
THE SIGNIFICANCE OF ACADEMIC INSTRUCTION ON LEGAL ETHICS FOR LAW UNDERGRADUATES IN INDIA

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ABSTRACT

Today's society is controlled by a mosaic of disparate laws, ideas, conventions, and assertions about how individuals should live their lives. These set of rules govern our daily actions, both professionally and otherwise. In that respect, ethics is a subfield of philosophy that seeks to address the fundamental issue of what course of conduct one should follow in any given situation. It is a cogitative procedure in which individuals' choices are influenced by their beliefs, ideals, and purpose rather than by mindless habits or societal norms. Our values, beliefs, and purpose provide us with a sense of what is right and proper in our life. They serve as a point of reference for all potential courses of action.

While ethics directs one's behavior, it also directs one's behavior and interactions with others, and therefore one of the most basic criteria of any profession is sound work ethics. Professional ethics is the rule of conduct that regulates the kind of behavior expected of professionals in any particular culture.

Law has been a popular field of study for students of this generation, and it is critical for the next generation of attorneys to understand the formal ethical standards prior to entering the world and beginning their profession. The duty for teaching these principles to aspiring legal practitioners and ensuring that they are properly understood rests with the country's law schools. Students should understand how to defend and advance their clients' interests within the confines of the law while maintaining a professional and courteous demeanor toward all parties to the legal process. Despite the fact that Legal Ethics is a required component of virtually every Indian law school's core curriculum, it is not taught on an equal footing with the other disciplines.

This paper will talk at length about what legal professional ethics is, how it is taught in law schools, and why such type of academic instruction is critical for law students in India.

What is the Meaning of the Term “Ethics”

Before dealing with any ethical problems in the legal profession, one must first comprehend the basic concepts of Legal Ethics. In the many definitions and philosophies that have attempted to define the word, ethics typically denotes the study and analysis of moral principles and challenges. “Ethics” may be defined as “a system of moral principles or rules of behavior”¹ while it can also be referred to as “the study of what is morally right and wrong, or a set of beliefs about what is morally right and wrong.”²

Ethics, which is concerned with a person's ethos, may be understood in terms of its historical significance. This definition suggests that ethics are linked to personal character, and that an elevated standard of conduct is implied by it. The ethics we discuss are centered on an individual's duty and capacity to form conclusions via reasoning, and to then decide which principles apply in a given situation. We may ask what, in our opinion, is the importance of ethics in the legal profession for this article.

Legality and the practice of ethics frequently overlap in the legal profession. Being a member of the legal profession is considered to be a noble pursuit. Legal practitioners must preserve the dignity of their profession by adhering to and following the strict set of professional standards.

Legal graduates who join the field at an early age will almost certainly encounter a wide range of ethical dilemmas that will need making tough choices, frequently when their own understanding of what ethical behavior means involves collisions with that of others.³ Attending ethics training at law schools across the globe tends to focus on teaching the norms of professional legal behavior and fails to provide students an introduction to morality.⁴ Teaching law students to utilize their moral compasses in order to help them avoid mistakes that may lead to discipline is very important.⁵

¹ OXFORD LEARNER'S DICTIONARIES, <https://www.oxfordlearnersdictionaries.com/definition/english/ethic?q=ethics> (last visited Aug. 9, 2021).

² CAMBRIDGE DICTIONARY, <https://dictionary.cambridge.org/dictionary/english/ethics> (last visited Aug. 9, 2021).

³ Christoffel Hendrik van Zyl IV & Jo-Mari Visser, *Legal Ethics, Rules of Conduct and Moral Compass – Considerations from a Law Student's Perspective*, 19 PER/PELJ 1, 7-8 (2016).

⁴ *Id.* at 4.

⁵ *Id.* at 9.

