

**Distance Learning and the Right to Access to Legal Education in other Jurisdictions:
Good Practices and Lessons for Ethiopia
Bilate Bisare Dire Dawa University**

Abstract

Open and Distance Learning has a potential to bring higher education within the reach of those who, for whatever reason, have not had access to it and to enable those who are not in the position to receive higher education in any other form. There are many legal frameworks including the FDRE Constitution, which recognizes the right to education as a human right. In Ethiopia, unlike other disciplines, except some, law schools do not have distance learning programs. Actually, law education is prohibited in PHEIs not only for distance program but also in both conventional and distance modes, in the country due to quality compromising concern. The purpose of this study was to investigate distance learning vis-à-vis the right to law education in other jurisdictions with especial emphasis on exploring best practices and lessons for Ethiopia. The research employed a comparative study approach. The main data collection techniques were secondary analysis of national data, relevant documents analysis (both legal and policy documents) and literature reviews. The findings of the study revealed that establishing Open Universities with the primary objective of ensuring access to education through distance learning, collaborative practice of course and teaching materials development by inviting academics from other universities in distance learning, effective and continuous monitoring system, establishing internal quality assurance and external quality auditing committees in distance learning programs, and strong cooperation and coordination among stakeholders of education sectors are some of the identified best practices of law schools in other jurisdictions. Therefore, it is suggested that in order to meet the increasing demand of law graduates in the 21st century, firstly, the country should establish Open Universities only for distance learning programs; secondly, public higher education institutions' law schools must be accredited to begin distance learning; and thirdly, legalizing qualified private higher education institutions to resume distance learning programs in law through serious quality assurance standards designed and effectively implemented.

Keywords: Distance Learning, Access to Legal Education, Good Practices and Lessons.

1. Introduction

The right to education in general, and the right to legal education in particular, is one of the internationally recognized social, economic and cultural rights recognized under many International Human Rights conventions. For instance, Convention on Socio-economic and Cultural Rights states that the state parties to the present Convention recognize the right of everyone to education.¹ Moreover, the Universal Declaration of Human Rights also states that everyone has the right to education. Both technical and professional education shall be

¹ International Covenant on Economic, Social and Cultural Rights Adopted by U.N. GA Res. 2200A (XXI) of Dec. 16, 1966, (entered into force Jan. 3, 1976) and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, article 13(1).

made generally available, and higher education shall be equally accessible to all on the basis of merit.² Furthermore, the African Charter on Human and Peoples' Rights has a separate provision on the right to education as a human right, stating that every individual shall have the right to education.³ In Ethiopia, the right to education is enshrined under the FDRE Constitution. The Constitution stipulates that to the extent the country's resources permit, policies shall aim to provide all Ethiopians access to education.⁴ All of these legal frameworks unequivocally recognize that the right to education is well-articulated along with other socio-economic and cultural rights.

In Ethiopia, unlike other disciplines, except some, currently many law schools do not have distance learning programs. Regarding distance learning in private higher institutions, there is official legal prohibition to conduct distance learning in law education in the country.⁵ One of the underlining justifications, presumably, is the concern of compromising the quality of law education. On the other hand, the country needs more and more legal professionals including judges, public prosecutors and lawyers due to increment of crimes and escalation of conflicts.

Among the 45 Higher Education Institutions in the country, only 13 or 14 have law schools. Even these schools have very limited student in-taking capacity owing to the shortage of limited professionals in the field and financial constraints. The resultant effect is that there is mismatch between market demand and law graduates coming from law schools. Before the government's banning of the teaching of law in private higher education institutions, unlimited number of law diploma holders wanted to upgrade or continue in the degree program. It is good to note here that, apart from distance learning programs, those busy individuals, especially living in very rural areas, have no other alternative to upgrade themselves.

