Innovations In Legal Education

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The very first thing which needs to be done in Pakistan is switching over from Text Book reading to Case Law reading. Text Book reading has its roots in the “Civil Law System” which is in vogue in France and French Colonial Countries including a large part of Arab World which do not follow the principle of Stare decisis as distinguished from our “Common Law System”. There is an inherent contradiction in our legal education system. Since we follow the Stare Decisis Doctrine, we feel that the leading/landmark cases on every subject of law, whether Pakistani, Indian, British or American should be compiled as a course/syllabus for the law schools and such cases should be argued and discussed as in a court room between the students and the teachers. It is about time that we should give away with the rhetoric and repetition of several years old lectures. The case law selected as a syllabus as suggested above, should be open to inclusion & exclusion because of over-ruling judgments as well as any new & better judgments from any Common Law Jurisdiction.

The business needs of the time have necessitated promulgation, amendments and implementation of various new laws the expertise in which is very scarce in Bench as well as in Bar. Some of such laws are as follows:-

8) Competition Ordinance (Ord. LII of 2007).
9) Electronic Transactions Ordinance, 2002 to be read with “Pakistan Tele-Communication (Re-Organization) Act, 1996 and “Wireless Telegraph Act, 1933”.
11) Intellectual Property Laws i.e. Trademarks, Copy write, Patent, Designs, etc.

Examination Sytem

Besides stringent checks on the syllabus/curriculum, quality of imparting legal education, a fool proof uniform system by an independent, autonomous examining body who has nothing to do with imparting legal education, just like the examining bodies which take Toefl Test, G.R.E
Test, G.MAT Test etc, is a great and immediate need of the profession. This examining body can be run by the renowned and spotless retired Judges of the Superior Courts, senior Professors and lawyers etc. Every student will have to pay for being examined separately from paying to law school who imparts tuition and the law schools or their members will have absolutely no direct or indirect connection with the examining body.

**Professional Licensing**

Grant of professional licensing should be a continuous process until twenty or twenty five years of practice and should be held every five years for every lawyer and he/they should be allowed to practice within the parameters given in the license. For example, a lawyer having 5 to 10 years experience and corresponding practicing license may not be allowed to handle a murder case or civil cases in excess of certain amount. Certain categories of cases can be allowed and others can be disallowed until the specified licensing requirements are met.

**Professional Ethics**

With regard to observance of professional ethics very extremely stringent actions should be formulated which may be as tough as the court martial in the Army, barring from practice for the rest of life besides the civil & criminal prosecution. No convict or one who has chequered history should be allowed to enter into this profession. A system of thorough intelligence reports should be developed before granting entrance into the profession.

**Training of Para Legal Staff**

There is absolutely not a single institution imparting training, education and granting diplomas for Readers, Ahlmads, Copy Clerks, Court Clerks, Process Servers, Bailiffs, Counsel Clerks in the entire country. There are always two or three tiers in every profession. In Army, Commissioned Officers, Non-commissioned officers and those who are not even non-commissioned personnel. In medical profession, there are several schools/colleges imparting para-medical training. In Engineering, we know of the Railway Road College of Lahore and the Head Rasool Training College. There are schools even for the training of Patwaris, but unfortunately, there is not a single school for the training of Para Legal Staff.

**Bankers**

In my 20 years of banking practice, I have not seen bank officials Incharge of lending moneys, having sufficient knowledge of the concepts of the Contract Act, Negotiable Instruments Act, Order-37 of Civil Procedure Code and the relevant provisions of the criminal law. The bankers do have their own academies for training their officers, but it is of great importance that the officers of managerial level and those who are directly or indirectly concerned with disbursement and securing of loans/finances must obtain a degree/diploma from a law college or a legal academy.

They may have fundamental knowledge of the related laws, but it is highly probable that, they generally, would not possess the required knowledge of the concepts such as “fiduciary relationship”, “criminal breach of trust”, “relationship between principal and agent”, the ingredients of a Contract itself particularly “consideration”, “indemnity and guarantee”,

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“bailment”, and various types of charges which can be created against properties as security for repayment. It is imperative that legal education exclusively with regard to banking, as stated above and including the import and export documentation should be taught by way of a very vigorous and intensive course. In my experience, I have found that the main reason for the banks to loose a case in a court of law is defective loan documentation which is the result of lack of knowledge of the banking law. The bankers should also be taught the Transfer of Property Act keeping in view the various kinds of mortgages, pledges, hypothecation etc. The Banks must given immediate attention to this aspect of the banking sector.

