

SIGNIFICANCE OF LEGAL EDUCATION FOR THE ECONOMIC DEVELOPMENT OF THE NATION

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Abstract

For any country across the world development has remained a prime concern. The liberalization of India's economy since 1991 has brought with it considerable development of its financial markets and supporting legal institutions. Since the law governs the world and its people, it is regarded as an instrument of change. This instrument of social change is quite important for achieving social-economic development in the society. Protection of property rights, enforcement of contracts, certainty and stability of rules are the key legal conditions for realization of economic growth. Thus the law serves as an instrument of economic development of citizens. Moreover, in developed country, the necessary legal conditions are typically realized by law; hence Rule of law is considered to be an essential condition for economic growth. On the other hand Legal Education is essentially a multi-disciplined, multi-purpose education which can develop the human resources and idealism needed to strengthen the society and nation at large. However, inter-disciplinary approach between economics and law is at a nascent stage in India, unlike in the West. The present paper discusses the significance of legal education on the economic development of the nation.

Keywords: Legal Education, Rule of Law, Economic Development

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Introduction

Law as a social science is closely related to many cognates' disciplines in the social and natural sciences. Moreover the law does not operate in vacuum. Its relevance must relate to the overall values of society. Economics, it is said, as the science of rational choices in a world of limited resources, and the term 'resources' here does not relate only to money but can also be of any type.

Economics is the branch of social science that deals with the production, transfer and consumption of wealth in the society. It is the condition of a region or group as regards material prosperity. It is the social science that analyzes the production, distribution and consumption of goods and services. Further, the economics is a science of that social phenomenon which is due to wealth getting and wealth using activities of Man. The word 'Economics' is derived from the Greek word 'Oikonomos' that means to manage the house. So it means the management of a household especially in those matters, which are relating to the income and expense of the family. After sometimes, political economy term was also used for this topic and slowly political economy adopted the shape of Economics. There are numerous definition of Economics offered from time to time but there is no clear

and concise definition. Keeping in view this situation, it is been rightly stated that, 'Political Economy is said to have strangled itself with definition.'

Law and economics is the application of economic methods to analyze the law. Economic concepts are used to explain the effects of laws to assess which legal rules are economically efficient and to predict which legal rules will be promulgated. In other words, the economic analysis of the law differs in two aspect of legal analysis. One focused to efficiency through theoretical analysis, while other emphasize over the incentives as well as the public response to such incentives. There are two distinct theories of legal efficiency, one states that the common law is efficient while second is that the law should be efficient. It is imperative that the each of these theories remain separate. Even so is accepted by most of the economists across the world.

Interaction of Law and Economics

Law is set of rules established by authority to regulate the behaviour of members of a community, society or country.¹ Law is a system of rules, usually enforced through a set of institutions.² It shapes politics, economics and society in numerous ways and serves as a primary social mediator of relations between people. Law in its sense, prescribes what must,

¹ Makaha Rutendo (2011), "Principles of Law PART 1" available at <http://www.scribd.com>. (Accessed March 15, 2016).

² "Portal: Law." [en.wikipedia.org. https:// en.wikipedia.org/ wiki/Portal:Law](https://en.wikipedia.org/wiki/Portal:Law) (accessed December 10, 2017).

what may and what may not be done. It is an instrument designed to regulate human behaviour and order in the society. Since, theoretical analysis focuses on efficiency, the legal system may be regarded efficient under the situation where an individual who is been given right be willing to discharge the most. There are two distinct theories of legal efficiency, and law and economics scholars support arguments based on both. The positive theory of legal efficiency states that the common law is efficient; while the normative theory is that the law should be efficient. An important fact is that law and economics stresses that markets are more efficient than courts.³

Economic analysis of law is usually divided into two subfields: positive and normative. Positive law and economics uses economic analysis to predict the effects of various legal rules. Normative law and economics goes one step further and makes policy recommendations based on the economic consequences of various policies. The key concept for normative economic analysis is efficiency, in particular, allocative efficiency. A common concept of efficiency used by law and economics scholars is Pareto efficiency. According to the positive theory, a legal system will force a transaction into the market. When

this is impossible, the legal system attempts to “mimic a market” and guess at what the parties would have desired if markets had been feasible.⁴

The second characteristic of law and economics is its emphasis on incentives and people’s responses to these incentives. Law and economics share with other branches of economics the assumption that individuals are rational and therefore respond to incentives. If penalties for an action increase, people will undertake less of that action. Law and economics is more likely than other branches of legal analysis to use empirical or statistical methods to measure these responses to incentives.⁵ For efficiency purposes the private legal system must perform three functions, all related to property and property rights. The system must define property rights, must allow for transfer of property and to protect property rights. These are the major issues studied in law and economics.

The fundamental and basic laws of economics are discoverable in nature of things by a series of rigorous exercises in abstract thinking. The observation and study of concrete data are primarily valuable for the confirmation of general principles deductively reached. These economic laws being of the natural order of

³ Rubin Paul, *Law and Economics*, The concise encyclopedia of Economics, available at, [http:// www.econlib.org /library/Enc/LawandEconomics.html](http://www.econlib.org/library/Enc/LawandEconomics.html) (assessed on January 5, 2018)

⁴ *Economics as a Science and its relevance to Law*’ available at <http://lex-warrior.in/2012/07/economics-as-a-science-and-its-relevance-to-law/> (assessed on December 12, 2017)

⁵ *Supra* 3

things control and ultimately give expression to these economic laws. Economic laws and economic life being prior to legal system, determine the form of laws. Absence of harmony between economic theory and law is more a matter concern to the lawyer than to the economist. As economics is the basic, fundamental subject lying back of law and ultimately determining the form and content of law, there appears to be no need of a detailed study of existing legal systems.⁶

The value of law to economics may be merely pedagogical or because of its subject-matter. There can be no doubt that the material of the law and the method of studying the growth and development are of the highest pedagogical value. The extended study of numerous concrete controversial situations and the development of general principles therefrom afford an excellent means of acquiring the mental acumen essential to the successful solution of economic problem.