In order to meet challenges of access and equity to higher education for large segments of the population, and in particular, the disadvantaged groups such as those living in remote and rural areas including working people, housewives and other adults who wish to upgrade or acquire knowledge through studies in various fields, academic institutions and government sectors were looking for an alternative system of education that

² The Universal Declaration of Human Rights adopted and proclaimed by U.N. GA Res. 217A (III) of Dec. 10, 1948, art.26 (1) (UDHR).

³ See article 17 (1) African [Banjul] Charter on Human and Peoples' Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 211.L.M. 58 (1982), entered into force 21 October 1986], Art. 2 and 14 cum art.18 (3) (ACHPR).

⁴ Federal Democratic Republic of Ethiopia Constitution, Proclamation No 1/1995; Negarit Gazeta Year 1, No 1(FDRE Constitution), art.90 (1).

⁵ Despite many critiques by the stakeholders, the Ethiopian Higher Education Relevance and Quality Assurance Agency through a specific directive banned Private Higher Education Institutions from teaching Law in their distance programs on the pretext of quality concerns.

could provide access to acquiring knowledge as well as a degree for recognition.⁶ Distance education is a *sui generis* approach to education that, if well delivered, can create a high quality, academically successful experience and provide students with better outcomes or even superior to those of traditional in-class teaching.⁷ Open and distance learning may be available through an institution exclusively created for that purpose such as Open University; or institutions may also offer distance learning programs to off-campus students alongside on-campus teaching.

Despite its long history, in Ethiopia, there is still little experience with distance learning system and students are highly dependent on personal encounter between students and instructors. The case of legal education is not different from this experience. Although the demand for legal education in the country is increasing, law schools have limited capacity to admit and train students in great numbers. In the contemporary world, due to the multiplicity and complexity of crimes as well as conflicts, legal professionals are highly demanded to ensure peace and order in the society. Moreover, population growth and increasing industrialization have led to an increase in the crime rate. In fact, numbers of legal cases are rising and would continue to do so even in the future. Consequently, in order to deal with likely situation, there will be an urgent need to produce more legal professionals and create awareness of legal issues among citizens.

The purpose of this study was to investigate distance learning vis-à-vis the right to legal education in other jurisdictions with especial emphasis on exploring best practices and lessons for Ethiopia. In doing so, it targeted to scrutinize the practice of distance legal education in some selected law schools in the country and how distance learning Open Universities (private or public) meet quality assurance standards and indicate the best practices and good lessons for Ethiopian legal education system. The research employed a comparative study approach, because a comparative study can be considered when individuals or teams study a particular topic or phenomenon in two or more countries. Moreover, it seeks to compare and contrast nations, cultures, societies, and institutions and serves as a means of enhancing one's understanding and awareness of other social entities. The main data collection techniques were secondary analysis of national data, relevant documents analysis (both legal and policy documents) and literature review. The research used qualitative comparative analysis by examining systematic differences between different universities distance learning experiences and law schools in Ethiopia. Purposeful sampling was employed to select case study universities and to solicit data variations that exhaust all

⁶ Santi Kundu, (2014), Open and Distance Learning Education its Scope and Constraints in Indian Scenario, OSR Journal Of Humanities And Social Science (IOSR-JHSS)Volume 19,Issue 4, Ver. IV, PP 01-05e-ISSN: 2279-0837, p-ISSN: 2279-0845. P.1.

⁷ See Means, et al, (2010) Evaluation of Evidence-Based Practices in Online Learning: A Meta-Analysis and Review of Online Learning Studies, United States Department of Education, (finding that, on average, distance learning has as good or slightly better learning and retention results than classes delivered in a residential setting) p.5.

angles of a topic. Accordingly, the Open Universities of United Kingdom, Open University of Sri Lanka, Vermont Law School (USA) and Open University of Tanzania were selected as the case study universities.

This study is divided into six sections. Section 1 discusses meaning, demand and purpose of open and distance learning. Section 2 highlights distance learning and the right to access to education in Ethiopia. Section 3 examines distance learning and quality assurance measures. Section 4 presents distance learning practices in the case study universities. Section 5 is about good experiences. Section 6 is concerned with summary of lessons derived and recommendations for Ethiopia.

