

JOURNAL OF INDIAN LAW AND SOCIETY

Volume X

2019

FOREWORD

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“Health is deteriorating and the body is asking to slow down activities. Mind, on the other hand, seems to say that lot many things need to be done and can be done before one bids goodbye to this wonderful, beautiful world.”

—Turning Point, Memoirs of Prof (Dr.) NR Madhava Menon, published in 2012

This volume is dedicated to Prof (Dr.) NR Madhava Menon, the founder-Vice Chancellor of WBNUJS, and modern Indian legal education. Institution builder par excellence, his body of work and impact on lawyers across India shines on.

In the transformative constitutional milieu of India, law stands not just as a social institution but also as an instrument for the realisation of the preambular aspiration of justice – social, economic and political. Yet the dominant paradigm of law-teaching has centred around a black-letter tradition that emphasis more on doctrinal analysis of legal precepts, largely bereft of the socio-political contexts in which those precepts were evolved. This mismatch between the empirical social

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reality of law and the ideal of law as autonomous concepts in legal pedagogy has had a particularly regressive effect. The Constitution of India promised a revolutionary transformation from the past. Yet, the nuts and bolts of legal institutions retained substantial continuity with the same colonial past thereby undermining the constitutional promise of liberty, equality and dignity. The dominance of black-letter tradition of law-teaching is one such element of continuity that is at cross-purpose with the vision of a transformative constitutional and legal system. This is a profoundly tragic negation of the possibilities embedded in academia for foregrounding the vision of law as an instrument of empowerment of justice. As Upendra Baxi had noted:

“Teaching and learning are acts of social intervention and they are complete when knowledge accumulated the erudite way is enriched by knowledge earned through encounters which interrogate tyranny, injustice and exploitation enacted before our own eyes even as we teach and learn.”¹

Professor N.R. Madhava Menon, in whose honour this Special Issue of the Journal of Indian Law and Society, is dedicated to, embodied through his academic work and institution-building, this vision of law-teaching as an act of social intervention. Hailed by many as the father of modern Indian legal education, he brought a fundamental change in Indian legal education by championing collaborative and clinical law teaching in the National Law Universities (NLUs). A votary of inter-disciplinary approach to legal research and teaching, Professor Menon sought to integrate the study of social sciences with the study of law. Even though this commitment to interdisciplinarity has not been pursued in NLUs to its fullest extent, this juxtaposition of social sciences and law-teaching was a ground-breaking step in legal education in India. Further, while his conservative conception of justice may have accorded far too much deference to the state, Professor Menon was an indefatigable advocate of using legal education as a tool of social justice. Indeed, despite being a leading figure in the establishment of NLUs, he did not hesitate to subject the very institutions he set up to a critical gaze and critique them on the anvil of their role in heralding social transformation through law.

The Editorial Note on ‘Awakening the NLU Conscience : A Case Study for Diversity in National Law Universities’ by Rohit Sharma and Lakshya Singla shares that spirit of critical assessment of NLUs with Professor Menon. This Note highlights the elitist character of the institutional spaces and culture at NLUs and their structural hostility to students from marginalised and underprivileged

¹ Upendra Baxi, *Teaching as a Provocation* in ON BEING A TEACHER 154 (Amrik Singh ed. Konark 1990)

communities. Drawing upon Diversity Reports from a few select NLUs, the Note makes a persuasive claim that social and economic privileges have been reinforced within the law school environment. The thesis on the colonisation and epistemicide of legal education in India by NLUs is a provocative one that is bound to throw up sharp questions as well as riposte about the overall direction of legal education in India and the impact of NLUs on it.

The critique forwarded by the Editorial Note is inextricably linked with Yathansh Joshi and Ananya Agrawal's survey on 'Difficulties faced by Visually Impaired Students In the Evaluation Patterns Adopted by the National Law Universities'. This survey provides a sharp empirical account of institutional barriers that undermine inclusive access to legal education. By identifying specific problems encountered by visually-impaired students and suggesting concrete measures based on the views of the affected students, the report provides an invaluable tool for legal academia for meaningfully enhancing access for differently-abled students. As such, the survey is a significant step forward in furthering action-research within the legal academia in India.