Legal Professional Ethics and its History

Legal Ethics refers to the ethical standards that lawyers are required to follow when practicing law.⁶ Legally speaking, they are a natural extension of the legal profession's evolution. The fundamental ethical principles that govern the conduct of legal practice, whether they are codified or not, are likewise mirrored in the underlying assumptions, premises, and procedures of the legal system in which the lawyer practices.⁷

Legal systems grew too complicated for everyone involved to comprehend and follow the law, therefore prompting the emergence of law practitioners.⁸ Some people who had the necessary abilities learned the law and started to charge a fee for their services. The experts had no credentials, and as a result, they were unregulated. Some unprincipled, inept, and dishonest entrepreneurs were charging excessive fees, failing to meet expectations, and using delaying and obstructive methods before the tribunals where they appeared. Actions were taken to stop such abuses by enacting laws and taking other measures of the judicial and governmental kind. The right to practice law was established with criteria that had to be fulfilled. Various types of misconduct, like practicing without a license, led to expulsion and criminal penalties, and these solutions corrected many longstanding problems; they also recognized the societal value of roles of lawyers and assigned those who had the skills for performing them.⁹ A certain level of awareness emerged among members of the profession when it was realized that certain norms of behavior were necessary.¹⁰ Legal and professional ethics began when Clinical Legal Education was created. As it stands now, the educational advantages are derived exclusively in the client-lawyer interaction. It is important to provide great service to a customer. By offering service of the highest caliber, clinical instruction drives home for students a feeling of duty to the customer, which is an educational goal of law schools.¹¹

Professional Ethics for Lawyers

Legal practitioners at any level must be ready to respond to the needs of the court and justice. In the case of conflict of responsibilities, this code of ethics takes priority. As a lawyer, it is imperative that you conduct yourself with honesty and provide top-notch service to the court

⁶ BRITANNICA, <https://www.britannica.com/topic/legal-ethics> (last visited Aug. 8, 2021).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Afolasade A. Adewumi & Oluyemisi A. Bamgbose, *Attitude of Students to Clinical Legal Education: A Case Study of Faculty of Law, University of Ibadan*, 3 ASIAN J. LEG. EDUC. 106, 109-110 (2016).

while simultaneously helping to build public trust in the legal system. Legal professionals are obliged and expected to conduct themselves with respect and honesty while working with others in the same profession.

It is necessary that everyone in a profession observe specific norms of practice. In India, too, rules have been established to govern the behavior of attorneys in a professional context. This sets boundaries that are quite competitive and active. The Code of Professional Ethics, found in the Indian legal system, insists that attorneys maintain the integrity of the profession by adhering to high ethical standards.¹² For lawyers, professionalism and adherence to professional ethics are required. When it comes to dishonest, reckless, and unethical behavior, lawyers are answerable.¹³ Furthermore, if a lawyer is found guilty of unethical activities that taint the dignity of the profession, he or she will lose the right to practice law. To carry out his professional duties, a lawyer must also adhere to the professional standards. He must do so both to fulfill his role as a representative of his client and to preserve the integrity of the profession.

The Bar Council of India is a statutory organization that is responsible for both regulating and advocating for the Indian legal profession. It was established by Parliament, which used the procedure laid forth in the legislation called the "Advocates Act, 1961." It establishes professional norms and standards of professional behavior and doles out disciplinary justice. §49(1)(c) of the Advocates Act, 1961 gives the Bar Council of India the authority to promulgate regulations prescribing the norms of professional conduct and etiquette that attorneys should uphold.¹⁴ The Rules established by the Bar Council of India concerning professional conduct and etiquette are discussed in chapters two through six of parts six through nine¹⁵. This legal code details the responsibilities of an advocate to the Court, a client, an opponent, and fellow colleagues etc.

Why is Teaching Legal Ethics in Law Schools so Important?

Even if one obtains a degree after finishing law school, one cannot be considered to have completed their law education unless they have had training in legal and professional ethics. Using persuasive methods to convince students that Legal Ethics would affect their

¹² Bar Council of India Rules, 1975, Part – VI, Gazette of India, pt. III sec. 4 (Sept. 6, 1975).

