

FEATURE STORY 3: THE NEED FOR REFORM IN LEGAL EDUCATION TO REFLECT DIGITAL AND TECHNOLOGICAL DEVELOPMENTS

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“If you always do what you’ve always done, you’ll always get what you’ve always got” –

Anonymous

Legal Education in Sri Lanka has remained traditional, uniform and unchanging over the years. The method and matter by which students learn the law, is the same now as it was a generation ago.

The infrastructure of the legal system of Sri Lanka is by no means so technologically developed that it can encompass the rapid technological growth of jurisdictions such as Canada or the United Kingdom.

Unlike a comprehensive law reporting database such as Westlaw or LexisNexis, the only options for Sri Lankan lawyer is to resort to LawCompanion, LawNet or LawLanka. Whilst helpful, the databases are by no means comprehensive or exhaustive in their reporting, and can often be inaccurate.

As of the recent past, the Supreme Court website has been uploading judgements pronounced by Superior Court from 2010 to date. A valiant attempt to make the law more accessible, it may be, but Lawyers are frequently forced to manually obtain judgements from the Supreme Court Registry by virtue of the onerous task of filing motions. The ability to conduct a thorough research on any area is thoroughly impeded by these flaws in the infrastructure.

More technologically advanced educational systems also take steps to integrate more timely, and contemporary areas of discussion into the syllabi. The Sri Lankan law student will learn about the Postal Rule Exception, but the necessary discussion of if and how the same exception can apply to instantaneous communication methods such as email or text messaging, is subtext, at best. The Sri Lankan law student will also first be exposed to cybercrimes, and the technicalities of contemporaneous evidence only in practice, rather than in the safety of the classroom.

Accordingly, the author suggests a series of reforms to overcome this stagnancy, and lack of development/ advancement of the legal practice in Sri Lanka. In order for the profession to develop and adapt to the 21st century, focus must be had to the future. Law students must be taught new skills, and innovation must be promoted.

1. Legal Skills Programs to ensure that law students know how to use the existing framework to ensure better learning

Although the existing framework/infrastructure is not wholly satisfactory, it is workable if one is well versed in the skillset necessary to harness the resource.

Various distance learning undergraduate and postgraduate degree awarding institutions have basic orientation programs to ensure that the students are capable of utilising online resources so as to research and educate themselves. One of the first things a law student has to do is learn how to navigate and interpret a law report quickly. A law report is more than just a judgement, and often the judgement itself starts several pages after the beginning of the report. Imparting a level of self-sufficiency mitigates the need to scour various libraries in order to locate one specific case or journal article, thereby increasing the efficacy of the said individual.

Accordingly, the Practical Training Program conducted for all Apprentices by the Sri Lanka Law College, could also encompass a seminar/segment on the skillset necessary to navigate online databases including both local sources; LawCompanion, LawNet, LawLanka; and international databases; WestLaw, LexisNexis, HeinOnline.

As students become more thorough with accessing resources and databases, a more consistent standard of citation can be adopted by the profession, resulting in an ability to cross-reference and draw from similar cases with ease.

2. New Areas of law and incorporating practical issues into existing areas

The modern future lawyer should not be taught merely the same things that were taught 50 years ago. As technology, and thereby society develops, the law too must. The best tool for change, is to ensure that law students are capable to considering the possibility of change, and the applicability of existing law to new and novel problems.

The Postal Communication rule fails to definitively conclude on the implications of instantaneous communication, like text messages or email – previously underutilised, but now a necessary form of communication. New crimes exist, as do modern means of proving them. A self-driving car was previously inconceivable, and considered too futuristic to possibly ever exist, but if such a vehicle were to be involved in a motor traffic accident, lawyers must be able to adapt to the technological intricacies of such cases.

One method of doing so, is to freely offer Massive Open Online Courses to offer both law students and young practitioners an affordable and flexible way to learn new skills. Presently, the Bar Association of Sri Lanka offers 4 - 8 week practical training courses in different specialities. If such programs were made available freely via an internet portal, with video recorded lectures, online discussion forums and online study guides, it would promulgate a further dissemination of knowledge amongst lawyers across the country.

3. New technologies in streamlining legal practice

Brand new technologies now exist, with which to bill clients, streamline communications, and to manage the organisation of files. These technologies will cut down on inefficiency, and ensure a clear working environment for chambers and firms alike.

Lawyers who are fresh to the Bar must be equipped with these skillsets, rather than use their formative years in practice attempting to muddle their way through systems foreign to both them and their seniors.

These practical skills can be imparted onto said individuals whilst they are still students. Jurisdictions such as Canada and New Zealand use “Virtual Law Firm Training” systems, which are essentially simulations of the less glamorous, but unequivocally important ability to manage an overload of cases and files.

4. Embracing Technical Innovation in Law

Only lawyers know what kind of technology lawyers need to streamline their workday, whether it be Artificial Intelligence to predict the outcome of a case, or a simple calendar organisation system.

As such, it may be possible to have Innovation Incubators or related competitions at Law College or by the Bar Association of Sri Lanka, so as to promote young lawyers developing the landscape of legal practice.

In conclusion, it is arguable that when in the legal fraternity, one is always a student – learning fresh ideas, and forever studying. Yet, as more of our brethren join our ranks, it would be in the best interest of both the profession itself, and those entering it, to take steps to promote progress, development and modernisation, to safely navigate this noble profession into the 21st century.