reflect whether it should be so.

As I have already informed you, the central argument for this lecture has been developed from Edmond Cahn's book the 'The Sense of Injustice' where Cahn elaborates on the sense of injustice in substantive and not procedural terms. Justice, he holds, is not something that can be standardised. Even when equality is spoken of, it is necessary to recognise that one rule or one size does not fit all. If that shoe is to be customised, it should be so done that it does not cause

[1] Tobin Siebersa leading exponent of cultural disability studies had propounded the thesis that the presence of fragility and not reason should be the precondition for a person to be recognised as a human. Tobin Siebers, *Disability Theory* (University of Michigan Press Ann Arbor) (2008).

injustice. Shape and size, which is not a comfortable fit for an individual, is unfair or unjust for that individual. Cahn is seeking the development of the sense of injustice, as a well-trained sense which will recognise injustice when it sees it, and work to avoid it. When injustice is avoided; justice is obtained. This is the trajectory that Cahn is advocating - develop the sense of in justice because it will get you to recognise when injustice is happening to somebody; by avoiding that injustice what you reach and where you reach is justice.

I am sharing Cahn's viewpoint in a law school with law people because I agree with Bruce S. Ledewitz's argument that law people can be specially equipped to work out strategies for avoiding injustice.[2] The deepening of empathy may be needed for every discipline, but the discipline of law has the resources of logic and reasoning to act on that empathy. The development of the heart without more is not good enough. There is a necessity of feeling effective empathy, to say that "Yes, I can argue it in some kind of a way which cannot be done by other people and I can draw upon that indeterminacy in rules; I can draw upon the manner in which precedents can be followed or distinguished in order to avoid injustice."

This is a very critical connecting point between having that sense of injustice and why the development of a sense of injustice is especially necessary for how we do legal education. I am not saying that having a sense of injustice is not required for other disciplines, but the other disciplines at best can analyse the sense. The discipline of law does not have to limit itself to analysis alone, since it has the equipment and tools to be able to do something about the injustice by challenging and surmounting it.

We study indeterminacy in law. We do it as a part of nearly every other course. But most of the time, we adopt the traditional realist line on how to reduce this indeterminacy and greater certitude ushered into the law. I am asking for a different view to be adopted. Indeterminacy of the law, I contend, is a resource that we possess, which allows for flexibility. It allows us to be able to customise the rules of the law in accordance with needs at different points of time for different people. But for that to happen, it is important that we should be able to recognise injustice in society. Laws should be so designed that evident kind of injustices area voided, but where avoidance fails, protective and compensatory strategies can be put in place to minimise the impact. This manner of legal designing requires a joining of the head and the heart.

I had said that whilst I recognise the presence - the natural presence of empathy; I also recognise, that the large part of that empathy is something that

[2] Bruce Ledewitz, "Edmond Cahn's Sense of Injustice: A Contemporary Reintroduction",3(2) Journal of Law and Religion277-330 (1985).

we feel only for those who are like us. We possess it for absolute strangers, but even in absolute strangers, we would find that somebody who looks much more like us, be it in how the person is dressed or how they speak or where they are located. Largely our reaching out happens to our kind of people. So, it is important that we educate that empathy. We cannot just believe, 'Oh, since empathy is naturally possessed, hence, nothing more needs to be done'. Work is needed to deepen that empathy. Paulo Friere in 'pedagogy of the oppressed', contends that education as freedom can only happen when the knowledge gaining process is dialogic. Any hierarchical interaction prevents meaningful challenge of the structures of oppression.

Let me address the matter of empathy by looking at social interaction in our law schools. We find that at the start of the degree students tend to hang out with their own school mates, their own city people, etcetera. Then slowly, some students will tentatively start looking across caste, religion - the bigger kinds of divides. In a very short time, they are taken up by the fact that people who seem completely alien in the beginning are not really very different from them, they have more or less similar kinds of aspirations, similar kinds of difficulties etcetera. But this only happens when privilege is renounced and prejudice confronted. Unless such collegiality is built, empathy would exist but only expressed within the confines of one's own caste, class, region, religion, gender, disability. If my sense of injustice is only awakened for me and my own, then the sense cannot be the panacea I am recommending it to be. Instead, it could well deepen the already subsisting divisions, discriminations and deprivations. The sense of injustice can be played in the emancipatory enterprise if empathy, like the intellect, is educated.

For law students, the education of empathy would require that legal teaching enhances its engagement with facts. It is not like facts are not noticed at all, but the notice is largely perfunctory. For example, I found it shocking that legal commentaries on the interpretation of statutes only reproduce canon without informing what the matter in dispute was or under which legislation between which parties, or in what time. The exposition on the canon without providing the factual context does not make for the contextual study of the law, a process which disguises the reinforcement of the status quo undertaken through the legal rule. The politics of the law is thus concealed by the technicalities of the law. In order to understand the disconnect between the law and justice, the power asymmetry in society needs to be closely studied and understood. However, this study of law which dehors facts prevents robust understanding of both social and legal reality.

