

SCOPE OF DISTANCE LEGAL EDUCATION IN DIGITAL AGE-FUTURISTIC APPROACH IN INDIA

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ABSTRACT

Legal education is one of the most dynamic fields as it deals with diverse interest groups and provides various undergraduate, graduate, postgraduate, and doctoral programs and multiple courses.

The objectives of the article are to identify the scope of distance education through the digital mode of communication and problems of digitalisation of legal education, as well as formulate directions for introducing a distance legal education framework. Further, the present article will analyse the scope of distance learning in professional and non-professional legal education. The present article will discuss issues in the adoption of distance legal education approach by law schools in India in the context of the post-COVID pandemic.

The UGC and BCI in India have suggested specific changes in the existing framework of legal education. The changes are needed to re-envision in the context of the COVID-19 pandemic. The COVID-19 pandemic has forced us to rethink the transformation of legal education with demographic and technological changes. The information and technological disruption will forever transform the future of both legal education and legal practice.

The present article will develop a framework for distance legal education through recommendations and suggestions.

Keywords- legal education, information and technology, distance education, massive online open courses, the constitution of India

1. INTRODUCTION

Law schools in India and most countries have always practised traditional classroom-based lecture methods (**Ruta K. Stropus, 1996**). The legal education system has stayed the same for decades. The 21st century, especially the pandemic period, has started revolutionary changes in means of communication. Online or distance education has also elevated itself to accept the new mode of communication and tools. The distance education mode is defined as the interaction between the faculty and students through technology to support the course instruction and activities required to carry by distance mode. This new communication mode is facilitative. Therefore, tertiary education has switched to online learning platforms using digital communication. These changes can be seen in higher education, primary, secondary, and other professional-level courses (**Meinck & Sabine, 2022**).

On the other hand, legal education revolves around changing nature according to the practical aspect of law (**Farzana Akter, 2016**). Law students have adopted the digital education mode during the problematic pandemic and faced challenges and limitations during the online learning process. The private education sector has progressively adopted massive online open courses (MOOC) platforms and changes in communication methods of teaching in the digital era of technology. (**Farhan Sheikh, 2021**)

The digital/online education platform is a new way to communicate and impart legal education, and it has even been accepted under the Bar Council of India (BCI) and University Grant Commission (UGC) rules and regulations made during the COVID-19 pandemic period. However, the scope of the same was that acceptance was limited in nature (**Sreejith, S. G., 2021**) The BCI has released the online examination and promotion policy for students who attended online classes during the pandemic (**BCI, 2020**).

1.1. Historical background of open and distance education in India

Open and Distance Learning in India came into the picture in 1962. The Delhi University had introduced distance learning courses through the school of correspondence courses and continuing education. The very objective of distance education was to enable the students who needed more time to complete their education. Accordingly, the central government incorporated Indira Gandhi National Open University (IGNOU) in 1985. This major government move was considered a milestone in the history of education. As this change has recognised the right to education in a broader sense, access to education is made open and accessible without age or other barriers or restrictions. Further, the central government established the Distance Education Council (DEC) in 1991. As per

the IGNOU Act, the DEC will be responsible and accountable for promoting and regulating open and distance learning (ODL). In 2009, a joint committee of UGC, AICTE, and DEC released the guideline document called '*Recognition of Open and Distance Learning (ODL) Institutions' Handbook 2009 (India)*. Accordingly, UGC is responsible for acting as regulatory authority over the ODL and related matters. But moving on further, in 2012, the central government decided to exclude technical education from the ambit of UGC. Accordingly, ODL and AICTE could regulate technical education affairs and ODL-related matters. Further, in 2013, the government decided to dissolve the DEC and establish a new authority titled Distance Education Bureau (DEB) under the authority of UGC. The UGC was responsible for handling and regulating all matters of ODL and related matters, including technical education by distance mode.

