



**FIRST NATIONAL LAW SCHOOL OF INDIA UNIVERSITY ALUMNI
CONFERENCE 2015**

ON

**LEGAL SERVICES, LEGAL EDUCATION AND THE STATE
OF THE PROFESSION: EMERGING CHALLENGES**

**Date & Venue : 25TH- 26TH APRIL 2015, AT NLSIU,
Bengaluru**

CONCEPT PAPER

*"We're living in a world transformed by technology and the law will be no exception."
-Richard Susskind*

The seminar intends to identify, discuss and analyze the issues and challenges ahead of the legal profession in the context of delivery of legal services and access to justice in the year 2020 and beyond. What are the challenges legal profession in India is facing today to keep pace with the changing dynamics and opportunities in the resurgent Indian economy with one of the fastest growth trajectory in the world? India is no longer the stately and steady Elephant, but a Lion exuding power and vitality of over 500 million youthful workforce.

The challenge before us today is to introspect to see if our legal education, our profession, our constitutional institutions, justice delivery system are in sync with the changing times. Are we sufficiently equipped and have we integrated the modern day techniques, technologies and methodologies to effectively function and address the issues confronting us? The object of this Seminar is to examine and evaluate how the legal profession should reinvent and revitalize itself to go along with the changing times and present opportunities for professionals in a competitive environment and to assess the importance of ethics and management of the profession, among several other facets.

This seminar endeavors to gather inputs from various stakeholders such as, law schools, lawyers, law firms, corporate sector, NGOs, judiciary and the regulatory bodies to highlight the need for knowledge and skills enhancement of lawyers and judicial officers and suggesting contemporary mechanisms and efficient processes for effective delivery of justice in the light of expectations of this generation of Indians. It is proposed to discuss important aspects that have a bearing in providing access to justice, the issues involved in timely delivery of justice, discussing issues in legal profession, its ethics and management and the role of the Government and other stakeholders in this regard.

The Menon Institute of Legal Advocacy and Training (MILAT), Trivandrum, founded by Padmasri Dr. N.R. Madhava Menon and National Law School of India University (NLSIU), Bangalore, a pioneer in legal education and professional development programmes headed by its Vice-Chancellor, Prof.(Dr.) R. Venkata Rao along with the Alumni of NLSIU are organizing this Seminar to discuss the following key issues:

Law Schools & Lawyers:

The establishment of the several national law schools as also large number of private law colleges and the phenomenal increase in the interest of students to choose legal education and legal profession are indicative of the growing importance of law in the recent times. The traditional subjects and methods of teaching that catered mainly to deal in litigation practice will no longer be sufficient in grooming a law student for the future in view of the growing complexities of legal and compliance regimes that are connected with industry and marketplace. Today, the importance of communication skills, growing use of technology, overlapping jurisdictions, litigation prevention mechanisms and resolution-centric practices, as opposed to litigation centric approach, has assumed centre stage. More and more law schools need to adapt to the changing needs, while at the same time avoiding the danger of exclusion of study of basics of law getting obsolete. A fine balance is to be struck between the curriculum and its practical application in real time situations. Lawyers who are introduced to the technological advances in the recent times should be willing to embrace the mechanism and put to use the same to help effective dispensation of justice. With more and more businesses and other institutions ready and willing to embrace the compliance requirements under our statutes, the challenge before the law schools is the shaping of new kinds of lawyers and legal professionals who will specialize in and carry out specific work with the use of law and technology. The emphasis should be more on ethical dispensation of justice rather than economic benefits derived therefrom. The role of ethics and its timeless significance needs no less emphasis in the present world and the law schools should take it upon themselves to continue honing the ethical principles which will manifest up the legal ladder until the final dispensation of justice.

With India opening to FDI in multiple sectors and with the present globalized economy, emerging trends in technology, cyber space, and electronic commerce have brought about significant changes in technology laws, intellectual property protection, international trade and commerce, finance laws and business laws. The interplay of law with new technologies and internationally accepted legal principles now have a much greater impact on social and business practices. Furthermore, with advancements in healthcare services, stem cells, nanotechnology, nuclear energy, and surrogacy, several other legal issues have cropped up which are not yet backed up by an established legal framework. With globe-trotting Indians, multi-jurisdictional issues affecting our personal laws have created several validity and enforcement concerns. The recent initiative of Make in India Project by the present Govt. also highlights the need for an effective legal enforcement mechanism to be put in place regarding land, environment, forests, biodiversity, education, employment, labor laws and several other related issues.

At this juncture, we cannot afford legal education to stop with the law schools. Lawyers and other legal professionals have to constantly update their skills and knowledge and have to keep up with the current legal developments and emerging trends.

