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Sharya De Soysa

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## Status of legal education in Sri Lanka

SHARYA DE SOYSA

There are three major institutions engaged in the teaching of law in the country, the Law College, the Faculty of Law University of Colombo, and the Department of Law in the Open University. These institutions have different aims and objectives and these cannot be properly understood without some insight into their history.

The Law College is the oldest of the three institutions. In Sri Lanka as in England legal education began in the form of apprentice training and the stress was on the law student acquiring practical skills. The rules for the admission of Advocates and Proctors in 1841 and Ordinance No. 19 of 1873 which established a Council of Legal education under whose aegis the Law College was formed stressed that a prospective lawyer must be 'proficient in the general subjects of a legal education'. He was also required to have 'practically studied the laws of the colony'. This he was required to do by regular attendance in the chambers of a senior lawyer. By 1884 it became apparent that more formal instruction was necessary and the 'rules for the Admission, Education and Examination of students at Law' which come into force as an appendix to the Courts Ordinance No. 1 of 1889 required formal and systematic instruction followed by a subsequent period of apprenticeship. The training at the Law College at its inception appears have been more practically oriented. Today the course is more academically oriented. There is however, even today a considerable emphasis on the procedural laws. Thus subjects like Civil Procedure and Criminal Procedure receive detailed treatment. The focus is clearly not on comparative laws, international law and comparative constitutional law. The students must also pass subjects such as book-keeping, trust accounts and professional ethics. The staff of the college consists mainly of practitioners who teach part time and the college situated as it is in the heart of the judicial offices and courts affords ample opportunities for clinical training. Students are encouraged to follow trials and Moot Courts and Mock Trials are conducted regularly.

The law faculty presently of the University of Colombo originated as a Department in the Faculty of Arts in 1947. The impetus for teaching law at university level however came much earlier probably in 1923 by Sir Anton Bertram the then Chief Justice of Ceylon as it then was. The faculty of law today offers a four year undergraduate degree programme. The course has as its objective that of ensuring that the law student acquires a sound grasp of the 'core' legal subjects in a historical and comparative sense. The faculty also provides opportunities for postgraduate studies. Taught masters programmes, research degrees and diplomas are now available.

The Open University was created in Sri Lanka in 1980. The goal was that of enlarging opportunities in education by the use of the distance educational methods. Inevitably there was a request to establish a programme of legal studies. Whilst it may have been more appropriate to experiment with a diploma programme the pressure to create a degree program resulted in the Open University deciding to formulate an undergraduate degree course. The focus therefore has upto now been the presentation of a degree programme. The task has been colossal. For the Open University, within a short

period of time, has had to produce basic tests and reading materials on all the 'core' legal subjects in Sinhala, Tamil and English. The emphasis upto now has been then on the undergraduate programme with plans being made for interdisciplinary programmes.

### **The student profile**

Until the late 1950's students admitted to the faculty of law come from a few elite schools. This was mainly due to the fact that both English and Latin were deemed essential pre-requisite for legal studies. Today the picture is totally different. Latin is no longer a pre-requisites and the free education policy initiated in 1945 has obviously enabled students from the rural areas and small towns to join the Faculty. Jayaweera analysing the socio-economic background of students who entered the university in 1977 concluded that about half the university entrants' parents had low status jobs and earned low incomes and over two thirds come from non prestigious schools.<sup>1</sup> Today's student profile in the Law Faculty is broadly the same. The only significant change that has been identified is that there has been a sharp drop in the number of students from disadvantaged areas coinciding with the requirement of a credit pass in English at the O'level for all law students.

The student profile in the Law College is obviously different from that in the Law Faculty in view of it being a fee levying institution. Nevertheless the national Mahapola Scholarship scheme for merit scholars now operates in the college. This and the availability of courses in Swabasha has resulted in the Law College attracting a wider section of the community.

The student profile at the Open University is somewhat different. It has attracted a large number of employed students with varied educational backgrounds whose objective is that of improving their employment prospects. It also has a large number of school leavers who had obtained the minimum (and sometimes much higher) qualifications for university admission but have been shut out of the University of Colombo Law Faculty which has a restricted number of places.

The emphasis in this paper on the student profile is to support the contention that with legal education becoming more widely available a group of lawyers and legally trained persons are now available in urban and semi urban areas outside the larger cities. A significant proportion of the newly qualified lawyers return to their home towns to establish a practice. This fees although not small are significantly less than in the metropolitan cities.

### **Harnessing the law student**

Little has been done to harness the law students' energies toward providing legal services for the poor and disadvantaged groups. Second and third year students have in recent times been involved with the literacy and legal aid programmes sponsored by the Legal Aid Commission and non governmental organizations. Yet students interviewed by the author felt that little had been achieved although they had given a lot of their time. A more structured and co-ordinated programme appears to be necessary.

If provision of legal services for the rural poor and disadvantaged persons is viewed in a much broader sense than now and the focus is not on assisting litigation lawyers, law students may become involved in a more meaningful fashion. Concientization

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1. Swarna Jayaweera, Access to University Education the social composition of University entrants 1984 volume No. 4 University of Colombo Review 6 at 18.

programmes, specific training programmes for para legal personnel working with NGO's operating at the village level and state officials whose work involves the implementation of various laws, are tasks which may be more appropriate areas for student involvement. The teaching staff are currently preparing books for the layman on areas of the law that the citizens comes into contact with. The books are being prepared in non-technical language in Sinhala, Tamil and English in association with the National Association for Total Education. Final year law students may well find the preparation of such material stimulating.

### **Continuing legal education programmes**

In the early 80's the emphasis in the law Faculty of the University of Colombo was on formulating taught masters programmes and providing adequate supervision for research degrees leading to the LL.M. and Ph.D. In recent times there has been a growing realization that quite apart from such programmes there is an apparent need for providing short courses for lawyers and non-lawyers, particularly those in management and administration who are required in the course of their work to deal with certain aspects of law. The object of these courses is to provide instruction in a specific area of the law. Courses are currently being planned in labour law and insurance. Courses have also been held in intellectual property law and constitutional law. Some of these courses are certificate courses and others lead to a diploma. They provide the practitioner and administrator with a body of knowledge particularly relevant to his work. These courses are popular amongst young lawyers, who find that they lack a solid foundation in a particular areas of the law. This could be due to a variety of reasons. Firstly the subject may have been an option that they did not choose to do when at the University or the Law College. Secondly there is a possibility that the subject did not form part of the curriculum at the time he read for his degree. It is felt that these programmes have had significant impact on the quality of legal services available in the rural areas since non-city lawyers form a significant component of those following these courses.

In relation to the taught masters programmes one point needs emphasis. In the early 80's the Faculty of Law decided to open this programme to non-degree holding judicial officers. This was a departure from the existing rules which allowed only graduates to enrol for these programmes. The response has been overwhelming. Primary court judges, Magistrates, District Court judges and High Court judges have flocked to these courses and undoubtedly this has had an impact on the quality of justice both in the lower courts in Colombo and in the rural areas. Lectures are held on weekends to enable judicial officers and practitioners in the outstations to attend.

### **Conclusion**

Legal Education in Sri Lanka in the last two decades has lost its elitist character and is more widely available. This has resulted in better legal services being available in the rural section. Legal education however needs to be rationalized in the country. Frontiers between 'professional and academic' courses need to be whittled down and what is required is lawyers who have both the practical skills and a sound grasp of the law. There is also a need to supplement the meagre resources made available by the state for harnessing the law student to provide legal services to both the rural and disadvantaged sections of society.

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