2. THE LEGAL EDUCATION THROUGH REGULAR AND CORRESPONDENCE MODE.

Distance learning and digital learning are striking trends in the present era. Distance education is one of the favoured modes of education for higher secondary and graduate-level students (**Ritimoni Bordoloi, 2018**) If we compare legal education with other professional courses, distance learning or online education has a minimal role in legal education. However, due to the neo-liberal approach and the advent of technology in communication, the leading law schools are offering online or distance law programmes through centres for distance learning. (**Distance Learning in Legal Education, 2011**) In India, The BCI, the regulatory authority, controls and manages undergraduate legal education, i.e., graduate program in law LL.B. Besides this course, BCI does not regulate any undergraduate courses relating to law. However, some courses relating to law subjects like IPR, labour law, cyber law, human rights, etc., have been offered by universities and colleges with the approval of UGC. At present, in India, LL. B. The course is being provided by law college in regular mode only. Even under BCI rules on legal education, only a standard mode of legal education is allowed, and it shall offered by a recognised centre of legal education (CLE). Hence, a traditional law degree is recognised through regular mode, not through any other mode like open, distance, online, or correspondence learning mode. But there is no restriction on offering degrees, diplomas and certificate courses on law subjects except L.L. B course. Hence, the Indira Gandhi National Open University (IGNOU) flagship offers various law programs through regular and online or distance modes, like a PhD in law by standard mode and a P.G. program through online and distance modes. It includes the certificate program and diploma at U.G. and P.G. levels, for example, certification in consumer protection, cyber law, human rights, postgraduate diploma in criminal justice, and intellectual property rights. But none of the distance or open universities, institutes, or centres, including the IGNOU in India, are entitled to offer professional law degrees, i.e., L.L. B at the undergraduate level.

We can identify why distance legal education has yet to be recognised in India for pursuing the L.L. B program.

- The legal skills that students learn and observe in the offline classroom cannot be effectively taught through distance or online mode.
- The students learn through the case-law method, seminar method, and classroom discussion, which would develop practical skills like argument, negotiation, and presentation that can be executed by students and teachers personally in the classroom. It could not be effectively demonstrated by online or distance mode. (**The Report on transitioning to online legal education – the law faculty, International Association of Law Schools, 2020**)
- Distance mode classes are not suitable even though they're pretty convenient. It cannot replace traditional classroom teaching in law courses because interaction in the classroom is significant. It develops critical analysis and lawyering skills. It is not effectively possible to make online sessions interactive.
- The teaching method through distance education is considered to compromise with the quality advocacy skills, and BCI needs to recognise bar standards and such a degree. Degrees obtained by distance mode may be regarded as acquiring knowledge rather than allowing entry into the legal profession. (**Sumana De - vs State of West Bengal & Ors. M. A. T. 2013**), (**India**)
- The system of distance education programmes has been considered an alternative mode only, and this system could not replace the formal mode of education, i.e., the regular mode of education, especially in the case of professional degree education like law, medicine, and engineering. It is not suitable for these courses (**Annamalai University vs Secretary to Govt. Information and Tourism Dept. 2008**) (**India**)
- Distance education needs more credibility due to the unrestricted entry of public and private players, which may go against the interest of students and their professional development as lawyers. There needs to be proper regulatory norms to standardise the quality of professional education through distance mode or online mode (**Prof. N R Madhava Menon, 2012**)

3. NEED FOR DISTANCE LEGAL EDUCATION

Regulatory authorities like BCI in India have not adopted distance legal education mode despite justifiable demand from legal education stakeholders. But, with the advent of new communication technology, the correspondence/online/distance mode plays a vital role in legal education and other sectors. In the 1990s, the internet and digitalisation of education facilitated access to information and knowledge without barriers. (**Jharna**

Sahijwani, 2020) Further, the role of digital and distance education has been proven in the pandemic period when there was no way to access education offline or through traditional modes. There was a life-threatening situation wherein the right to livelihood, life and liberty of individuals was subject to restrictions of lockdown norms. Hence, the education system shifted to online and distance mode. The pandemic has given us a more comprehensive approach toward access to education and forced us to rethink and revise the regulatory framework of imparting education by traditional mode.

The education shall be accessible and enjoyable beyond the limit of lockdown or pandemic situations. **(Lael Weinberger, 2021)**

Legal education is crucial in matters of access and adjudication of justice. There is a need to consider an alternative mode of imparting legal education. In the era of information and technology, there is a scope and need to switch from the traditional mode of imparting education to the modern and digital/distance mode of legal education **(Susmitha P. & Mallaya,2020)**

3.1. Distance legal education and access to justice -why it is required beyond limitations

The UGC has made distance education applicable and recognisable while imparting higher education at U.G. and P.G. levels. There are some exceptions to the UGC regulation—for example, legal education.