1.1 Meaning, Demand and Purpose of Open and Distance Learning

Open and Distance Learning (ODL) system is a system of education wherein teachers and learners are not required to meet physically at the same place or the same time. It is a flexible system of education concerning modalities and timing of teaching and learning without compromising necessary quality considerations. ODL is well known by different alternative names such as *correspondence studies, teaching at a distance, off campus study, open learning, home study, independent study, external studies, continuing education, distance teaching, self-instruction, adult education, technology-based or mediated education, learner-centered education, open access, flexible learning and distributed learning*.⁸ It is defined as any type of education that occurs while location, time or both separate the participants and the teacher using technology, delivers instruction to a student at separate location and receives feedback either immediate or delayed from the student.⁹ Similarly, Johnson (1997) defined distance learning as communication, which connects instructors and students who are separated by geography and, often, by time and because of telecommunications and computer applications, it is known as the electronic connection of multiple classrooms.¹⁰

Distance learning helps students to exert their potentials as they independently study and understand lessons, enhance personal growth, and facilitate learning rather than simply transmitting information. Using distance learning, students and instructors can communicate using one or more of the following technologies: *e-mail, internet discussion or study groups, broadcast television, and group or individual conferences via telephone or video*.¹¹ The conventional distance learning is characterized by sending learning materials (modules) to students supplemented with fewer contact sessions through study centers. However, with the

⁸ Keegan D. (1996). *Foundation Distance Education*. (3rd ed) London and New York, at 13 and see also the Commonwealth of Learning - An Introduction to Open and Distance Learning, at 2. Available at: <http://www.col.org/ODLIntro/introODL.htm> 10/24/.

⁹ Siddiqui Mujibul (2004). *Distance Learning Technologies in Education*. APH publishing corporation New Delhi, India, p.18.

¹⁰ Andrea L. Johnson, (1997), *Distance Learning and Technology in Legal Education: A 21st Century Experiment*, 7 ALB. L.J. SCI. & TECH. 213, 214, at 215, p.15.

¹¹ Id.

advent of technologies, distance education has gained a new breadth. With the turn of the 21st century, as the impact of the new media, particularly digital connective technologies, to deliver courses from distance has triggered a new interest towards open and distance learning opportunities to wider audiences.¹² Open and Distance Learning systems typically use technology to mediate learning: e.g. print materials, audio/video cassettes, radio/TV, computer, web etc., and the most effective usage is with a combination of appropriate methods.¹³

Across the globe, the higher education system is now transformed to a world where extreme usage of tablets and social media is very common for both teaching as well as learning. ODL is gaining wider popularity among higher education institutions in Africa. Distance education systems can be very effective means of increasing access to education, training those people who for any reason cannot study in regular programs.¹⁴ Although it varies from a country to another, there is a global demand for education and a growing gap between demand and supply.¹⁵ The access to education is a critical issue, especially in developing countries, where higher education institutions face shortage of finance, trained human power, and hence limited intake capacity. That is why many underline the importance of distance education in developing countries like Ethiopia primarily due to shortage of trained work force and financial shortage to conduct face-to-face education system. In addition, many, including UNESCO have recognized that the need for continuing education, which in the United States (U.S.) often falls to higher education providers, is also growing and likely to continue to do so as jobs, technology and knowledge change rapidly.¹⁶ It goes without saying that from the very inception, distance education is intended to help those busy working people or others who are unable to attend their education on regular basis. In other words, distance learning, as a system of education, helps to have access to education and hence, contributes to the exercise of the right to education as a human right.

In the legal context, we can say increased access to justice is coming from the spread of distance education in law schools, as underserved populations have a quality option which was not previously available. In Ethiopia, for instance, let alone the legally prohibited private higher education institutions, majority of public higher education institutions or universities

¹² Abdullah Saykili, (2018). Distance education: Definitions, generations, key concepts and future directions. *International Journal of Contemporary Educational Research*, 5(1), 2-17.p.2.