¹³ *Id.*

¹⁴ Advocates Act, 1961, § 49(1)(c), No. 25 of 1961, (India).

¹⁵ Bar Council of India Rules, 1975, Part VI – IX, Gazette of India, pt. III sec. 4 (Sept. 6, 1975).

professional life is a successful way of teaching the subject. By examining why ethics is of paramount relevance in the legal profession, you may emphasize the value of Legal Ethics as a law school curriculum.

An introduction to the field would start with teaching students analytical thinking skills, constructing an analytical framework for the examination of problems that arise in the field, and then referring to the relevant laws.¹⁶ One way that clinical legal education is very distinct from standard topics like contracts, torts, and legal methods is that it emphasizes an individual's whole development.¹⁷ Learning about the rules of professional ethics empowers students to preserve themselves and gives them confidence as a result.¹⁸ Students may face severe personal and professional repercussions if they know little about Legal Ethics, but those students who have a better knowledge of Legal Ethics will be empowered and become better professionals in the future. Students' educational experiences depend on clinical education, which integrates theory with practice.¹⁹ To serve as role models for the students in helping to choose which field of legal practice they wish to focus on, clinical educators and clinicians should be engaged.

The Significance of Academic Instruction on Legal, hence, Professional Ethics for Law Students

Social institutions like law are intended to govern human relationships on all levels, including the economic, social and political, and when the fundamental circumstances of society are constantly changing, it is impossible for the legal profession to stay unchanged.²⁰ Changes in the legal profession are thus required. Although there have been many changes within society and other professions, the Indian legal profession as well as legal education have remained mostly unchanged since the nineteenth century.²¹

The Law Commission of India's 14th Report acknowledged the significance of technical education, as well as the need for a balance between academic and practical training. It proposed that university education be followed by a professional program focusing on practical experience; however, it advised that the professional program be made mandatory only for

¹⁶ James E. Moliterno, *An Analysis of Ethics Teaching in Law Schools: Replacing Lost Benefits of the Apprenticeship System in the Academic Atmosphere*, 60 U. CIN. L. REV. 83, 93 (1991).

¹⁷ *Id.*

¹⁸ Adewumi & Bamgbose, *supra* note 11.

¹⁹ *Id.* at 111.

²⁰ Susmitha P. Mallaya, *Contouring Legal Education In India: An Analysis of Challenges posed by Covid -19*, Special Issue 2020 ILIR 147, 148-149(2020).

²¹ *Id.*

individuals who want to practice law in a court of law setting.²² The Commission's 1958 Report focused mostly on institutionalizing and enhancing the general standards of legal education, with a few minor recommendations.²³ In this respect, the Report also addressed teaching techniques and recommended that seminars, debates, mock trials, and simulation exercises be included in addition to lectures, as well as other forms of instruction.²⁴ In this way, while the Commission's Report did not directly address the issue of increasing skills, it did so indirectly by recommending the adoption of teaching techniques that might be more beneficial in the development of different abilities.

An investigation of law school teaching techniques was carried out in 1994 by a three-member Committee comprised of Justice Ahmadi, Justice B. N. Kirpal, and Justice M. Jagannadha Rao, who were appointed by the Supreme Court. A number of recommendations were made by the Committee in its report, including the inclusion of problem-solving techniques, moot courts, and simulated trials in legal school curriculum.²⁵ In addition, it proposed that the new teaching techniques that were proposed be made obligatory in the coming years.²⁶ There was a need for proper teaching of skills and ethics in college, and this was granted. When apprenticeship requirements were abolished in the early 1960s, there were concerns regarding legal services being offered to the community. Based on the findings of the Ahmadi Committee, the Bar Council of India reinstated a one-year training requirement following graduation from law school in 1994, and it has been in effect ever since.²⁷

So, the Committee's recommendations served as a beginning point for the introduction of clinical teaching curriculum into the current Indian legal school curriculum, as a result of their recommendations. Because of this committee's recommendations, the Bar Council of India formally instituted clinical legal education in four practical papers into the curriculum in the academic year 1998-99.²⁸ Four practical papers were mandated by BCI.²⁹ The first paper is

²² 1ST LAW COMMISSION OF INDIA, REP. NO. 14, *Reform of Judicial Administration*, <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022080514.pdf> (1958).