In the age of information and technology, there are thousands of barriers to traditional forms of the education system in a country like India; primary education is still the dream of the weaker section of society **(Lalitha Bhagavatheeswaran, 2016)**. On the other hand, the cost of legal education at U.G. and P.G. levels is beyond the economic limit of the ordinary person. The increased cost of legal education directly affects diverse enrollments and leads to disparity in the inclusion of various sections of society. The socio-economical background forces students to compromise with the quality of education. **(Sardar Ali Shah, 2023)**

Nowadays, elite private law schools and so-called modal law schools, i.e., NLUs, are accessible to economically sound people who can manage the course fees and other academic financial burdens **(Dasgupta, U.2019)**. Distance mode learning is a modern form of learning that allows students to enrol without any territorial limitation; even though students have some economic, physical, or other constraints, they can manage the expenses and achieve their educational goals **(Dr. Vibha Sharma, 2021)**. There may be better options than lowering the cost of education, which would compromise the quality of education. However, providing a distance mode option may effectively maintain the quality of education.

According to Mujumdar S.B. (the founder of Symbiosis International University), the distance education mode opens great opportunities to obtain higher education and professional knowledge without any restrictions, and a country like India shall keep distance education mode as an additional and not alternative mode of education while considering the significant population and territorial limitations.

4. THE SCOPE OF DISTANCE LEGAL EDUCATION AND LEGAL ISSUES OF REGULATION

As Justice A.S. **(Anand A.S., H.L.1998)** pointed out, legal education shall be required to fit with society's socio-economic transformation and within the limit of constitutional philosophy. Further, he said that law and legal education should not be restricted to professional skills that confine advocacy to courts and litigants. Legal education shall always reflect the social character. So, we don't require a typical advocate restricted to the court practice, and we also don't require an ordinary academician limited to the law books and bare acts. In a globalised world, what is needed is that students be trained to interpret law not only in the courtroom but also in the classroom. We need law graduates who will be researchers and experts in law analysis in adjudicating justice **(A.M. Varkey,1991)**

In the post-COVID pandemic effect context, stakeholders made strong positive movements and supported legal education and the profession for online and distance legal education. This attempt was to move over the traditional form of legal education, i.e., classroom learning. **(Apoorv Shrivastava, 2021)** The digitalisation of the legal service sector and education has promoted digital or online and distance legal education. This approach toward legal education has been incorporated in teaching law subjects at U.G., P.G. and another academic degree, diploma and certificate programs.

To a certain extent, UGC has legalised and recognised this attempt under its regulation. NLUs, private law schools and some elite law schools have opened distance education centres and offer a few certificate courses in business and corporate laws, taxation laws, cyber laws, international laws, human rights, arbitration and mediation laws and P.G. diploma courses and even P.G. programs in law like LL.M courses. Moreover, Under the flagship *Digital*

India, The government of India has launched the *Study Webs of Active-Learning for Young Aspiring Minds* (SWAYAM) program. The online distance education platform provides a digital platform to learn courses while pursuing formal education. This platform offers the opportunity to enrol in any program online and in a distance mode without restrictions. Also, this platform provides a wide range of courses, certifications and learning opportunities in most subjects, including law and professional education. **(Kishore Singh,2019)**

4.1. Existing regulatory framework and scope of distance legal education

The UGC and governmental educational agencies have promoted online or distance education in almost all subjects. However, UGC has prohibited specific programs that cannot be offered through open and distance learning modes and online modes, including law and other professional courses. Legal education in India is regulated and controlled by BCI, a statutory authority under the *Advocate Act, 1961, (India)* and the *UGC Act, 1956 (India)*. UGC is the apex authority in higher education matters in India **(Upendra Baxi, 1975-1977)** The BCI has the power to promote legal education and lay down standards of such education in consultation with the universities in India. **(Advocates Act, 1961, India)**, Section 7(h)) Further, BCI has the comprehensive power to recognise universities that can award degrees in law, and their degree shall be considered a qualification for enrollment registration as an advocate with the state bar council. Shall be a qualification for enrolment as an advocate. **(Advocates Act, 1961, India)**, Section 7(i)

However, when discussing the legal education available in non-profession degrees, certificates, and diploma courses, The BCI has yet to make concrete standards to regulate norms of such classes, i.e., curriculum, examination and assessment norms, medium of instruction, mode or form of instruction. Accordingly, university norms for regulating standards would be final and valid.

