LEGAL ETHICS-A CRITICAL ANALYSIS OF THE UNDERSTANDING OF LEGAL EDUCATION AND PROFESSIONALISM IN DEVELOPING COUNTRIES, WITH SPECIAL REFERENCES TO SOUTH ASIAN SCENARIO

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Abstract

Historically, legal profession is an acclaimed profession. It emerged to build fairness and impartiality in system of justice. While the legal profession may have been articulated with innate characters and influence of respective societies they have been developed in, it is believed with no skepticism that the legal profession of each society follows some universally adhered principles. These principles are regarded as 'commandments' for legal professionals in all societies irrespective of their cultural diversity and differences of standards regarding socio-economic development. The violation of any such universally adhered principle renders the work of a lawyer unethical and thus unacceptable. The major goal of legal professionalism is related to defend rights and protect liberties of persons and thereby preserve the peace and order in the society. The failure of any lawyer to this responsibility results in corruption of justice, and will cause the breakdown of peace and order in the society. It is therefore rightly said that 'an unethical act of doctor may result in a death of an individual but an unethical work of lawyer destroys the entire society'.

It would, however, not be possible to articulate a universally acceptable definition of legal professionalism. Historical values engendered by long traditions have significantly contributed to its evolution. The shape of legal professionalism in varying societies is determined by their necessities or typical notion of considering disputes. The emerging necessities or exigencies often create a situation that may challenge the legitimacy or workability of existing principle or norm. Obviously, a principle so venerated in the past may be discarded by professionals in contemporary time. . However, there is a cardinal principle on which the foundation of legal professionalism has been rested on. The principle is that "legal professionals' mandate is not to serve their own profit motives but to serve the society".[2] This foundation principle helps us to understand that 'legal professionals' are not 'business persons'.

To be more specific, legal profession cannot simply be taken as a body of knowledge or skills to help lawyers exacting maximum private profits or promoting a private business; it rather consists of rules or commandments guiding the ways for accomplishment of a fair and impartial delivery of justice. Legal professionalism in this sense is a keystone for people's confidence over the system of justice in any society. The confidence of people over the system of justice pursued by their society is contingent upon the quality or standard of the legal profession and its capacity to adhere to the some universally acceptable principles of cod of conducts.

Legal profession is, however, widely suspected to discharge this role or responsibility in recent times. The ethical credibility of legal profession all over the world is in sharp decline. Do lawyers care about morals? This comment is representative of the public's attitude towards lawyers. This comment is generally equally relevant in all societies. A survey commissioned by the American Bar Association in 1994 explored that the American public viewed only politicians and stockbroker less favorably accepted than lawyers.[3] There are countless of jokes told about lawyers presenting inhuman characters of them. A mother of a prospective student of the writer, while visiting for admission of her son, said that she was looking for admission of his son desperately as he was good enough for the legal profession. When she was asked about the special quality of her son, she wittingly said that 'he was unscrupulously clever and had capacity to easily deceive even his brother and the father'. This is a general perception of the common folk about lawyers in South Asia. In Nepal, lawyers are depicted as those persons who hold a terrible craftsmanship of 'converting white in black' (kalo lai seto parne in Bangla kala ke sadha kore).

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2 . Graham, Lories M. 1995, "Aristotle's Ethics and the Virtuous Lawyer: Part One of a Study on Legal Ethics and Clinical Legal Education", Journal of the Legal Profession, 1995/1996. 20 J. Legal. Prof. 5.

3 . See, Coquilette, Daniel R. 1994, Fundamental Moral Responsibility

In these perspectives, this paper attempts unravel some aspects of the problems professional ethics facing the contemporary legal professionalism, particularly in the context of developing societies in South Asia. It also relates the legal professionalism with the contemporary legal education methods and contents and seeks to devise some ways out to rescue the legal professionalism from unwanted stigmas and render it a system of service delivery to the unprivileged sections of the society and an instrument of development facilitation.