**Engineers**

Engineers who get engaged in the International Contracts/Projects whether as Consultants or as Contractors. Particularly, we feel the need that our Engineers/Consultants who work on Internationally financed projects must be familiar with the International Contractual Provisions in vogue. We have felt that even the big institutions like Nespak, are simply using the standard agreements of ICSID or the Eximbank. Furthermore, our Engineers must be trained as good negotiators particularly with regard to the Bank Guarantees pertaining to Mobilization Allowance, Performance Bond/Guarantee and other National and International Bank Guarantees & letters of credit etc.

Dispute Resolution Clause is also one of the important topics on which our Engineers must be given legal training as to the legal consequences of arbitration clause, applicable substantive Law of the Contract, the Rules of International Chamber of Commerce Arbitration, the venue and procedural law of the Arbitration etc. We should also familiarize the Engineers with the FIDIC Contracts and the FIDIC proposed methods and forums of dispute resolution. In this regard, the relevant clauses which are acceptable to the donors/International financial agencies such as the World Bank, the IMF, the Islamic Bank, Jaddah and such other institutions should also be explained to the Engineers. Special classes for diplomas should be given in the law schools to the engineers.

**Doctors**

The recent heinous incidents/accidents which have happened in various hospitals all over Pakistan causing unnecessary deaths due to malpractice, carelessness, incompetence and lack of accountability has necessitated the training of doctors as to Legal Consequences of such omissions and mistakes. PMDC may be the right forum as far as the licensing and the professional misconduct is concerned, but there is a large part of the matter which pertains to the law courts involving criminal as well as civil liabilities. Therefore, necessary courses in the law schools should be introduced for doctors.

**Jailors & Police**

Special courses should be chalked out by the legal fraternity and the Home Department for educating the police and the jailors, the local laws relevant to their fields. Furthermore, the international laws/treaties/conventions etc. which the State of Pakistan has ratified should also be taught to the jailors and the police with regard to human rights of a common citizen and prisoners/detainees as well. The international conventions on punishment, torture, corruption, money laundering, cyber crimes etc. should also be taught through our law schools.
One thing which is not being realized or appreciated by the high-ups is that once an international convention/treaty/protocol etc. is signed by the Government of Pakistan and **duly ratified**, they become the supreme law of the society even a step higher than our own Constitution and the local law, which in the language of international law is called the “Municipal Law”.

**Property Dealers**

The property dealers in Canada are not given license to do such business unless they qualify and pass the relevant examination. They are given special courses with regard to the laws pertaining to real estate, transfer of property law, transfer of title and possession, and know how about the verification of the ownership and the designs and the drawings of the building kept with the Municipal Authorities. The license granted to the real estate dealers specifies as to upto what extent of value of property they can deal with. For example, a one star dealer, *not a general*, can deal only with the property up to the extent of one million dollars, while a two star dealer may be able to deal upto property valuing two million dollars and likewise a three star dealer can deal with property amounting to three million dollars. The dealers, by law, are required to emboss the qualifying stars on their visiting cards, advertisements, boards and hoardings etc. They are also required to have the licensee’s picture on the visiting card to curb further unofficial delegation as sub-dealers or sub-agents. We suggest that it should also be made imperative for all the property dealers to join the relevant law colleges and obtain the necessary diplomas giving them the knowledge of the property as well as the transfer of title, the registration procedure upto the stage of transferring the perfect title with possession, free of any charge or with charge. The dealers should have good knowledge of charge creation and leasing laws in addition to the rent laws etc.

Another important aspect of this area is the drafting of the agreements/ conveyencing documents about which the dealers should be required to engage lawyers/solicitors and they should be bound by law to provide the names of the lawyers/solicitors on their list. **Each document drafted or vetted should contain the name of the lawyer/solicitor who has prepared the document along with his C.C.No. and complete address etc.**