The BCI role is restricted and limited under the scope of section 7 (1) of the *Advocate Act, 1961(India)*. **B. Ramkumar Adityan vs Secretary Department of Higher Education, Ministry of Education and others,(2020), (India)** The non-professional degree, certificate and diploma shall not confer any right to enrol as an advocate with the state bar council. However, BCI has been claiming the power to regulate P.G. and research degree (PhD) programs in law. The apex court must still validate the BCI rules to bend research degrees. Said matter is still pending before the apex court. **Tamanna Chandan Chachlani Vs. Bar Council of India (2021), (India), Rishabh Soni Vs. Bar Council of India (2021) (India), Consortium of National Law Universities Vs. Bar Council of India (2021), (India)**. These courses shall comply with the standards when BCI comes with the regulations.

The Existing framework of legal regulations has minimal scope to allow distance or online modes of education. The BCI has strictly said no entry to distance mode of education in the case of U.G. programs like LL.B. **(Legal Education-2008, India)**. Still, when it comes to P.G. programmes in law, LL.M. and other non-professional degrees, diploma courses, and certificate courses have opened doors to welcome distance or online education because these courses fall into distinct categories. Even BCI has yet to claim authoritative power to regulate under the authority of the **(Advocate Act of 1961, India)**. But BCI has moved into controlling P.G. and research degree programs in law by making *The Bar Council of India Legal Education (Post Graduate, Doctoral, Executive, Vocational, Clinical and other Continuing Education) Rules, 2020 (India)*. However, this law is subject to conformity from the apex court of India.

4.2. Current scenario of distance legal education and available platforms

The trend in education has changed after the COVID-19 pandemic period. We experienced the importance of digital technology and communication platforms during the pandemic **(Aaron J. Saiger, 2020)** The BCI norm strictly prohibits the enrollment of students with two programs at the same university or with a different university **(BCI Legal Education Rules, 2008, India)**. But BCI has allowed students to take up additional programs, value-added programs or certificate programs, U.G. diplomas, or certificate programs with the same university or different universities provided that the program shall be short-term courses or provided in distance or online mode. Therefore, most law schools offer short-term programs while pursuing a law degree. However, the rules allow students to enrol in short-term certificate courses or courses run in the distance education mode.

The shift to digital online mode classrooms was the inevitable impact of the pandemic situation, and somewhere, digital mode education was literary through the distance mode wherein academic instructions, assignments, examinations, activities, and events were conducted online. To a certain extent, we can say that shifting to virtual classes saved the student's educational interest. **(Roy, R., & Sharma, P. 2023)**.

4.3. The MOOCs and distance education centres of universities and colleges.

Massive Open Online Courses (MOOCs) are initiatives under the *National Mission on Education through Information Communication Technology (NME-ICT)* Programme. The government initiative is to provide

education through distance and digital modes to many students in diverse locations. These are the learning opportunities offered by the university, colleges and distance learning centres. The website-based technology is being used to deliver education to students who are geographically far from the college or university. MOOC courses aim to impart education and professional knowledge, enhance employability skills, value addition and skill development among students.

The MOOC courses play an essential role in learning and enhancing law knowledge (**Jing-fang Zheng,2019**) The leading law schools and universities have already offered a wide range of diplomas, certificate courses, and value-added courses in the emerging field of law. This platform has features of flexibility of time and location. It was popularised and familiarised during the COVID-19 pandemic period. (**Mr Lagdhir Rabari,2017**)

The UGC and other government universities have offered MOOCs law certificate programmes and courses through the SWAYAM platform. It provides an integrated one-stop digital platform for online and distance mode courses, and it uses information and communication technology (ICT) and digital technology to reach out to students and facilitate them in learning and acquiring skills and practical knowledge. Further, this platform offers a variety of courses and certificates in all subjects of higher education.