INTRODUCTION

Historically, legal profession in all societies enjoyed a great respect, particularly in Western societies as an elitist profession. In 19th century, lawyers in UK and USA were treated as icons or role models of the emerging democratic societies. Lawyers exploiting their positive and elitist image had been able to register their strong presence in politics and state affairs. The Western model of legal profession entered in South Asia with colonial rule. With it came the system of legal education. New institutions of legal education were established and production of lawyers was formally introduced. The legal professionals in South Asian continent during the colonial regime entertained the same image as in its western counterparts. Most elite families were attracted to legal education. Moreover, it became a fashion for such families to go UK for obtaining the degree of laws. Most importantly, these people also played a crucial role in the 'quit movement' against colonial rulers from South Asia. Mahatma Gandhi, Jahawarlal Neharu, Jihna, Jyoti Basu and many more lawyers. The higher profile obtained by them in politics engendered further greater glamour for being lawyers.

The image of lawyers in the contemporary era is however facing a great challenge. Russell G. Pearce, an associate professor of law at Fordham University Law School, in his article "Teaching Legal Ethics Seriously" daringly opines: "Society's respect for lawyers has dropped during the past twenty years far more than society's respect for comparable occupations".[4] His assertion has been corroborated by the public poll of the American Bar Association, which reveals that only 22% of the American public considered the community of the American lawyers as 'honest' and 'ethical'.[5] Earlier in 1977, 36% percent of the American public viewed that the 'legal profession in their society was respectable, but the same dropped to 17% in 1997.[6] Reportedly, this drop has continued even in the recent time. The modern western version of legal profession made advent in South Asia with colonialism. In a period of one and half century, it has been institutionalized as an inevitable instrument of justice. The quality of the legal profession in South Asia is however not exception to the western countries. Skepticism towards capability of the South Asian legal professionalism in the contemporary era is wider. Such stories are common in newspapers: (a) a lawyer raped his 'disabled female client in office'; (b) a lawyer got his client signed in a document consenting to sell his property in a low price; (c) a lawyer had collected a huge contingent fee from the client and intentionally delaying the case so that he could generate interest from the bank deposit; (d) a lawyer had advised the minister to commit an act of corruption; and so on.

4 . 29 Loy. U. Chi. L. J. 719 (1997-1998).

5 . See, Hengstler, Gray A. "Public Perception of Lawyers: ABA Poll"; A.B.A.J, Sept. 1993, at 60, 62.

6 . Klein, Chris. Poll: Lawyers Not Liked, Nat'L L. J. Aug. 25, 1997.

Legal profession is one of the biggest professions in terms of number across the world. The number of education involved in production of lawyers is considerably bigger too. In India alone, about 1000 law colleges, faculties of law and law universities are offering courses on law.[7] Reportedly, sixty thousand students enroll every year for legal education in India.[8] Collectively, every year over one hundred thousand students go to law schools in South Asia considering legal profession as a lucrative profession. My experience of being teaching law for two decades suggest that (a) a large number of students in law colleges step in with a mythical aspiration of becoming a 'noble person'; (b) a large number of them get in for a hope of earning huge money with less risk and without much investment; (c) a number of students come in to step in their parents' profession; (d) some students volunteer with a greater sense of working for the benefit of larger section of the society; and (e) very few students get in for the purpose of becoming a 'friend of justice' in a society like South Asia where 'regressive status quo'[9] is a prime character.

As mentioned earlier, the articulation of the single definition of legal professionalism is difficult to make. However, the legal profession is intrinsically associated with the need of serving the humanity. No justification of legal profession is possible by ignoring its service to protect and promote humanity. Legal profession is thus inevitably associated with norms of human dignity. However, legal profession in the contemporary era in all parts of the world is facing myriads of problems that seemingly defile 'its original values and traits'. Of them, some are really pressing ones. Whether legal profession is a business first and profession second? This question poses a tremendous amount of concern about the present trend of legal profession globally both outside and inside the practice of law.