²³ *Id.*

²⁴ *Id.*

²⁵ 16TH LAW COMMISSION OF INDIA, REP. NO. 184, *Legal Education and Professional Training and Proposal for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956*, <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081076.pdf> (2002).

²⁶ *Id.*

²⁷ *Id.*

²⁸ Bar Council of India Rules, 1975, Part IV, Schedule II 4(b), Gazette of India, pt. III sec. 4 (Sept. 6, 1975).

²⁹ Bar Council of India Rules, 1975, Part IV, Schedule II Part II B, Gazette of India, pt. III sec. 4 (Sept. 6, 1975).

titled “Moot-court, Pre-trial preparations and Participation in Trial Proceedings.” The second paper deals with “Drafting, pleading, and conveyancing.” The third paper, “Professional Ethics, Accountancy for Lawyers, and Bar-Bench Relations”, is also required to be taught to all law students. The fourth paper is on public interest law, legal aid, and paralegal services.

However, law school administrators were only half-heartedly supportive of the Bar Council of India's mandatory directive to incorporate the four practical papers into the curriculum because their faculty lacked the knowledge and skills essential to adequately teach the course.

In addition to having important judicial duties, the legal profession also has ethical and moral responsibilities, which must be met in order to preserve the integrity of this beautiful profession.³⁰ The practice of this profession has now become a topic of commerce, with little consideration given to the ethical and moral aspects of the profession in the modern world, including India.³¹

The deteriorating standards of the legal profession, combined with a loss of public confidence and trust, necessitates a greater emphasis on a deeper understanding of professional ethics among lawyers, as well as the formulation of a different notion of professional responsibility that goes beyond the standards of professional conduct and etiquette for lawyers.³²

Conclusion

Generally, when it comes to addressing ethical education for the professionals, the word “morality” is used the most: it is said that a professional institution should teach its students about the ethics of their field.³³

Therefore, the overall goal of law schools would seem to be twofold. Law schools must make sure that legal education does not turn students cynical, providing them with the chance to strengthen their current moral character for legal profession. The more ambitious, and perhaps more challenging, mission for law schools is to attempt to persuade those with cynical or ethical professionalism predispositions to instead choose for the latter. What this question asks is: If

³⁰ Digvijay Singh, *Ethical Implications of Globalization of Legal Education and Profession: Indian Perspective*, 7 PRAGYAAN J.L. 35, 40-42 (2017).

³¹ *Id.*

³² Prakash Sharma, *Continuing Legal Education: Rethinking Professional Ethics and Responsibility in India*, 5 ASIAN J. LEG. EDUC. 152, 153-155 (2018).

³³ Wagner P. Thielens, Jr., *The Influence of the Law School Experience on the Professional Ethics of Law Students*, 21 J. LEGAL EDUC. 587, 590-595 (1969).

they can accomplish these objectives, how much time is dedicated to ethics in the curriculum, what is taught, and how much time they spend doing it.

There is a lot of talk today about the necessity of teaching ethics, but we still do not know how values could be imparted and acquired.³⁴ The students who aspire to become professionals in law must be taught to preserve the integrity of their field of work and to adhere as best as possible to the norms of professional ethics.³⁵ When law students make the decision to become lawyers, professors and law schools must impart this idea to them.³⁶

³⁴ Christopher L. Eisgruber, *Can Law Schools Teach Values?* 36 U.S.F.L. REV. 603, 607 (2002).

³⁵ *Id.* at 616.

³⁶ *Id.* at 617.