International Law Culture at The West Bengal National University of Juridical Sciences: Personal Reflections

By:

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The West Bengal National University of Juridical Sciences (WBNUJS), Kolkata offers a five-year integrated B.A/BSc. LLB (Hons) degree programme at the undergraduate level and a Master of Laws (LLM) programme at the postgraduate level. This blog post highlights the International Law encounter at WBNUJS for the undergraduate programme in addition to the incidental confrontations with International Law for students and my reflections of the same.

Unlike most Law Schools in India, which predominantly focus on domestic laws, the WBNUJS has several courses on International Law both at for LLB and LLM set up. In my Public International Law (PIL) teaching to the third-year students at WBNUJS, my pedagogue focuses on some critical voices of third world

scholars like RP Anand, C.G Weeramantry, B.S Chimni, Antony Anghie, Makau W Mutua etc.

The object of the course as reflected in the language of the late Srilankan Judge C.G Weeramantry is to provide a universal narrative of International Law in the backdrop of world peace. The Universalising International Law projectwas pioneered by late Srilankan Judge CG Weeramantry in his seminal work " *Universalising International Law"* in the work the late judge draws myriad philosophical tradition to develop International Law as a path to peace and thereby trigger young minds to bring the subject close to the heart of the entire world community whereby International Law could achieve its full potential for the betterment of human condition.

In my teaching of PIL, I confront the challenge of balancing the various perspectives on the subject. Students at the LLB level only encounter PIL after undergoing training in domestic law subjects in the first two years at law school. Therefore, when the students are abruptly exposed to PIL in their Third-year, it comes as a kind of an 'academic shock'. It is therefore a demanding task for the teacher to bring the students into the world of International Law initially, which in my limited experience requires at least three weeks. Once the students adapt to PIL, the next step is teaching the significance of third world narrative in International Law. PIL being a compulsory subject a student is taught on an average 55-60 hours per semester for 15 weeks, in addition to the elective subjects like International Human Rights Law, Investment Law, Private International Law, Third World Approaches to International Law and Diplomatic Law which add-on to PIL. One of the major advantages of teaching at WBNUJS is, the course teacher more often teaches their subject of specialisation, this ensures that a teacher updated with his/her area of specialisation and thus can contribute to the field.

Moot Courts Augmenting the Western Story of International Law

Students at the WBNUJS have performed exceptionally well in the mooting arena and are trendsetters amongst law schools in India. Some of the feats include inter alia winning the Willem C. Vis International Commercial Arbitration Moot and qualifying for the Jessup World Round. Students are trained in moot court from their first year at law school in a systematic manner and the legacy

has been continuing since the inception of the University. For a tier- 1 moot court competition on an average, a student invests six months. Therefore, I reckon, the significant learning in International Law happens through moot court experience, this is true with most of the leading law schools in the world. This is further documented in the Afronomicslaw Symposium: Learning and Teaching International Economic Law through Moot Courts, wherein in a column titled Reflection of a Moot Court Participants, Purity Maritim recollects her experience in an International Law moot court competition in the following words "Article 45A of Draft Articles on the Responsibility of State for Internationally Wrongful Act, 2001 (DARSIWA) is just one of the concepts of International Law that I have learnt through moot court competition. It is the principle that an injured state loses its right to invoke responsibility where it had waived such claim. My participation in this moot court competition made me aware of an area of law I scarcely knew about, international trade law."

Unfortunately, in the context PIL majority of the moot court competitions underscore a positivist conception of International Law. This subconsciously makes the students consume the literature of the western scholars, and in most of the prestigious moot courts like Jessup or Stetson, there is minimal emphasis on articulating any critical views as these moots are based on set protocols and patterns. Therefore as a third world teacher of PIL, I firmly believe that we need to relook into the existing moot court structures which fuel the neo-colonial scholarship.

Role of Separate and Dissenting Opinions in fostering Third World Scholarship

As PIL is based on 'voluntarism' Judges in dispute settlement forums, tend to be extra formalistic in their approach thus forwarding the positivist conception of International Law. The point is well documented by the sitting Judge of the International Court of Justice Judge Antônio A. Cançado Trindade, in his trendsetting book *International Law for Humankind: Towards a New Jus Gentium*, he observers "Many international lawyers nowadays seldom dare to go beyond positive law, being on the contrary receptive, if not subservient to relations of power and dominance, and thus paying a disservice to International Law."(p.160). It is in this background that a student needs to be taught the role of separate and dissenting opinions as these are the expression of critical

knowledge in specific instance, the aspiration of the third world States. One striking example of this is the East Timor Case, wherein the International Court of Justice (hereinafter referred to as the 'ICJ') reinstated erga omnes obligation nature of Right to Self-Determination as subordinate to consent, a classic instance whereby the ICJ reiterating its passive stance. An alternative and critical reading of the Judgment would mean analysing the Dissenting opinion of late Judge C.G Weeramantry whose view is in non-conformity with the Judgment and offers a fresh perspective on consent vis-à-vis erga omnes obligation. Moreover, in separate opinions Judges express the views with greater liberty and authority. Therefore, as a teacher, although it is impossible to interpret every separate or dissenting opinion, it is pivotal to open one such opinion for each concept in International Law to provide a holistic perspective on the subject.

Class Assignments/Project to Trigger Scholarship

Seldom does an LLB student intent to publish their project/assignment in the world's leading journals. This could be attributed to two reasons: first, lack of awareness; and secondly, the time frame for publication. It takes on an average one year time to publish in leading law journals the lengthy duration ensure impeccable standards coupled with a detailed review for individual write-ups. Hence the majority of students prefer publishing in reputed Indian Law Journal, notwithstanding few well-reputed Indian Journals like NUJS Law Review, National Law School of India Review, Journal of Indian Law and Society, Indian Journal of International Law, their academic standards are not at par with leading journals like Asian Journal of International Law, African Journal of International and Comparative Law, Ethiopian Yearbook of International Law, Third World Quarterly etc. Therefore as a teacher of PIL, it is my moral responsibility to motivate the students to publish in some these reputed journals. This semester most of the students are forwarding their projects to some of these leading journals; this, in turn, would infuse greater appreciation of International Law erudition.

Additional Courses and Pursuits in International Law

To foster a critical reading of PIL at the WBNUJS, there are specific electives that supplement the PIL course. One such elective is the "Third World

Approaches to International Law" (TWAIL) albeit it is an elective- seldom does any law schools in India offers a complete course on 'TWAIL', the course teacher teaches the subject by offering an in-depth post-colonial critique of International Law. This year, WBNUJS has established a Centre for critical legal studies named after the late Justice Radha Binod Paul whose dissenting opinion in the Tokyo Trials is etched in the memory of every third world scholar, the Centre endeavours to cherish and carry forward the legacy of critical thinking. The centre is conceptualised by my colleagues and Assistant Professor (Law) Mr Vijay Kishore Tiwari and Mr Agnidipto Tarafdar In addition to the Centre, the Society of International Law and Policy (SILP) blog provides regular updates on International Law and has attracted a broad audience and discussions. The blog is amongst the top 25 blogs in the world on the theme of PIL.

Conclusion

The International Law courses at WBNUJS for the undergraduate programme offers students a wide range of opportunities to comprehend the subject from a critical standpoint. The Pedagogue promotes the students to contribute to International Law scholarship through Journal publication, Centre work and robust moot court culture. For students to engage critically in International Law apart from the course curriculum, moot courts should certainly foster third world culture of International Law; this will undoubtedly supplement the existing Knowledge base of the student.

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