Given Professor Menon's engagement with clinical legal education, it is fitting that one of the lead articles in this issue, by Arpeeta Shams Mizan and Sayeed Hossain Sarwar on 'Challenges of Taking Human Rights Fact-Finding Lessons Out of Classrooms: Lessons from Bangladesh' reflects on the experience of blending clinical legal education with human rights lawyering in Bangladesh. The hurdles that they confronted in the use of an experimental pedagogy in a country like Bangladesh with, in the words of the authors, a 'weak clinical culture' are applicable to India as well. Consequently, there is ample scope for cross-fertilisation of ideas between the two legal systems on the ways to expand the scope for human rights lawyering through clinical legal education. In spite of a shared history and legal inheritance, comparative scholarship within South Asia has trailed behind academic engagement by Indians with other western jurisdictions. Professor Menon was an exception in this regard and had been a keen supporter of greater engagement between South Asian scholars and mentored several young scholars from the SAARC region. The analysis of the Bangladeshi experience by Arpeeta Shams Mizan and Sayeed Hossain Sarwar is an affirmation of that legacy.

Engagement with scholarship on South Asian countries is also evident in David Tushaus' piece, 'Mobile Legal Clinics for Disaster Relief' which analyses the use of Mobile Legal Aid Clinics as an instrument of assistance for survivors of the earthquake in Nepal in 2015. His paper looks critically at the way such mobile clinics responded to legal issues confronting the survivors and the supporting conditions necessary for the effective functioning of these clinics. As the

author points out, this study has a massive relevance for identifying means of extending legal assistance for survivors in the context of other kinds of natural disasters in South Asia too. Indeed, the inferences drawn by the author can be acutely relevant for India where juridification of disaster management is evidenced by the state response to COVID-19.

Apart from clinical legal education, this issue also casts its lens on another theme that informed Professor Menon's advocacy and institution-building – the broader social role of the legal academia. Prabhat Kumar Saha and Sivam Kaushik argue in their paper 'A Conception of Legal Education and Social Responsibility' that the role of law as a social institution is mediated not just by legal practitioners but also through legal academia. The authors assert that academicians have certain distinct discernible responsibilities towards the society which must be foreground in the reconceptualisation of legal education. Their central claim that legal education transcends inculcation of professional skills-training and "has a moral imperative to shape society" has critical ramifications for the conception of inclusive legal education and legal education as a tool of social transformation.

The Fifth Ashutosh Mukherjee Lecture on 'Developing a Sense of Injustice - Reimagining Legal Education in India' by Prof. Amita Dhanda argues for a radical reimagination of legal education. Her call for 'education of empathy' and view of indeterminacy of law as a flexibility tool that "customise the rules of the law in accordance with needs at different points of time for different people" presents an alternate imagination of legal reasoning and education that goes beyond the currently dominant model of law-teaching as imparting of information on legal concepts. Drawing upon Edmond Cahn's *The Sense of Injustice*, she highlights the urgent need for foregrounding of the 'emancipatory objective of legal education' and appropriate reorientation of the curricular and pedagogic methods to this end. In this, her piece reminds us of Paulo Freire's exhortation in *Pedagogy of the Oppressed* that there is no such thing as neutral education and education either functions as an instrument to bring about conformity or freedom.

At a time of epochal changes taking place in the political trajectory of the Indian republic in the form of reorientation of the institutional role of the judiciary and its relationship with the executive and the leveraging of legal processes to further a majoritarian agenda, the themes addressed in this special issue in honour of Professor Madhava Menon can expand our understanding of the role of legal academia and legal pedagogy both as an

instrument as well as an arena for socio-political justice. For those within the academia, this issue ought to present an opportunity for ‘reflective contemplation’ on the ways in which legal education can be refashioned as a collaborative partnership between teachers and students in the quest for empowerment and justice.

I must commend the Editorial Board and the Faculty Advisor of the Journal as well as the Referees for steering this Special Issue. This Issue promises to further the Journal’s aim of “[b]reaking the barriers of compartmentalized legal discussion” and encouraging cross-disciplinary approaches for a better understanding of law and legal systems within India”. Editing is as much a labour of love as an intellectual pursuit, and as readers, we stand in gratitude to everyone involved.