Key Issues:

- Traditional Legal Education Framework vis-à-vis the Emerging Trends in Legal Education (need for revamping curriculum, emphasis on legal drafting, student exchange programs, quality of faculty, growing expense of legal education, etc.)
- Trial Court Practice – A mandate for every law graduate
- Legislative Drafting As a Specialized Course – The need of the hour for effective laws?
- Ethical Dispensation of Justice (commercialization of profession, economic benefits, etc.)
- Legal Profession in India and the Need to Embrace Technology

Continuing Legal Education and the Role of the Bar Council and Bar Associations:

The Bar Council of India as also the state Bar Councils have to assume a pro-active role. It is essential that the Bar Councils have to draw up programs to engage the lawyers in training and mentoring and also include continuing legal education as a pre-requisite for continuing in legal practice and the legal profession. Upgrading their skill set is an essential tool for any professional, including a legal professional, which will help the professional understand the client needs and provide proper advice. The role of the Bar Council instead of being restricted to the role of an institution which registers and acts as a disciplinary authority, should take active role and interest in promoting the interests of the legal fraternity and contribute to the enhancement of skills to raise the bar of the legal professionals and their practice. The Bar Council should have regular interface with practitioners, litigant public, law schools, specialists in emerging areas of legal practice and the judiciary and develop an increased exchange and dissemination of knowledge and take effective steps to make legal system more relevant to the needs of the consumers.

Another important aspect that needs considerable deliberation is rendering of legal services by unqualified professionals of certain other professions and also by some emerging information processes and online legal service providers and how to tackle this issue to ensure that unqualified or unregistered lawyers do not indulge in legal services delivery.

Key Issues:

- Role of Bar Council of India and State Bar Councils – Regulating Unethical Practices
- Need for Practical Training and Mentoring of Lawyers, Continuing Legal Education and upgrading skills

- Regulation of legal services by unqualified legal persons/entities
- Should company counsel be made mandatory for businesses similar to requirement of company secretary/auditors?
- New Laws or Effective Implementation of Existing Laws?

The Role of Judiciary and Access to Justice:

While all stakeholders should play a key role for speedy and effective dispensation of justice, it is the Judiciary that has the final say in ultimate delivery of justice. This institution has to gear up to meet the emerging challenges from the advent of growth of science and technology in everyday life, use of complicated financial structures and the use of myriad and complex corporate structures and their interplay using public monies from banks, financial institutions and general public which are fraught with frauds throwing up fresh challenges before the judiciary. Judiciary is to be well-informed and seized of the nuances and understand the complexities to dispense timely justice with specialized knowledge and necessary infrastructure in the broader interests of the society. The administration mechanism should evolve taking help of the technological advances made to meet the pressing demands of the litigating public and businesses. Paper work can be reduced to a large extent with electronic data. Use of technology in creating data base of all existing cases, across the country is desirable for efficient administration of justice. Use of audio and video conferencing with adequate safeguards for examination of witnesses and its effective implementation would go a long way in tackling the menace of seemingly never ending trials.

Key Issues:

- Lack of infrastructure and inadequate allocation of funds by governments resulting in shortage of judicial officers and support staff
- Use of Technology in Courts to overcome procedural bottlenecks (use of electronic communication for notices, examination of witnesses, Case management and use of management techniques to expedite disposal of cases)
- Appointment of Judges and Judicial Officers – An Effective Mechanism
- Need for Better Institutional Framework for Judicial Training; Continuing Legal Education for Judiciary.
- An Efficient Lower Judiciary – Key to address multiplicity/duplicity of cases
- Countering Corruption in Judicial Administration

Alternate/Appropriate Dispute Resolution Methods:

Extensive practice of mediation, conciliation, and arbitration should be explored and given due importance to reduce the burden on the courts and to facilitate effective, inexpensive and speedier dispute resolution. Public awareness of the legal mechanism should be a

priority as many a litigant is in the dark about the entire process, and therefore, not responsive to the demands of the judicial system. Judicial dispensation should not be

bogged down by procedural technicalities and should instead strive to provide the necessary relief to the aggrieved. The judiciary has to take an active role in preventing the evil practice of procrastination being nurtured by all the stakeholders.

The greatest burden faced by judiciary in India is the unending piling up of pending cases with the biggest litigant being the government instrumentalities. This poses a serious threat to the credibility of the institution of judiciary and the government systems.

Key Issues:

- Reducing Burden on Courts through Alternative Dispute Resolution Mechanism
- Creating Public Awareness of Alternative Dispute Resolution Mechanism
- Appeals against ADR awards – A Norm or an Exception?
- Measures to clear the Backlog of Cases

A Public Sector in Legal Profession:

Given the justice needs of the rural and tribal population in the country, can we think of organizing legal services in rural India differently on the lines of health services? Can we have a cadre of “public defenders” who are specially trained for rural legal practice and are paid for their services from the State?

How can the legal aid scheme be re-organized in its application to the rural and tribal areas where the problems are more administrative advocacy rather than adversarial litigation-oriented?

Key Issues:

- Role of the legal profession in law reform and legal development
- Dispensation of justice in rural and tribal areas and the alternatives
- Role of Legal Aid Services and NGOs in Dispensation of Justice