¹³ Uma Coomaraswamy,(2014) Buddhini Gayathri Jayatillekev and Harischandra Abeygunawardena, *Manual for Quality Assurance Of External Degree Programmes and Extension Courses Offered by Universities*, University Grants Commission, p.18.

¹⁴ Shushama Gupta, *Distance Education in Legal Education*, p.279.

¹⁵ Christine Geith and *Karen Vignare*, *Access to Education with Online Learning and Open Educational Resources: Can they close the Gap?* *Journal of Asynchronous Learning Networks*, Volume 12: Issue 1, p.1.

¹⁶ Id.

even do not have Distance learning programs. As a result, the law schools in the country cannot expand the magnitude of their expertise and philosophy of law. Distance education is student - centered unlike the traditional conventional education which is teacher - centered.¹⁷ That is why we say that distance education enhances personal growth and make students to take responsibility to learn independently.

1.2 Distance Learning and the Right to Access to Education in Ethiopia

A close inspection of pieces of literature shows that distance learning is not a recent phenomenon in Ethiopia as it has been practiced since 1940s. Regarding this, Yalew (2004) stated that distance education began in early 1940s to upgrade the level of primary school teachers without taking them out of their work place.¹⁸ Ethiopia used television and radio within the context of distance education programs developed since 1965 to support formal and non-formal education.¹⁹ However, despite its long history, it has been said that little attention is given for many years due to the lack of sound policies and strategies for its implementation side by side with conventional education.²⁰ Besides lack of well-designed policy and strategies to conduct distance learning, the wrong attitude towards distance learning by itself is creating a serious impact on the field. This is to mean that, those who attend their education through distance learning programs are mistakenly considered as persons with low academic performance compared with those leaning in on-campus. However, the truth is that in many cases, those who learn through distance program are not academically weak; they rather lack opportunities or they are too busy private or government employees.

The above stated scenarios are equally applicable to law education as well. Ethiopia has banned the teaching of Law and Teacher Education in private higher education institutions in both face-to-face and distance mode while the ban applies to public universities only in the distance learning. A directive issued by Ethiopia's Higher Education Relevance and Quality Assurance describes distance learning at off-campus sites as unnecessary at this stage and orders all such operations to stop enrolling new students immediately. The justification provided by the government was private higher education are more concerned with profit making and have failed to meet the quality assurance standards. Thus, distance education in

¹⁷ Kihwelo P.F, Quality Assurance Systems in Open and Distance Learning: A Search for Normative Judgment, p.7.

¹⁸ Yalew Ingidayehu (2004). Proceedings of the second National conference on Private Higher Education in Ethiopia: A survey on the provision of Distance Education in PHEIS. A

Comparative case study. AAU at 5.

¹⁹ Id.

²⁰ Tadesse Hundie, (2008), an Assessment of Practices and Challenges of Distance Education in Ethiopia: In the Case of Ethiopian Civil Service And Alpha College Of Distance Study (A Thesis

Graduate Studies of Addis Ababa University, p.11.

law in the country is almost none owing to government banning of teaching of law in private higher educations and many law schools in public universities are not engaged in teaching of law through distance learning program. The discipline of law by its very nature involves dialogue and discussion of legal principles and their application to specific issues, and the importance of the interaction between teacher and students as well as among students themselves cannot be ignored.²¹ Still, the technology products such as online learning can help to accommodate the unique nature of legal teaching. Across the globe, the higher education system has now been transformed to a world where extreme usage of tablets and social media is very common for both teaching as well as learning. Since usage of technology offers wide range of opportunities in ODL, including promoting the quality of interaction among learners, interaction between learner and lecturer can be simple enough.²²

The right to education has been regulated under the social objectives part of the FDRE Constitution. The Constitution stipulates that, to the extent the country's resources permit, policies shall aim to provide all Ethiopians *access to education*.²³ The right to education comes from the point of view that education as public good should give public service.²⁴