Traditionally, law practice, even in the western societies, was considered a profession with its justification of benevolence and service to the society as a self-motivated duty or responsibility. In ancient Hindu societies, to interpret law to the kings and judges was a 'dharma' (worth performing duty) of learned person, *rishis* who were the repository of the law and its knowledge. To uphold sanctity and veracity of laws and justice was the prime duty of *rishis*.[10] The dispensation of justice indeed depended on their opinions. In Islam, *Fiqh*, logical inferences adopted to come to conclusion about law, is considered an important source of law. *Fiqhs* is an interpretation of Islamic jurists and is rich in methodology to derive principles of about legal rules. The responsibility of lawyers is thus self-evident in all traditions. Lawyers are not only service deliverer but also law givers.[11]

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7. At present, 913 colleges recognized by the Bar Council of India and 14 National Law Universities/Schools established under State Laws are imparting legal education in India, available at www.indiaedunesws.net (Government Mulls Major Reforms in Legal Education); National Network of Education.

8. Speech delivered by Prof. N.R. Madhava Menon in opening ceremony of the National Symposium on Ethical Lawyering: Role of Law Schools followed by Awards Ceremony arranged to honor outstanding Law Teachers of SAARC region by the Society of Indian Law Firms at Hotel The Lalit, New Delhi, 4th September, 2010.

9. Regressive status quo is an 'anti-change, anti-development and anti-equality' notion. The conventional societies use 'regressive status quo' as an important tool for continuity of the unjust structure of the traditional discriminatory society. For detail analysis see, Sangroula Yubaraj (Dr.) *The Philosophy of Law, Oriental Perspective with Special reference to Nepal.* Kathmandu School of Law;

10. See Sangroula, Yubaraj (Dr.) 2010. *Jurisprudence: The Philosophy of Law, Oriental Perspective with Special reference to Nepal.* Kathmandu School of Law; Nepal at Ch. 4

11. *Ibid,* pp.101-102

SOME CONTEMPORARY PRESSING PROBLEMS OF LEGAL PROFESSIONALISM

Today, the concerns about increasing trend of legal profession being transformed into a business are mounting.[12] The emergence of the corporate law firms is phenomenal all across the world. The corporate law firms take law practice as a business and opine that anything acceptable in the business is acceptable in the law practice too. This trend is making the legal profession most lucrative in terms of earning and it in turn making education most expensive as joining law schools is considered an investment in the business career itself. Decline in "professional courtesy", the lack of commitment to one's professional duties and the way "lawyers" manipulate the legal system without any concern for right and wrong are also serious concerns facing the legal profession.[13] The human side of the profession is worse affected by the growth of business notion. It means that the virtue aspect of the profession has become vulnerable. The mounting trend that practice of law is a business and thus accepts all those practices accepted by the fair business is seemingly destroying the traditionally associated notion of benevolence and human side duty of the profession. Professionalism involves, in the words of Aristotle, "complete virtue" or "excellence" in virtue. It is, knowing of how to act at the "right time," with the "right motive," in the "right way," with "reference to the right objects," and "towards the right people." While this statement provides no concrete answers to the problems that are plaguing legal profession today,[14] it however, opens the door to a number of other important questions such as: What are the "values" of the profession? Can they be taught in law school? And if so, how do we do it?

At the real field, at the level of the community of clients, the problem of legal profession is not merely related with the public image issue. It is rather more acute. Clients are dissatisfied with their lawyers. The feeling in them is profound that they are exploited financially extorting the high cost for their service but providing inefficient service in return. This issue relates to the professional inefficiency as well as moral deprivation of attorneys. This problem is intensified by attorneys are critical and zealous their own colleagues. Legal profession in this paradigm is being intensely plagued by a problem 'fraternal gossiping', which ultimately tarnish the image of the profession. These two problems result in scornful attitude of the public to the entire legal process. The decline in attorneys' professionalism in eventuality is afflictive to the entire system of justice. The dimension of this problem in South Asia is immensely huge though neither the mechanisms of justice nor legal educations are serious enough to address it.

The problems facing the legal profession today are not exhaustive. The training and the culture of thinking developed by prevailing legal education system are crucial in defiling the image of legal profession. Most law schools in the world emphasize their success in making their students to think like lawyers. Unfortunately, they fail to articulate what is 'that thinking of a lawyer' which is supposed to be 'thought about'. Often, the prevailing legal education is suffering from

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[12] . See, E.g. Rouben, Richard C, 1994. "Change of Course Needed: Elder Statement Says Acceptance of Law as Business will Break the Profession"; 80 A.B.A.J. 99 (Oct. 1994).