More importantly, when we don't contextualise, one does not know why a particular matter got argued in a certain manner in court. Professor Baxi would keep asking us: Who was Kesavananda Bharati? Or Golaknath? Or Hussainara

Khatoon? The cause titles we memorise, represent real people. Who are the people? What happened? Why did they come to court? What happened in the first court? What happened after that? Unfortunately, we create legal briefs of facts, and issues, decision and reasons, but the people around whom that entire set of real conflicts happened are duly invisibilised. Court decisions bring forth the sociology of law mediated by legal reality. For the deepening of legal education, we need to ensure that full case briefs should be available for study. When we only read judgments and are ignorant of what was pleaded in the petitions or argued in court, our understanding of the legal process is incomplete and half-baked. We do not know what happened. Often, we do not even know that the judge could not have decided any other way, because the lawyer did not make the relevant pleading. The feminist judgments project, or the disability reconstruction project, are efforts at visibilizing the concerns of the concerned marginalised groups. They do not just examine how judgments should be written for excluded populations, but also less explicitly contend that if the matter had been argued differently, a different result might have occurred.

As another illustration of a contextual study, let me turn to the field of administrative law. When we are studying administrative law cases, we rarely study cases of somebody who was denied a ration card or someone whose house was bulldozed or not allowed to hawk in a particular zone. These are basically cases of power and abuse of power, and power not being exercised in accordance with relevant criteria. Yet, we never study these cases. Our entire set of cases in administrative law largely revolve around people who possess some level of power, be it social, economic or political. So, our case law is necessarily being created by the powerful; the powerless only reside in the silences of the law.

My grievance about facts is not just limited to the facts presented before the court. I don't know if anyone of you followed when there were studies or stories, a couple of months back or maybe a year back titled - 'What happened to Mathura?' 'What happened to Shah Bano?'. These studies were looking at the landmark decisions of the apex court and finding out what happened to the petitioners in those decisions or what happened to those persons for whom the four law professors wrote an open letter. We all studied the open letter, but we don't really know that Mathura had to relocate herself and virtually go incognito because she could not live an ordinary life once her entire community came to know of what had happened to her. When we study the requirement of anonymity in the Evidence Act which says that the victim's name should not be disclosed and simultaneously, we read about the plight of a particular complainant, that rule starts to speak to us very differently. The rule-fact combine helps us to comprehend why the rule is needed and why its observance should be strictly enforced.

We also need to understand how the larger socio-political context influences the manner in which a particular matter is decided. Why is it that similar provisions of the law were looked at differently at variant periods of the country's history? How the Supreme Court responded to the mandate of Article 21 soon after Independence as compared to how it viewed it soon after the Emergency? The change of response cannot be understood by only looking at the law reports. In order to understand the law, it is equally necessary to look at what is happening outside the court as it is to know what is happening inside. We need to look at law as a much more complex enterprise than we tend to do. Faculty members may well ask, "But then how would we complete the curriculum?" Teachers worry that there is this one level of core information which must be provided. If one tries to be too critical, then there is no time left to provide all the necessary information.

My question to the law students of this country would be, do you really think you can't acquire that information on your own? Do you require the teacher to do it? There is a finite unit of time available, and you and your teacher need to jointly determine what needs to be done in the classroom and what the students can handle on their own. If legal education is to be a challenging exercise, an enjoyable exercise, a passionate exercise, then it has to be a partnership between the teacher and student. You cannot have a hierarchy where one is supposed to possess all the wisdom, and the other is this passive recipient who just listens to the '*gyan*' and goes home. I don't think anybody enjoys this banking process, neither the teacher nor the student.

The 'sense of injustice' project beckons us to ask -How do we change the system? The emancipatory objective of legal education would require a change of priorities and a reapportionment of time and decisions on how to transact the curriculum. How much in class and how much with self-study? Education, as freedom, should have students protesting against infantile spoon-feeding exercises of learning and asking for critical dialogues around the significant issues of every area of law.

Since the lecture is asking legal education to be connected to the socio-political context, I shall also briefly address you on how legal ethnography can assist us in the process. Legal ethnography is anything which is done surrounding the law, by disciplines other than the law. What is the relevance of legal ethnography to the theme of my lecture? All of us are not equipped to do research in the field. We are not even trained to do research in the field. But there is good strong material which is coming in from other disciplines. We can very creatively use that to understand the larger socio-political context in which a particular law operates. Illustratively, there is a book by Anindita Mazumdar titled "*Transnational Commercial Surrogacy and the (Un)making of Kin in India*" (2017), which has undertaken fieldwork on surrogacy in parts of Gujarat. She found that the practice had been beneficial to the woman and her family, and also dealt

with the question of what the women who are acting as surrogates, want from the State and the law. The women wanted the government to make that entire transaction easier and to protect their health rights. to the assurancee that if there is a miscarriage, the money that is promised to them is not taken away. Now the constituency on the ground was seeking regulatory protection but what they received was a morality play on non-commodification of the womb and the value of altruism. The legislation was drafted oblivious of what the concerned stakeholder wanted. Will such a legislation gain respect for the rule of law? And would the unreal stance it adopts, increase or reduce the vulnerability of the women for whose protection it has been ostensibly drafted? The ethnographic study allows the legal scholar to ground the law in social reality and not only critique its normative content.