Legal Education and its Role

The primary function of our law school continues to be the teaching of men to practice the law as it is. Still the successful performance of this function will not prevent the study and presentation of law historically, philosophically and scientifically, as one of the basic social science. With the development within our universities of faculties of law and

jurisprudence there has come a truer conception of the nature of law. Economists as well as others have not always perceived accurately the true nature and function of law. For example, while writing treatise on economics,⁷ discussing the relation of political economy to other social sciences, says of law: 'Law treats of the precepts and regulations in accordance with which the actions of men are limited by the state.' This is very narrow, partial view of the law. It is an expression of the imperative or mandatory theory and limits law to commands or prohibitions emanating from the state.

The level and spread of legal education has not only been an important pre-condition for sustained economic growth, but it has also played a critical facilitative role in the demographic, social and political transition of different societies. Creation, application and adaptation of new technologies, lower fertility, better nutritional and health status of children, reproductive health and empowerment of women, all have visible linkages with legal education attainments

The other aspect of legal education is legal literacy among citizens. Legal literacy means making people aware of their rights. The term 'law' evokes a variety of reactions and responses. The development sector, at least in India, is on the one hand extremely vigorous in

⁶ *ibid*

⁷ Fetter, *The Principle of Economics*, p.6, 1911.

court action, but on the other, minimally informed about the legal system. The myth surrounding law and legal terminology is perhaps the biggest reason for pending litigation and lack of enforcement measures, especially in rural areas. Legal literacy is commonly understood as knowing the primary level in law. When citizens, particularly marginalized or underprivileged groups, know what the law has to offer them, they can recognize and challenge injustices much more forcefully.

Significance for Economic Growth

If it is not possible to demonstrate as a matter of theory that a reasonably well functioning legal system is a necessary condition of a nation's prosperity, there is empirical evidence showing that the rule of law does contribute to a nation's wealth and its rate of economic growth.⁸ It is plausible, at least, that when law is weak or non-existent, the enforcement of property and contract rights frequently depends on the threat and sometimes the actuality of violence,⁹ on family alliances that may be dysfunctional in the conditions of a

modern economy, and on cumbersome methods of self-protection.

Unfortunately, there may be a chicken and egg problem: a poor country may not be able to afford a good legal system, but without a good legal system it may never become rich enough to afford such a system. Gray argues that legal and economic reform should be pursued simultaneously.¹⁰ She notes that without economic reform, demand for legal reform may be weak because the most powerful economic actors will have alternatives to obtain their ends, such as prohibitive tariffs and government bailouts. Economic reform is thus important on both the demand and supply sides of legal reform: to stimulate the former and to generate the resources necessary for the latter.

Criticism on Eco-Legal Studies

A legal system does more than enforce contract and property rights; it may also enforce bad laws that reduce economic efficiency.¹¹ Informal substitutes for the legal enforcement and protection of property and contract rights. These include arbitration, with or without the legal enforcement of the arbitrator's award;

⁸ Barro, Robert J. 1991. "Economic Growth in a Cross Section of Countries." *Quarterly Journal of Economics* 106:407-43.

⁹ McGroarty, Daniel. 1995. "Civilizing the Russian Underground Economy: Requirements and Prospects for Establishing a Civil Economy in Russia." *Transnational Law and Contemporary Problems* 5(1):65-98.

¹⁰ Gray, Cheryl W. 1991. "Legal Process and Economic Development: A Case Study of Indonesia." *World Development* 19(7):763-78.

¹¹ This may explain the negative correlation across countries between the number of lawyers and the rate of economic growth. The correlation is misleading because much of the output of lawyers consists of nonmarket goods; but these may not be as important in poor countries as in wealthy ones.

reputation, which may be accompanied by retaliation (such as blacklisting people who default on their contracts); merger (so that disputes between independent firms become purely internal); bilateral monopoly, which can provide a substitute for legally enforceable employment contracts; strong-arm tactics, such as those used in illegal markets; and altruism, which enables many family-owned firms to operate effectively outside a legal framework.

Conclusion

The law is the strength of our society and an essential medium of revolution. It is the only profession which deals with the society as a whole and its problems. Society is undergoing rapid transformation and the pace of change is likely to gather speed. In the context of change ahead, it will be important to devote thought

on how to adopt our legal education to modern conditions so that the coming generation may fit in the new society that is envisaged. Role of a Lawyer in a social welfare liberal democratic state is not an easy task for him, or his profession. Profession, which obligates him a sense of social responsibility and expects from him to work towards social development not only filling his own purse or coffees but shouldering a joint or collective obligation to do justice in a society. Legal education is the basic, which only would create such responsible and responsive social lawyering. Every society has its contingent demands now need to be fulfilled by an instrument of law, which is purposive human enterprise. The socio-economic development of the nation and economic justice to the citizen can be ensured through the sensitive lawyers, which are the product of the legal education.