One of the key benefits of online learning is that it can be offered free of time and geographic constraints, thereby increasing the accessibility of higher education.²⁵ The Ethiopian National Higher Education Policy and Strategy is expected to provide citizens, irrespective of their place of origin, relevant and quality higher education that prepares them for impactful lives. The Policy under issue 2 talks about access to education, equity policy, and the need to develop a system that promotes access to higher education, a mechanism for diversifying educational provision that uses regular, extension, summer, or other modalities through face-to-face, online, and/or other forms.²⁶ Here, the phrase '*other modalities through online, and/or other forms*' refers to the possibility of implementing distance learning in higher education institutions.

One of the underlined justifications for the advent of distance education is to ensure equal access to education for citizens who do not have the opportunity and resources to attend on-campus education. The right to access to education is one of the internationally recognized socio-economic and cultural human rights along with the right to health, affordable water and

²¹ Guneratne, Camena, Teaching Law through Distance: The Sri Lankan Experience. EDRS 15 Sep 92, Reports Descriptive (141), p.3

²² Ivy Rose Mathew & Jane Ebele Iloanya, Open and Distance Learning: Benefits and Challenges of Technology Usage for Online Teaching and Learning in Africa, at 2.

²³ FDRE Constitution, *supra* note 4.

²⁴ Christine Geith and Karen Vignare, *supra* note 1, p.5.

²⁵ *Id.*, p.7

²⁶ Higher Education Policy and Strategy (2020), Ministry of Science and Higher Education, Policy Issue 2: Access and Equity, p.27.

others. Below, the International Convention on Social, Economic and Cultural Rights on the access to education and its importance is stated:

*The State Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*²⁷

In short, the above quote shows that access to education is a precondition to personal growth; enhances other human rights protection; and contribute to common peace. Moreover, the Convention states that the State Parties with a view to achieving the full realization of the right to education, shall ensure that higher education shall be made equally *accessible to all*, on the basis of capacity, *by every appropriate means* (emphasis added), and in particular by the progressive introduction of free education.²⁸ Ethiopia is a signatory state of this Convention and duty bound by the provision of the convention. The provision clearly advocates for making higher education accessible for all by using whatever appropriate ways including distance learning programs.

1.3 Distance Learning and Embracing Quality Assurance Measures

Over the past few years, there has been significant growth of quality assurance (QA) activities aimed towards improving higher education at institutional, national, regional and global levels.²⁹ With the increasing acceptance of ODL as widening access to education, it has become increasingly necessary that QA process is developed and maintained if the ODL provision is to be relevant and more functional.³⁰ Despite the fact that distance learning plays a crucial role in ensuring the right to access to education, it is not free from criticisms especially owing to quality issues. In the distance learning system, quality is best defined as fitness for purpose in combination with exceptional high standards, perfection and consistency, value for money, and transformation capabilities.³¹ Fitness for purpose here

²⁷ International Covenant on Economic, Social and Cultural Rights, supra note 1.

²⁸ Id, article 13(2) (c).

²⁹ Kihwelo P.F, (2013), Quality Assurance Systems in Open and Distance Learning: A Search for Normative Judgment, Huria Journal of University of Tanzania, Vol. 14, p.2. Available at: <https://journals.out.ac.tz/index.php/huria/article/view/257>, accessed on 16 June, 2021.