5. PROBLEMS OF DIGITALISATION OF LEGAL EDUCATION AND DISTANCE MODE EDUCATION

The digitalisation of legal education has become integral in the context of globalisation. The COVID pandemic and post-pandemic period have accelerated the digitalisation of data and sources, too. Digital or online communication was the only way we maintained the lockdown protocol. It was proven that we could revisit the legal education policy and consider adopting online or distance modes of education wherever possible and suitable. Accordingly, legal education can be imparted to students by adopting ICT tools and technology.

There are some substantial problems and issues of digitalisation. One of the significant issues is the digitalisation of information and data in education and case laws. It is possible only when the digitalisation of information and data of education materials and case law data. (**Prof. Dr. A. Lakshminath,2013**)

The material problems of digitalisation and distance education mode are highlighted below (**Rebecca Purdom,2015**)

- Technical problems with accessing compatible and high-speed internet facilities.
- The coordination between students and faculty during online classes is a substantial challenge (**Muthuprasad T, Aiswarya S, Aditya KS, & Jha GK., 2021**)
- Accessing educational sources and data that cannot be disseminated online is challenging. (Library resources, hard-bound books and study material which is not digitalised) (**Sarika Sawant, 2021**)
- Technical glitch assistance and system support are required during the online or live session to ensure the effectiveness of the class and continue the learning process (**May & Diane,2014**)
- Maintaining student engagement throughout the course is challenging, especially if the program or course is a theoretical or philosophical subject.
- No standard policy exists in the legal education for regulation and accreditation of CLEs and law institutions that want to adopt distance legal education. (**Sharma & Yogesh, 1994**)
- The absence of state recognition and professional bodies, for example, bar councils (BCI in India) to distance legal education of a professional nature like L.L. B or professional law degree, is one of the constraints in adopting distance legal education policy at the undergraduate level.
- Starting an online or distance learning platform requires registration of colleges or faculties at government agencies like the education department and the SWAYAM digital platform in India.

The regulatory body and professionals should have been addressed in India almost neglected distance or online learning. (**Santi Kundu, 2014**) However, the outbreak of the COVID pandemic has changed the scenario and compelled us to switch from traditional modes of education and boost online or distance learning in all curricula, including law. However, the approach toward distance or online learning in law courses shall be adopted and progressive in the digitalisation age and globalisation.

6. ADOPTION OF DISTANCE LEARNING AT INTERNATIONAL JURISDICTIONS.

Most progressive nations have adopted the hybrid mode of education at higher level courses, including legal education—for example, the USA. The American legal education system has adopted the mixed mode of education wherein few courses or credits can be earned through online or distance learning. Such courses shall comply with the standard norms of degree or qualification required to register or enrol lawyers at the state bar council or association. For example, an ABA-approved law college can adopt distance education mode to a J. D. degree, but

such credit shall be at most one-third of credit hours of the program's total credits. The American Bar Association can recognise J.D. degrees offered by distance or online.

Distance education is familiar to the United Kingdom (U.K.). The U.K. has a concrete history of distance education in legal education and other professional degrees, U.G., P.G. and PhD levels. In 1969, the royal charter opened the door for distance legal education at U.G. and P.G. level law programs. The Open University has been incorporated under the royal charter with objectives to provide higher education and reach every adult citizen in the U.K. and worldwide, **(Bilate Bisare, 2021)**.

The Open University is a leader in distance education in the U.K., offering a wide range of degrees, diplomas, certificate courses, and expert professional training programs in law. Their degree is recognised for enrollment as a solicitor, barrister, paralegal, or chartered legal executive in the U.K. and Wales region. The U.K. universities are offering law programs through traditional modes of education. However, some branded universities have adopted liberal and modern approaches to legal education and opted for distance or digital learning platforms for both U.G. and PG-level law programs. Moreover, they also prefer hybrid modes of education that include opportunities to learn through distance learning, for example, the University of London, the University of Oxford, etc. **(Dr. Abdullah Al Faruque, 2021)**

European countries also have adopted a progressive approach toward distance and online learning modes. The European Association of Distance Teaching Universities (EADTU) is the international European Association of Distance Universities established in 1987. This association is the leading partner in European nations. The objectives of EADTU are to provide diverse opportunities through hybrid, blended and online modes for campus and off-campus education. Further, EADTU has aimed to support continuing education and professional development through guidelines, a short-term model for online and distance learning curricula, and the assessment and accreditation of the university.

