

[DRAFT]

TEACHING AND RESEARCH IN INTERNATIONAL LAW IN ASIAN REGIONS: A COMPARATIVE DISCOURSE ON SCOPE, HURDLES AND WAY FORWARD.

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(Short think piece with Abstract)

Every sovereign country resolves its socio-economic-political problems through legislations. But no country has enough resources to combat entire problems alone nor has it ideological technology. The countries entering into bilateral treaties bring suitable changes in laws for bilateral trade relations, investment, cultural exchange programmes etc. Such bilateral treaties may not work properly, therefore regional forums, i.e.SAARC, ASEAN, EU, etc. are created for speedy socio-economic progress and peace in the region. The resolutions of the General Assembly have become a propelling force to accommodate in the global conditions politically. The UDHR have been a great guidelines for the countries to legislate and develop institutions for the human rights protection. The EU human rights court and its functioning has become an icon for rest of the world. India has given due importance to the international treaty under Article 51 of the constitution. The Human Rights are protected under Human Rights Act 1993. The National and state Human Rights commissions are functioning together. People are getting remedies. Likewise the WTO agreement have emphasis on trade and development for the global village. The environment cannot be confined within four walls. Each country has been facing the natural calamity and global warming. The TRIPS agreements have connected the whole world into one economic zone. The ILO has been working on various employment issues internationally. The global nature of companies – multi-national, trans-national have encouraged India to change corporate laws in 2013 for globalizing the business. The reform in tax laws as per international treaties and conventions have resulted in GST Act for giving boost to business under –one nation -one tax principle. The consumer protection laws and competition laws are global in nature. The Arbitration laws have got impetus to resolve international trade disputes.

Thus the treaty- agreements, international covenants, conventions, conferences, resolutions, UDHR, TRIPS, and TRIMS, banking laws have taken root in the domestic laws. The objective of all global activities to bring socio-economic changes convenient for human development and peaceful world order. Even the criminal law

making area are not left unaffected. There is impact of ICC and ICJ too. The movement of nationals to different countries of the world have made it necessary for human protection and quick judicial remedies with extradition and asylum. The private international laws/conflict of laws have emerged with a great significance. The family laws are no longer local now. The problems related to refugee is still a global issue and the homeless/stateless also have remedies under the human rights and humanitarian laws.

Thus the inclusion of such international laws in course curriculum is an urgent aspect of teaching to day in legal curriculum. The professionals in legal field require to be trained in domestic laws with reference to the international law to make them global.

In this context, this paper will try to explore the way to overcome hurdles. The international law teaching is limited to national in scope due to lack of training to the law teachers. Secondly, the inter-state teacher exchange program is almost unavailable. There is no regional or global centers where in the issue based teaching –training be provided. The teachers and researchers are craving for institutional support, books, journals and law reports. Therefore an inclusive curriculum in each papers of law requires to be framed for effective understanding of regional and global issues. Days are gone for the proverbial slogan that international law is vanishing point of jurisprudence.

The first half of the twentieth century witnessed great international upheaval leading to great world war, concluding into establishment of UNO and furthering global peace and prosperity. The wave of democracy intered into the world fraternity for economic prosperity. This resulted into global conventions/treaties to overcome the hurdles, and paving way for uniform policies for better socio- economic-cultural world order. Thus a new awakening entered into the world order to develop their people accordingly. It is now an open secret that no country can grow without global support. The marvel of telecommunication/internet has brought the countries very close to each other. Now we are living in a global village. It is difficult to ignore any type of changes anywhere in the world. Therefore the academics cannot remain aloof from the changing world order. So the updation of course curriculum of academics has become an urgent need in order to prepare professionals of today and brighter tomorrow. The teaching has not to be limited to class room teaching but research for domestic problems with reference to the changing world order. This is the reason that modern Universities are being established.

But it has been our experience that merely establishing a University is not enough. It requires rational and need based curriculum. It also requires to understand the employment scope in the globalized world. But while framing, updating or rationalizing the curriculum, the global scope is generally ignored. The reason lies in the either absence of knowledge of global changes or who will teach, if the curriculum is of such standard. Thus the courses become local or regional. It sometimes remains in the state boundaries. It becomes neither special nor national as there is no effort to discuss over this issue, calling a national conference for uniform and special course curriculum. The regulating agencies does provide model but autonomy comes in the way in formulation of the course curriculum which succumbs under the superiority of the heads presuming they know everything. There is no discussion, hence arguments prevail.

Secondly, the teaching pedagogy is the most important factor in making the professional. The function of a teacher is not to teach but to create/generate curiosity. The teacher's duty is to knock the door of the mind and let the student stimulate. But such teaching requires self-study, research, training and dedication towards the cause of students. The lack of updated books and access to library is a basic hurdle. The updated journals are also a dream. The preparation of the lecture plan and materials depend on the sources available in the library, which is almost out dated. The mandatory purchase of books annually is only a window dressing. Thus the compulsory library access remains a ceremonial rituals. This results in monotonous teaching and research, ultimately driving the young generation into oblivion.