[13] . Hall, David 1994. *A Wake Up Call for Law Schools*; Boston Globe, at 83.

[14] . See Aristotle, *The Nicomachean Ethics*, 2.6.

problems of (a) insulating the teaching and learning methods,[15] (b) emphasizing the mechanical oratory skill development syndrome,[16] (c) encouraging the development of parochialism by promoting profit for private motive of attorney, and (d) complicating the 'definition' of social justice and lawyer's role of social engineering.[17] These problems are too chronic in South Asia. Legal profession in South Asian countries has reached to the zenith of formalism. The 'contribution to engineering of a just society is hardly matter of concern for lawyers'. The meaning of legal profession has limited to 'formalized interpretation of rules of law'. Most importantly, tricks are applied to engender the 'liked interpretation' of the rule.

The traditional legal education system is primarily responsible for this problem; it has failed to 'develop a culture' of 'communitarian lawyering responsibility' of lawyers. The traditional culture of emphasis on 'thinking like a lawyer' has neglected to develop a 'community responsive culture of legal profession' and thus it constitutes one of the major factors for 'alienation of legal profession from the society' and faces 'a kind of condemnation of legal professionals as a

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15. Methods of most law schools are insulated from the outside world. An effective teaching is meant to 'deliver lectures by professors or to hold classes in Socratic dialogue method'. The students are educated or trained about skills to 'interpret legal rule merely. The issue of justice is never emphasized. The centralist legalist skill to interpret the legal rules is what meant by the legal education'. Professors' opinions do count important than the real problems facing the society and the legal system. Indoctrination of professor's opinion is considered the most crucial goal of the legal education. Students' training in most law schools start and end at the class rooms that fully insulated from the outside world. The curricula of law schools ignore the aspect of justice in the given context of the society. The curricula are sparkly reviewed and changed to address the socio-legal and justice problems of the society. A best lawyer in this paradigm is that 'who breaths fire'. To destroy the opponent is the sole objective what is taught in this insulated paradigm. To think like a lawyer in this paradigm for a student is meant to render him/her a 'person who has enough ability to destroy the opponent'. The justice is never a matter of concern. The culture of ignoring or violating the ethical/moral values of the profession as well as defilement of a professional responsibility is built at this point. The role of law schools in promoting the 'unethical practice of law is thus enormous'. The 'earthquake-blaming' culture, in which the earthquake is made responsible for deaths of people, is fully prevalent in the problems of legal professionalism. Indeed, earthquake never kills the people. The destruction of the building kills the people. But the destruction of the building is not a fault of the building itself. It is a fault of the engineer. Hence, it is neither the building nor earthquake but the engineer is responsible for deaths of people. Ultimately, it is the education system the balm is rested on. An engineer is a product of the engineering college. The same analogy can be used in the field of legal profession. In law schools, students are worse affected by the elusiveness of the definition of the competent professionalism. Often they are encouraged to define competence of the legal profession in a very broad and abstract notion that encompasses various abstract qualities or ideals such as 'capacity of good judgment, maturity, zealous advocacy, and so on. See Sangroula, Yubaraj, 2007. "Holistic Approach to Delivery of Legal Aid Services: Beginning from Community Responsive Legal Education and Professionalism", 1 NJAL.J. (2007) at 213-226.

16. The dogmatist, formalist and elitist culture of legal professionalism ignores the 'critical and empirical understanding of the function of law and lawyers'. Mark Neal Aronson (in Thinking like a Fox: Four Overlapping Domains of Good Lawyering in *9 Clinical L. Rev.* 1, 2000) puts: "The traditional law school curriculum emphasizes thinking about the law "is" and "should be". What seriously lacks in the traditional methods or curriculum is the emphasis on 'critical and empirical' understanding of the function of law roles of lawyers in rendering the profession of law practice responsive to the community's need".