We can cite here a few universities that are the pioneers in founding the base of distance education and providing continued support in the professional development of adults and students who could not complete their formal education due to other constraints **(Moeketsi Letseka & Victor J. Piteoe, 2012)**. These universities focus on disciplines like arts, commerce, sciences, humanities, economics, mercantile law, computer science and management, information and technology (ICT), communication and technology and never the list, law and politics. *The Universidad Nacional de Educación a Distancia (UNED)* -National University of Distance Education of Spain, came into the picture in 1972 to open distance education mode for continuous support and fill the gap of higher education through continuing education policy. *The FernUniversität in Hagen* in Germany has been imparting education through distance mode since 1974. The Open Universiteit Nederland was established in 1984 on the model of the Open University of Great Britain. *The Universidade Aberta (UAB)* – is located in Portugal and has been awarding degrees and diploma certificates in higher and professional education since 1988. *The Universitat Oberta de Catalunya (UOC)*, i.e., The Open University of Catalonia, is the world's first online virtual university. Established in 1995, it offers a wide range of degree, diploma, postgraduate, and doctoral programs through distance mode or digital online mode. The Open University of Cyprus (APKY), a public university in Cyprus, has offered education through distance mode since 2002. The International Telematic University (UNINETTUNO) was incorporated in Italy in 2005. In Greece, The Hellenic Open University was founded in *Patras* and exclusively provides opportunities to learn professional education through distance and online modes of education. **(Julia Tsarapkina, 2021)**.

7. CONCLUSION AND RECOMMENDATIONS

Distance or digital learning has strongly supported education during the COVID-19 pandemic. Further, it has also catered for the socio-economic and educational needs of developing countries like India. The digital age of the 21st century demands a global and liberal approach to education that would benefit the majority of society. Digital technology and tools are successfully adopted in most disciplines like science, humanity and social science, health sciences, management, engineering, etc. The open and distance universities and centres provide a variety of professional skill development, knowledge enrichment, and value-added courses at U.G. and P.G. levels. Most disciplines widely recognise and adopt the distance education mode to complete graduate degree education.

However, in the case of legal education, the distance or open education mode needs to be fully recognised by UGC and BCI rules. The Indian legal education and service sector reflects the common law and civil law systems. As discussed earlier, the most progressive nationals, like the USA and the U.K., have adopted the liberal approach by adopting distance legal education mode at U.G. and P.G. levels of education. We have adopted the norm of regulating the entry of advocates at the bar, which is the philosophy of the U.S. and U.K. legal systems.

Then, why has the open or distance education mode yet to be adopted or approved for a U.G. degree in law, i.e., L.L. B in India? UGC and BCI have yet to breed this question with proper and justifiable reasonings.

There is an excellent opportunity to cater to society's needs in India through the distance learning mode of education. Legal education is fundamental and related to adjudicating justice. It is expected to be open and easily accessible by each individual without any restrictions. Present regulatory norms are incompatible with adopting the available and distance education mode in legal education. It is required to adopt the liberal, progressive approach while teaching and learning law.

Ultimately, I suggest a framework (a few aspects) for adopting open distance legal education at all levels, i.e., U.G. and P.G. levels.

- Existing open universities like IGNOU can partner with UGC and BCI to regulate academic, curriculum and graduate requirements for law degrees to be offered by recognised centres or CLEs.
- BCI may amend existing rules or make new rules on legal education, which would incorporate a hybrid mode of education (regular and distance mode), including adopting a distance mode of education as an alternative or additional.
- University and BCI rules may be amended to allow students to learn or acquire academic credits through hybrid or distance education.
- BCI may standardise the curriculum and core courses to be exclusively offered in regular modes, such as compulsory courses, as BCI norms recommend.
- BCI, UGC and the university may come up with new patterns of evaluation and assessment that can be different from the regular mode of education. (For example, multiple choice-based pattern, tutorial and practical-based assignments)

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