When I am talking in terms of re-imagining legal education, I would stick my neck out and say that any education which is only addressing one part of you and not all of you, which is only saying that we need to have these very sharp intellects, but we don't need to have hearts, is missing the point. The discipline of Law and its education at some core level is concerned with questions of justice. When Ambedkar spoke about Article 32 being the most powerful Article of the Constitution, he saw in the article the guarantee that anybody denied of her fundamental rights would be entitled to her day in court. It is an Article which is guaranteeing access to justice. We cannot relegate this access to justice to access to procedural justice alone.

If the pursuit of substantive justice has to be advanced, then we need to impart training in empathy, not neutrality. It is important that we learn about matters and people and things which we do not know about. Let's face it, despite reservations, despite the much-touted affirmative action programs; the national law schools are primarily occupied by people of privilege who enjoy the advantage of birth. Hence the moral trusteeship that Rawls places on those who were born ahead surely assumes special relevance to legal education being imparted at the national law schools. The fulfilment of this fiduciary duty requires the nurturance of empathy for all.

If there is a classic representative profession, it is the legal profession which has been primarily constituted in recognition of the fact that everybody cannot plead their own cause. Since all of us are not good at representing our own case, we need someone else to do it for us, and for that someone else to do an effective job, that someone needs to be endowed with empathy, not neutrality.

As lawyers, we are the ones who are at all times required to provide reasons for our decisions and reasons for other people to make decisions, other than the ones that they make. So the way we hone that reasoning power, we hone it for people who need our representative skills. But representative skills can be

effectively exercised if both empathy and the reasoning go together. In *Buck* v. *Bell*,[3] whilst deliberating on the authority of the State to sterilize "mental defectives" without their consent, Justice Holmes begins his judgment by saying "three generations of imbeciles are enough". If you are a person with an intellectual disability or even a disability rights advocate reading that judgment, it feels like being publicly insulted. Now if this reality is not appreciated when the judgment is discussed in class, the process of imparting information can well become an insidious reinforcement of prejudice. Unreflective dissemination of information is problematic.

Our critical lens cannot be only focused on judgments; we really need to look at how we legislate; we also need to look at how we make rules. Is the process incorporating the voice of the dispossessed, the people whom the law is meant to benefit? It is commonly believed by privileged people that they possess all the wisdom whereby they can instruct people living in poverty how they ought to live their lives. Every time I begin my course in law and poverty, I have my entire class telling me how they know exactly what is to be done for "poor people". They will pontificate on what we need to do for the poor and how to do it. So, I ask them,"Okay, what is your last experience of poverty?" Most often, the answer would be that their last month allowance got over on day 20.

When you have legislation being made by people of privilege without requisite empathy, then you get the ill-informed half-baked rules which are disconnected from real lives of real people. Since matters of the deprived cannot be even judicially fine-tuned, and administrators only work with the literal rule, there is a need to enhance the participative quotient of making rules. Actually, I feel that the operation of the entire legal system needs to improve. If that has to happen, legal education has to improve because we are the suppliers. It is from colleges that people go to become the legislators, administrators, lawyers and judges. What they are taught at law school is, I would believe, one significant influence in determining what they do when they possess the power to do. I conclude by saying that rules are only the tools of law; they are not law, and it is important that we learn to so wield these tools that we are at all times working to do justice to all.

A. Afterword

The above transcript was sent by the editors to me to complete incomplete sentences and to edit the copy in whatever way to enhance the coherence of the exposition. As I undertook this task, I realised that an important critique of my argument, which was raised to some extent in the ensuing discussion does not fully figure in the lecture. The lecture asks for the nurturance of the sense

[3] 1927 SCC OnLine US SC 105: 71 L Ed 1000: 274 US 200 (1927).

of injustice and holds that this sense would enable people to avoid injustice and thereby reach justice. This can happen because we as humans have the capacity to feel and this ability to feel for the other activates the sense of injustice.

Faced with innumerable instances of human callousness, not just from deviant and criminal minds but from ordinary people at large—the present pandemic is providing examples of whole communities of people who are suffering greatly, because the stoppage of freedom of movement impacts on them disproportionately, and until literally our noses were rubbed in it, we did not really think of them. Similarly, if we as humans possess the sense of injustice then how do we explain the large presence of prejudice in the shape of the various 'isms' that is casteism, sexism, ableism, racism, all of which cause us to treat humans who are different from the ruling elite to be treated as less than human. In the face of this institutionalised dehumanisation, is not the central argument of the lecture naïve and false?

I agree that such like callousness is present. And I am not claiming that the cultivation of the sense of injustice will cause it to disappear. I am only saying that we also ask that if by not challenging these prejudices in how we teach, have we not entrenched these prejudices? The overarching argument of the lecture is that such othering can come unstuck only by emotion and not by reason, as reason enables us to reify, we can talk about suffering, hunger, discrimination intellectually and not be troubled by it. How should we teach to trouble? That it is necessary to teach to trouble is the stand adopted by the lecture.