17. The definition of the term 'social engineering' is seemingly exaggerated or abused. Social engineering is a process of 'helping to structure and restructure' the society for socio-economic or development transformation of the members of the society. The concept of social engineering in law demands that 'the system of law in a given society become responsive to the contemporary social problems'. It implies that the primary responsibility of lawyers is to the society. No lawyer who is working as a businessperson in law practice and is primarily concerned for profit motive than social service can be taken as a social engineer. The concept of social engineering 'is a critical and empirical approach that makes law and lawyers responsive to the community's need or problems'. See Mark Neal Aronson, 2000. "Thinking like a Fox: Four Overlapping Domains of Good Lawyering"; *9 Clinical L. Rev.* 1, 2000

community of deceivers'.[18] When 'lawyers are thinking like lawyers', who the people they are thinking about? Here lies a serious problem. The people they are in contact and service are 'elites'- political, economical and social elites'. The vast unprivileged or disenfranchised groups of population are not only unconcerned but also neglected by legal professionals. The vast population in the developing countries is like South Asia is poor, unprivileged and disenfranchised. Unfortunately, the legal profession is hardly concerned with interests of those people who are forced to live in such a condition. It implies that lawyers are not representing the society? This is a serious problem which needs to be seriously taken into consideration when thinking about the professionalism of lawyers in South Asia. The professional etiquette, knowledge and skills are not the only fields of problems for considering the issues of legal professionalism.

Legal education of South Asia suffers from congenital problem as it was introduced by British not to assist development of South Asian societies. It was rather introduced as a tool to generate human resource necessary for 'continuity of the colonial regime'. The objective introducing common law system in India was in no ways to strengthen the 'rule of law and promote a just and impartial system of justice' but to rule the people of colony. As a matter of fact, the legal education could not focus on nature of the 'community responsiveness'. The objective of the then legal education was to create a 'habit of applying rules of law in a dire positivist' paradigm. The western legal system, the common law in particular, emphasized the role of 'positivist laws' and the justice were meant to be formal interpretation of the 'positivist' rules.

ECONOMY OF LEGAL PROFESSIONALISM

The 'economy of legal profession' is equally important issue for consideration. The economy of legal profession is largely unaccountable and in-transparent. The major part of earning made out of the law practice is not disclosed by lawyers. The common blame is that 'lawyers constitute one of common groups of tax evaders' in the society.[19] While legal profession is venerated as a benevolent service-based profession, the financial dealing between clients and lawyers is often a 'private confidential affair'. Most incidents of violation of professional responsibility are associated with this hidden 'financial affairs'.[20] The most public profession has been the victim of most private business today.

The violation of code of conducts on 'fiduciary' matters is a serious problem in South Asia. Lawyers are often engaged in 'illegal affairs' in matters of fees and dealing with clients. Earning easy fee by doing less work is the 'most favored' choice of lawyers. Based on experiences of Nepal, the following issues need to be highlighted:

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[18] . In Nepal a very popular blame to lawyers is that 'they are manipulators of truth- *kalolai seto parne ani seto lai kalo parene* (converting black into white and white into black). In Bangladesh, the blame to lawyers is expressed in their local language as '*seta ke kala kore and kala ke seta kore* (converting black into white and white into black). Common people are not comfortable for social relations with lawyers; they are afraid of lawyers' culture of thinking about 'right and wrong'.

[19] . To be justified by supports.

[20] . Needing support by citation

a. Lawyers not only independent to fix their dealings of fee with clients, but they are totally immune from making 'unethical deal'. Legal profession is thus most expensive profession.
b. Unlimited freedom in determining the fee has made the legal profession a 'dreadful' profession. People afraid of lawyers.
c. Big fee with less work is a 'source of corruption'. Some lawyers instead of doing research and hard study on cases are prone to develop illegal contacts with judges and court staffs.
d. Legal profession is a easy 'ladder to gain political power' as and 'enhance public image' which gives added opportunity for better earning.

The in-transparent economy involved between lawyer and client is a dangerous cancer to defile legal profession.

HOW LEGAL PROFESSIONAL ETHICS CAN BE MAINTAINED?

How ethics can be maintained in legal profession in such a adverse context? There are two major aspects in this regard. The first is related with 'legal education'- i.e. observance of ethics in legal profession can be enhanced by 'building a habit of lawyers for observing ethical rules when they are students'. The second is related with the 'honesty of lawyers' to faithfully follow the rules of ethics. The theory of activist moral epistemology emphasizes the first paradigm. It is a theory of learning that emphasizes "actions" as a means of attaining moral knowledge.