³⁰ Olojede A. A. (2008). Issues and Challenges in Enhancing Quality Assurance in Open and Distance Learning in Nigeria, Paper presented at the Fifth Pan Commonwealth Forum on Open Learning (Pcf5) in London (13-17) p.9

³¹ K, Gandhe, (2009), Quality Assurance in Open and Distance Learning in India Symbiosis Center for Distance Learning , India, p.1. Available at: <http://docshare01.docshare.tips/files/4395/43957857.pdf>

refers to an evaluation of how well an organization fulfills its stated mission, and value for money is judged on the basis of efficiency and effectiveness in the provision of teaching, and learning and transformation capabilities is all about the development of the learner through teaching and learning that meets the needs for social and economic growth.³² Quality assurance is directly linked to academic development in terms of improving the teaching and learning agenda of institutions.³³

Quality assurance is a systematic and comprehensive effort to improve quality and continuous process of improvement.³⁴ Thus, quality assurance is not about one night activity; it needs development of quality ensuring standards and policy. Quality assurance must cover areas such as curriculum design, content and delivery organization, teaching, learning and assessment.³⁵ Quality assurance is based on the assumption that quality can be improved continuously. Moreover, quality assurance requires all stakeholders' active engagement. Stakeholders such as staff, managing bodies of universities, quality controlling bodies, and accrediting agencies cooperate with one another to ensure quality education. Quality assurance is not something only raised in relation to distance education because quality concern is also up surging in on-campus education system. Quality is an incremental process involving continuous development along with the development of ODL institutions.³⁶ Hence, quality enhancement in OPD Institutions is a process that goes hand-in-hand with the development of institutions in terms of human and material resources.

2. Distance Learning in the Case Study Universities

2.1 Open University of United Kingdom

The Open University of United Kingdom is one of the public universities in England established with a unique motive of *expanding access to education for those who, due to different reasons, are unable to attend regular on-campus education*. From the start, it had to give a lot of attention to the quality of the education it provided if it was to achieve comparable recognition to other universities.³⁷ The fundamental mission of the Open

³² Scott, I., Yeld, N., & Hendry, J. (Eds.). (2007). Higher education monitor: A case for improving teaching and learning in South African higher education. Pretoria: Council on Higher Education, p.7.

³³ Kemlall Ramdassa and Fulufhelo Nemavhola, Quality Practices: an Open Distance Learning Perspective, Turkish Online Journal of Distance Education-TOJDE January 2018 ISSN 1302-6488 Volume: 19 Number: 1 Article 16, p.1.

³⁴ Id.

³⁵ Id.

³⁶ Daniel, John (2005). Towards a Culture of Quality. (International Conference of Quality in Distance Education, Netaji Subhash Chandra Bose Open University, Kolkata, p.5.

³⁷ John Brennan, Jacky Holloway and Tarla Shah, Open University the United Kingdom, OECD/IMHE Quality Assessment Open University, p.3-5. Available at: <https://www.oecd.org/unitedkingdom/1871706.pdf>.

University (OU) in the United Kingdom (UK) is to be open to people; open as to places; open as to methods, and open to ideas.³⁸ The University has its own quality assurance policy and strategy with the underlined objective of enhancing public confidence in relation to quality concerns. Moreover, the university worked a lot to improve the education quality through the mechanism of making the public, at large, to judge its efforts. The public nature of its education as well as its published course materials available to the general public in virtually all bookshops; its film and audio material broadcasted on BBC television and radio meant that its “quality” was subject to wide public scrutiny in ways and to an extent unknown in conventional universities.³⁹ Besides, the other good practice of the Open University of UK is the way that courses are developed and teaching materials’ subjected to evaluation through internal and external evaluators. Regarding these points, Brennan stated that the collaborative nature of course development and teaching materials were subjected to critique from many quarters within the University as well as being formally evaluated as part of the course development process by academics from other universities.⁴⁰

Apart from tremendous collaborative efforts to the development of courses and preparation of teaching modules, the Open University of UK has a special way of attracting and rewarding committed teachers. It is obvious that, the role of instructors in quality education cannot be overlooked because they can contribute to quality education if they are committed in discharging their sacred duty. The teaching methods of Open University of UK attracted and rewarded talented and committed teachers. In addition, the University included *monitoring systems* of the *large army of part-time tutors* who provided face-to-face tuition and undertook most of the continuous assessment and *regular student feedback collected by surveys*.⁴¹