Thirdly, the training to the trainer is not only a principle, but an urgent need for sharpening the teaching methodology, updation of the current national as well as international changes/issues, creating a sense of responsibility for academic institution and students, society ,innovative to the ideas what better can be and how. The teachers are the builders of future of the young ones. This objective should be apparent in the mind always. But it has become an 'employment 'with an objective of earning ones living, whereas teaching has been a solemn service.

Fourthly, the in-house weekly or fortnightly discussion on the teaching pedagogy, technique of setting question papers, evaluation technique are wanting .The 'review discussion' is a way to update and awaken the duty and responsibility of a teacher. But it is taken as a tool to victimize, and hence generally ignored. The communication to and fro from students feedback is another important tool to keep update and aware the teachers for their responsibility.

The teachers are not concerned of class room teaching only rather as a researcher also for academic as well as policy contributions. The writing of research papers, institutional research projects and authoring books are part and parcel of the teaching profession. If the institution motivates the teachers for such activities and helps in getting training, the entire academic world is benefited. The organization of seminar, workshop, and debates on local, national and global issues are technique to update and sharpen the teacher's communication skill and student's ultimately.

Fifthly, teaching the papers/subject of law is a challenging one. It cannot be taught word by word. It requires to reveal the hidden philosophy inside the word, sentence and paragraph and context. In another word, every paper of law in the curriculum, is a branch of subject in itself. Hence it has its own jurisprudence. As the jurisprudence in labor law is different from that of the administrative law. Likewise the environmental law has its own jurisprudence and cannot be equated with the criminal law. The civil procedure code is difference from the law of Arbitration. Thus the teacher has to be trained in the jurisprudence in general along with jurisprudence in special branch of law.

Sixthly, the teaching in each paper /subject of law requires training in international law in that branch. As one cannot teach intellectual property law (IPRs) well, unless one has knowledge of GATT, TRIPS and WTO along with various conventions and treaties. The international/world agreements have forced the signatories to amend their domestic laws to cope with global trade and commerce. The environmental law cannot be taught in isolation .It has to be combined with various global conventions, conferences and submits. The criminal laws requires to be updated with human rights approach and courts decision of the developed and developing countries. The corporate laws and taxation laws cannot be blocked into national boundaries. The cyber law has become as common as the jurisprudence in legal studies. The public international law has widened its horizon into various parts, i.e., private international law, law of the sea, international economic law, international trade laws, international humanitarian law, Human rights law, space law etc. How to teach the domestic law, make it interesting, purposive requires a training in teaching international law.

Seventhly, the teaching in law is interdisciplinary in nature. It cannot be taken on Kelsen's principles of pure law devoid of social sciences. In fact law is a subject of multidisciplinary and multidimensional study, fully related to society, economics, political philosophy, business environment locally, nationally and globally.

Therefore, it requires interdisciplinary approach in study and research .This can obviously be translated into teaching by connecting the domestic laws with international laws.

Finally, the international law itself has to be widened in its area and scope .It can be taken as ‘intercontinental laws’. It can help in developing the similar legal system in particular region and reduce conflict in the ‘economic and good governance’ approach. After all, the objective of the conversions, treaty, legislations, rules and regulations end in good governance, peace and prosperity in the region and world. The teachers have the responsibility to plant, nurture and groom the young generation in global perspectives. The national universities can organize conference for uniform curriculum with inter-disciplinary approach. The uniform national institute of training and research in teaching can be another help for the uniformity of curricular design and teaching pedagogy. The international Universities can monitor over the development in teaching and researching in international law. As the SAARC countries have established ‘SAU (South Asian University)’ in New Delhi. This university can take a lead and focus on teaching domestic law with reference to the international laws. Such type of Universities can be established in Asian region incorporating the legal development in the curriculum. The inter–regional knowledge may be a great help in mitigating regional conflict and promote regional cooperation. In this efforts, the teachers will get the opportunity of global recognition. The teachers can have active role through ‘participation, creativity, application and enforcement’ in national and international governance.

This is a well-known fact that Universities are established for imparting higher education and research but the training part has been left to the Academic staff colleges (ADC), more as optional, merely as a compulsion for academic promotion. Almost every state has ADC without focus on compulsory training in teaching pedagogy, research writing, and teaching technique in domestic laws correlating international laws. Even the National law Universities are not aware of this problem. Therefore there is urgent need to establish legal education training and research University (LETRU) in India for grooming teachers as professionals, dedicated and devoted for the cause of teaching. The Asian countries can get benefited from such institutions and exchange trained teachers to these countries.

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