In the western legal profession, Professor Robert Condlin[21] and David Luban have argued in favor of activist moral epistemological teaching of legal ethics. Robert Condlin emphasize the 'constructive role of clinical legal education' to inculcate ethical values and develop habit of students to follow the rules as 'style of professional life'. For him, the problem of growing unethical practice of law is an outcome of the failure of the clinical legal education to habituate students in professional ethics. Prof. Condlin contends that many clinical programs are "moral failures" because clinical educators "teach students to manipulate and dominate others as a matter of habit." He notes that these habits are not taught as a "larger set of communicative practices" that also provide students with ways to cooperate with others in the context of moral theory, but rather as a "complete repertoire of interactional skills." Accordingly, the students develop a morally deficient set of principles upon which to judge their actions as attorneys.[22]

Prof. David Luban, however, considers that the problem of ethics is not related to clinical legal education per se, but rather with legal practice as a whole. According to him, the problem of legal ethics arises due to tension between Aristotelian and Kantian conceptions of ethics—"the

[21] . According to Robert Condlin, "A person learns virtues by imitating good people and good actions . . . . After a while the habit of acting in a good way becomes one's own. At this point the student of virtue has made part of her or his moral potential a disposition, and when he or she then reflects upon the nature of the good actions he or she can understand the virtuous character (See, Condlin, Robert J. 1984. "The Moral Failure of Clinical Education"*, in* Luban, David (ed.), *The Good Lawyer at* 317, 323-24).

[22] . Graham, Lories M. 1995. "Aristotle's Ethics and the Virtuous Lawyer: Part One of a Study on Legal Ethics and Clinical Legal Education". 20 J. Legal. Prof. 5. (1995/96) URL http://ssrn.com/abstract=991661

one unable to accept the anomalies of role morality , the other going about the business of transmitting the values of practices without steeping outside its own skin to judge the values".[23] The Luban's theory demands 'honesty' among lawyers themselves. Hence, no good habit of students can be created without having a 'situation in legal profession where lawyers duly follow the rules of professional responsibility'.

Kantian philosophy, however, advocates for idealism-the idea supported by reasoning is the basis of judging 'right or wrong'. It postulates for establishment of 'a priori principles'. It means that 'a priori principles' are the distinguishing mark for determining the 'right or wrong'. It applies the deductive method implying that something is wrong 'if it violates a pre-established principle or norm'. This doctrine requires students to 'learn all those a priori principles that set forth standards of behaviors'. The moral reasoning must conform to those 'a priori principles'. To view from this light, the corporate law firm practices are asserting those practices that fail to conform the 'the set of a priori principles' that establish the professional standards.[24] Utilitarian theory on the other hand take the 'greatest good of the greatest number' as a basis for determining the 'right and wrong'.

The legal profession across the world today has been detached from these philosophical traditions or has been prone to adopt any of these for its caprice objective. One of the serious problems in this regard is associated with discourse on 'philosophical underpinnings of professional rules'. Law schools tend to take professional rules as instrumental perspective and largely avoid the sustentative values. What professional rules are necessary to follow is emphasized rather than what is the reasoning to follow these rules. The psyche of taking these as formality among students is where the problems of unethical practice sprout out. The problem of clinical legal education is seriously felt at this point. These varying philosophical premises are also factors of decline in professional ethics of lawyers.

In any case, the role of law school is decisive in maintaining ethics of lawyers. What students learn 'right or wrong' is what teachers teach them or demonstrate through their behaviors. In Nepal, for instance, most teachers return to law schools only for collecting their salary. They are fully engaged in law practice and teaching is a 'platform to sale themselves as academics'. Students learn from these behaviors. When teachers can receive salary without teaching, what is wrong if they violate rule of ethics? This a psyche built in from the very first day of law school.