Furthermore, the Open University of UK developed an *extensive committee system* in order to oversee the operation of all the procedures and systems. The system developed committees which include internal quality assuring and external quality auditing members. In the context of Open University of UK, the internal quality assuring body is called the Quality Assurance Panel. The Panel had a general responsibility of ensure that educational quality is maintained in the University, advising appropriate bodies, overseeing the preparation for an institutional organization of assessment and audit visits, monitoring the effective operation of the University’s policies and procedures for Quality Assurance, and advising relevant areas on action to be taken.⁴² In addition to the *special quality assurance arrangements* within the University, the Open University also updated the quality systems common to the rest of UK higher education. Principal amongst these was the *external examiner system* whereby

³⁸ Moeketsi Letseka and Victor J.Piteoe, (2012), Access to Higher education through Open distance Learning: Reflections on University of South Africa, Alternative Access to Higher Education, P.7.)

³⁹ Brenna, supra note 37.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

experienced academics from other universities would be involved in the assessment of students, including providing written reports to the University on the comparability of its standards with those of other universities. In addition, where appropriate, the Open University courses were subject to the same professional body accreditation procedures as existed for university courses elsewhere. The University has become subject to the previously described *external quality assurance arrangements* since 1992.

2.2 Vermont Private Law School

There is little doubt that distance education is becoming one of the standard forms of instruction for American students at all levels of teaching and universities and colleges are increasingly making distance offerings available for graduate programs such as law.⁴³ Similar to the practice of the Ethiopian Higher Education Relevance and Quality Assurance Agency, the American Bar Association (ABA) has put a kind of very restrictive rules on distance law education. That is why in America, legal education has been slower to adopt distance approaches than many other fields. However, the restriction is lonely pertained to LL.B (Bachelor of Law Degree) programs and does not include graduate study programs.⁴⁴ There is an assumption by some who approach distance learning, both proponents and critics, that it is a low quality, inexpensive approach that can be used to turn a quick profit. While such an idea may be attractive in the age of budgetary pressure in legal education, this idea is misguided in many cases. While there are financial reasons to pursue distance education, it is important that those considering it move beyond the view that distance education is a way to cheaply re-use existing in-class resources.⁴⁵

As mentioned before, many agree on the fact that increased access to justice emanates from the spread of legal education and one way of attaining this is through opening distance learning law programs. Cognizant of the fact that there are several reasons, very large populations lack an opportunity to attend higher educations. Hence, distance learning will also permit schools to expand the reach of their expertise and philosophy of law to benefit these disadvantaged segments of the society. Vermont Law School, for instance, has a widely recognized program on distance Environmental Law program. Vermont is a private law school located in South Royalton, Vermont. Vermont Law School, which established the nation's first online master's degree program in Environmental Law in May 2011, now offers a dozen online classes available for Juris Doctor (JD) credit and plans to have a full complement of more than 20 classes very soon. Courses cover general environmental topics, including environmental law and natural resources law; as well as specialties in energy law,

⁴³ The Working Group for Distance Learning in Legal Education, A Summary of Delivery Models, Regulatory Issues, and Recommended Practices, p.10. Available at: https://www.law.berkeley.edu/files/HarvardReport_on_Distance_Learning_in_Legal_Education_2011.pdf. Accessed June 08/2021.

⁴⁴ Id, p.11.

⁴⁵ Id.

climate change law and policy, and food and agriculture law.⁴⁶ Vermont Law School is approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association. Vermont Law School, through its Commission on Institutions of Higher Education, requires the accreditation status by the New England Association should be directed to the administrative staff of the institution.

