Teaching PIL in Nepal: A Personal Experience

By:

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“The main objective of teaching is not to give explanations, but to knock at the doors of the mind” – Rabindranath Tagore

When I chose to pursue law in 2006, my aim was to become a lawyer. For most of the students pursuing law in South Asia, law is limited to courts and lawyers. One of the major ambitions of studying law is to wear black coat/gowns and roam around court complexes arguing cases as glorified in the courtroom dramas of Bollywood. Gradually, I realised that another aim of choosing law can be research or an academic career. I see my reflection in many of my students at Kathmandu School of Law (KSL) where I have taught since 2018. In South Asia, apart from some of the prestigious law colleges, there is an impression that students opt for law to get bachelor’s (undergraduate) degree so that they could be eligible for many jobs and competitive exams. Law is not chosen as preference in colleges (apart from dedicated law schools). Often, it is just a medium to remain active in academic or university system. Most of the

students choose law as a last resort of study whereas a few students follow the legacy of their lawyer parents.

Among the subjects taught in colleges, students primarily focus on domestic laws, especially criminal law and business law. They believe that these streams are lucrative. To my surprise, very few students in KSL choose constitutional law (despite the new constitution of Nepal in 2015), whereas in India, constitutional law is the most sought after specialisation. Some of the reasons might be that following colonial rule and post-independence, constitutional law has developed vastly in India.

Compulsory subjects in the LL.B. curriculum includes Public International Law (PIL), which is taught in the third year. However, compared to domestic law, PIL is not popular among students. The subject is not considered as very significant due to absence of overarching authority in international law. They understand international law from a very positivist perspective and consider International Court of Justice as the primary adjudicating mechanism. It was a challenging task in the introductory classes of PIL to establish the inextricable link between domestic law and international law. To emphasise the significance of international law, I introduced them to two documents viz. ASIL's *100 Ways It Shapes Our Lives* and the counter-narrative, *International Law: 50 Ways it Harms our Lives* by José Alvarez and David Lachman. I tried to emphasise how international law affects our daily activities.

The curriculum of PIL is vast and outdated. It does not include critical approaches. The theories are confined to Natural School and Positivist School. In a college affiliated to a university, changing curriculum is a herculean task. I took it on my own to introduce TWAIL, Marxist Perspective, Feminist Perspective, Transcivilisational Perspective so that students view international law critically. Lack of access to resources like subscription to databases like Jstor and limited volumes in the library are limitations to ignite further interest in the discipline. These subscriptions are very expensive. Textbooks written by Malcolm N. Shaw and Ian Brownlie are not affordable to many students. As discussed in TRILA 2018, textbooks of PIL in Asian context are few, especially so with regard to Nepal. Writing a textbook is a responsibility of PIL teachers to be undertaken in the near future.

Due to lack of access to PIL resources, students expect teachers to share notes or PowerPoint presentations. If not, they jot down lecture notes. Many of them do not read much apart from these notes. The words of a teacher are like sermon for them. Culturally, reverence of teachers is predominant in South Asia. They are considered on a higher pedestal and therefore, a hesitancy can be felt among the students when they ask questions. Moreover, there are few faces in class who are most interactive and ask questions frequently. This is a hindrance to critical perspective. However, the situation is changing, and I encourage every student to participate in class, and try to make my class as interactive as possible. I have noticed that the students prioritize understanding the concepts rather than effectively applying the law to a particular situation.

For each subject, they write a term paper of 1500 to 2000 words. They discuss introductory aspects of the topic in detail and do not focus on the issues. To solve this problem, I provided a set of research questions for each topic and asked them to focus on the impact of international law on Nepal. Another issue is lack of understanding of the concept of plagiarism. Despite many efforts of explaining how to avoid plagiarism, many of them do not understand the seriousness. Similar to most of the Asian States, the primary focus of students in Nepal is to score high grades because exams are primary indicators of learning. Therefore, term papers focus on scoring grades than a better research output for publication.

Students are receptive to new techniques of teaching. They enthusiastically watched when I showed them movies like Hotel Rwanda, The Pianist, Justice at Nuremberg, Eye in the Sky, Argo, documentaries and short animations on international law and international relations. They are planning for a movie club after the college reopens. They think out of box when given the flexibility to do so. For instance, one student drew connections between music and international relations. When taught in an unconventional manner, they look forward to interactive classes to share their ideas about contemporary issues.

In my case particularly, teaching is a mutual learning experience. I am an Indian national teaching in Nepal. I am not proficient in Nepali and few students cannot understand English well. Since the court proceedings and briefs are primarily in Nepali, it is not a matter of concern to be proficient in English. My

students accept my limitation and they gave references to cases (reported in Nepali). I learnt from them how the history of international law can be linked to Nepalese history. I understood the plight of an import-oriented economy when we discussed about trade and investment. They criticise regional hegemony quoting King Prithvi Narayan Shah who said that Nepal is a yam between two boulders, India and China. They link this idea as a part of Non-Aligned Movement. They have this historical reason to criticise the hegemony of big States. They dislike the colonisers not because Nepal was colonised but because young Gurkhas were bartered under provisions of Treaty of Sugauli, 1815. Internally, the Rana regime was repressive. The students understand the importance of political stability. In this context, TWAIL makes more sense to them.

The impact of international law is more in contemporary Nepal. The law reforms after the Constitution of 2015 are important. A crucial question in this regard is whether the new laws suit the socio-economic conditions of Nepal. Students need to understand this situation critically. I also supervise LL.B. final year research projects. The projects I supervised were on Intellectual Property Rights. This is an area undergoing changes in Nepal. To my surprise, most of the students suggest similar set of recommendations. They propose amendments to the existing laws to establish new institutions or formulate laws when required. A lack of an inter-disciplinary and critical approach can be seen in their research projects. When asked whether Nepal's economic condition can afford institutions of IPR immediately, they put the onus on the government. They do not wish to assess WTO TRIPS from a critical lens.

As the coordinator of International Law and Relations Study Center (ILRSC), I am responsible for framing program themes, inviting resource persons, and conducting programs. The Centre conducts winter school (Economic, Social and Development Rights) and summer school (Kathmandu Dialogue and Himalayan Field School) in collaboration with the University of Sydney. These programs comprise lectures and other activities on international law and international relations. In these programs, I get to interact with students of different nationalities. Students of KSL also get to participate. I do not find any qualitative difference between students of Nepal and those of other nationalities. However, their basic understanding of law differs.

As part of research, ILRSC introduced a booklet series on international law and Nepal in the beginning of 2020. The first booklet is on the significance of international law. Others are on Customary International Law, TWAIL, and Treaties. These are yet to be published. Student interns work as research assistants for these booklets. This is a small attempt to keep afloat the interest in PIL despite the paucity of resources.

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