Let me cite an analogy. We often say that 'earthquake' killed people. This is indeed fully false statement. Earthquake never kills people. Rather, collapse of building kills people. Why building collapse when there is an earthquake? Because, could not resist the 'pressure or jerk' created by earthquake. This is a problem of engineering. The engineer was not educated sensitive of the 'right to life of people'. The people in fact are killed by wrong curricula, methods of teaching and

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[23] . See Luban, David, 1983. "Epistemology and Moral Education", 33 J. Legal Educ. 636, 650 (1983) and Kelly, Michael, 1980. *Legal Ethics and Legal Education* at 39-43

[24] . See Immanuel Kant, Metaphysical Foundations of Morals, in The Philosophy of Kant, (Friedrich ed.1940); C.D. Broad, An Introduction to Kant (1978); Immanuel Kant, Lectures on Ethics (trans. Insfield 1978); David E. Schrader and Ethics and the Practice of Law (1988).

absence of human sensitivity in the profession'. This analogy is exactly applied in the legal profession.

CONCLUSION:

South Asian legal education is less community responsive. It is insulated from social reality. The jurisprudence we are depending on is 'not only unrealistic but irrelevant to our problems'. The legacy of colonial legal system is deeply rooted in our mind set. The institutions of justice are not supposed to serve the people, rather people are supposed to serve the institutions. The legal education system that we are pursuing is 'concerned with developing skills of interpreting rules of law'. It is less interested to examine the 'relevancy of the rule itself'.

The legal education in the SAARC region suffers from myriads of problems associated with goals, contents, methods and approaches. Most importantly, the institutions of legal education in the SAARC region are primarily modeled after those in countries which socially, economically and culturally different to the South Asian region. Obviously, the legal education system in the South Asian region suffers from this congenital defect of being disassociated with socio-economic development needs and heritage of the region. Equally important, the legal education of the region is primarily controlled by elites of the society and has become a bastion of regressive status quo. The products of the legal education have predominately a private practice whereas the domain the 'justice is known as a public domain'. Pedagogically, the existing traditional system of legal education treats law as an independent self-contained discipline; hence, very little attention is paid to the studies of socio-economic contexts, policy assumptions and actual impacts of rules in the society or lives of general people. This basic flaw has resulted in following problems needing urgent interventions:

a. Development of the knowledge and skills of formalist interpretation of legal rules has been taken as the 'key goal of the legal education'. The contextual perspective of the given nation and region has not been a matter of attention for the existing curricula and methods of teaching. To be precise, the legal education in South Asia has not yet made attempts to reflect on what kind of world is represented by this region. The curriculum of legal education in the region has not yet given attention to the goals the SAARC countries should strive for. As we all are aware, the countries in the region are the poorest, most illiterate, malnourished, and least gender sensitive. It is indeed the most deprived region in the world despite its vast untapped natural resources, human resources and several other advantages such as humane traditions, arts and culture. The region inhabits about a quarter of the world population. About world's 43% poor people live in this region; the population increase has not yet been under control; the adult literacy rate is still the lowest in the world; about 260 million people lack access to basic health facilities; about 300 million people lack safe drinking water; about 830 million people have no access to basic sanitation facility. Unfortunately, the legal education system of the region has no relevance to such a colossal human deprivation. The legal education system must establish its relevance to strategies or policies to change in the lives of poorest population of the region which constitutes near about 50% of the total population.

b. As indicated above, the legal profession is the most privatized profession in the region. The professional ethics is poor and the mechanisms of monitoring professional code of conducts are extremely poor too. The responsibility of the legal profession in the context described above is self-evident. An independent and competent legal profession is indeed pivotal to a free, democratic and liberal society committed to improve the standard of the life of its citizens. The good governance is the one of pre-conditions for development and smooth transformation of the society. The good governance entails setting in place institutional mechanism "for enforcing the accountability of leaders to their peoples, the establishment and proper enforcement of transparent legal frameworks, scrupulous respect for the rule of law and due process, independence of judiciary, a pluralistic institutional structure, popular participation and vigorous protection of human rights and the press".[25] All these elements require active participation and meaningful contribution of lawyers or law trained individuals. A lawyer in society is expected to work like a harmonizer and a reconciler. He/she must be more than simply a skilled legal mechanic; he/she must be an architect, engineer, builder, and from time to time, an inventor as well.[26] Unfortunately, the products of the most of the existing legal institutions are not fully aware of these responsibilities. They have not been infused with a sense of mission to transform society. They are not equipped with knowledge of complexities of the region. They are not imparted skills to deal with legal issues stemming from globalized trade, phenomenal changes in the technology, innovations in the fast integrating financial world, internationalization of human rights, concentration of powers and privileges in few hands and deprivation of massive population. The law's role to rationalize development works by bringing yields of development projects to deprive and to provide the poorest the access to resources is fully overlooked. The legal institutions of the SAARC region have failed to harness the vitality and idealism of youths for betterment of the society.

c. In the traditional paradigm of pedagogy, the emphasis has been put on law 'as a process of dispute settlement'. The entire regime of law has been conceived a machine of litigation. The democratic values of the 'system dispute settlement has never been looked upon'. The system of law has been viewed as 'instrument of rule' but not as a 'value to serve humanity' in itself. A lawyer from this perspective has been viewed by the community as 'elitist trouble maker' rather than 'a protector of the public interest'. He/she has been viewed as a manipulator of facts. The legal education is insulated and absolutely traditional in method. This dogmatic approach is one of the factors to isolate legal professionals from the 'contemporary realities of the society'.

d. Equally important problem of the legal education in the region its 'emphasis on nation-centric approach'. While the countries in the region share history, culture, language, climate, traditions, faiths, etc., the legal education is totally isolated from each other. The development of jurisprudence, methods of interpretation and approaches adopted to interpret the rules by one country are hardly communicated to the students of other countries. As a matter of fact, the students of law and legal professionals are largely

[25] . United Nations Conference Trade and development, Accelerating Development Process 25, (1991)

[26] . R. Singh, Enhancing the Role of the Law Schools: As a Facilitator of Access to Justice; Law Asia 93, S 19, 2.8 (1993).

uninformed the legal and judicial system of each other's country. This lacuna is one of the impediments for growth of the regional trade, industry and investment. The ignorance of the legal and judicial system poses a psyche of fear among people to 'take risk of cross-border interactions in matters of trade and commerce'. This is a truth of the region. The ignorance of each other's legal and judicial system is impeding the process of economic interactions in the region.

e. There are number of factors responsible for obstructing the 'SAARC becoming a community'. Over the last decade, the SAARC saw a number of unwanted events. India suffered from number terrorist interventions. Sri-Lanka continued to suffer from bloody ethnic conflict. Pakistan returned to military rule. Nepal underwent a terrible bloodshed posed by the Maoist insurgency. While all these countries have gone ahead with democracy out of several crises, the SAARC played no crucial role to mitigate the sorrows and pains posed by these events. The citizens of the SAARC remained detached with their own system. The SAARC region neither developed standards of democracy nor regional international laws to 'safely handle such unwanted events'. Had the problem of isolation of the legal and judicial systems of each country from other been addressed, the prospect of developing a 'regional system of human rights protection and promotion and addressing the problem of impunity would have been much more effectively addressed. The region has still been worse affected by the problems of cross-border terrorism, trafficking of human beings, drugs and other contrabands, money laundering and illegal trade, and other host of menaces. However, none of these issues of criminal law and justice are matter of comparative analysis and studies. No legal education of any member state has shown interests to address these 'crakes'.

The issue of ethics and professional responsibility cannot be detached from the above mentioned ground reality of the region. In the backdrop of the problems discussed above, the legal education in the SAARC region has to be able to address the following goals:

i. Building capacity of the South Asian nations for improving their quality life by improving the condition of legal and justice system; creating and contributing to the world of legal and justice knowledge through research and discourse; promoting regional peace, security and economic and social development; and nurturing the students to become social engineers and vanguard of social justice, rule of law and democratic societies.
ii. Modernization and rationalization of the legal education in the region so that it can competently address the contemporary needs of professionalism focusing on understanding of not only the legal rules but also their socio-economic and political contexts in which they were framed.
iii. Expansion of meaning of law and justice as an instrument of social engineering and social justice.
iv. Integration of the laws and justice systems of member states of the SAARC region with a view to accelerate the process of the 'region as a vibrant community'.
v. Integration of legal education with development studies.
vi. Adoption of modern scientific reinsulated approach of teaching by introducing the most modern clinical methods.