Under the traditional conceptions of what legal education looks like, the ability of Vermont Law School to reach students is confined to those who travel to its main campus in the village of South Royalton, Vermont. After understanding the fact that conventional mode of legal education, which requires all interested students to physically appear in Vermont University and attend classes became difficult for students coming from very remote areas, the university decided to open distance learning program in Environmental Law. With distance learning programs, however, Vermont Law School's reach and impact, particularly in its areas of expertise and focus, has multiplied.⁴⁷ Regarding the quality assurance, the Education Quality Assurance team provides a statewide system of support for continuous improvement in Vermont through training and supporting application of an improvement science approach to continuous improvement of plans, guiding the administration of comprehensive needs assessments and implementing continuous improvement plans. Moreover, differentiating support and monitoring of continuous improvement plans and organizing and managing systems of Networked Improvement Communities (NICs) in which schools can test and revise improvement theories, as well as share promising practices were used as the quality assurance measures.

2.3 Open University of Sri Lanka

In Sri Lanka, the government formally considered the role of distance education *as a viable alternative* in trying to meet the growing public aspirations for qualifications, improve teacher education and growing pressure to incorporate marginalized communities to enjoy educational opportunities.⁴⁸ This is a decision that the government of Sri Lanka arrived at after assessing the fact that the status of the conventional universities' intake capacity cannot accommodate the increasing demand of education in the country. According to Ministry of Education Report in 1980, although distance education was introduced in the 1970s, a milestone was reached with the establishment of the Open University of Sri Lanka (OUSL) in 1980 as a national university. OUSL was originally dedicated to provide Open Distance University education to those individuals who could not join conventional universities due to different reasons.

⁴⁶ <https://www.vermontlaw.edu/news-and-events/newsroom/press-release/vermont-law-expands-distance-learning-program-courses-jd>. Accessed on June 18, 2021.

⁴⁷ The Working Group for Distance Learning in Legal Education, *supra* note 43, p.11.

⁴⁸ Coomaraswamy, *supra* note 13, p.19.

OUSL was established with the purpose of providing continuing legal education program and legal literacy programs for the public.⁴⁹ Camena (1992) explained that the teaching method utilized in Sri Lanka Open University considers a schedule of 20 hours of face-to-face teaching and discussion for each course, course materials, and audio cassettes of lectures on various topics.⁵⁰ The evaluation methods of the University are home take assignment, an open book exam during the middle of the year, and a final closed book exam. Contrary to Ethiopia's experience, the method employed to train students of law by apprenticing them to a senior professional lawyer. In Ethiopian, however, Law Schools more often send their students to courts and some institutions than to private lawyers to practice law.

As stated above, the Open University of Sri Lanka was established with the aim of *further democratizing university education and making it accessible to a greater segment of the population (Emphasis added)*.⁵¹ The above phrase indicates that ensuring the right to education through distance learning is the grand objective of the University. Moreover, the Open University of Sri Lanka took an initiative to conduct continuing education courses in law as well as legal literacy programs to educate the public on basic legal issues.

With regard to the teaching learning activities, the system of study adopted by the Open University of Sri Lanka is a multimedia system with strong emphasis on distance education techniques, using print material and audio-visual aids.⁵² Day schools, workshops, consultancy sessions, seminars, discussion classes, support these and online learning. The literature shows that all students are supplied with comprehensive course materials for each course and are given videos of current legal topics and audio cassettes, which contain a recorded discussion of particularly topical aspects of the law.⁵³ Students are also supplied throughout the year with handouts, which contain updated material of current developments.

The Open University of Sri Lanka developed a quality assurance framework for Open and Distance Learning in 2005 (OUSL 2006) in collaboration with the Commonwealth of Learning (COL) by customizing the generic guidelines in the quality assurance framework for Distance Education institutions developed by the Asian Association of Open Universities (AAOU, 2002).⁵⁴ National quality assurance tools and systems with accreditation standards, performance indicators and evaluation criteria for ODL institutions and programs have been

⁴⁹ Guneratne, Camena, Teaching Law through Distance: The Sri Lankan Experience. EDRS 15 Sep 92, Reports Descriptive (141), p.3

⁵⁰ Id.

⁵¹ Id, p.5.

⁵² F.M.Nawastheen Ms. N.P.Wickramasuriy, (2020/2021), Faculty of Education the Open University of Sri Lanka, Prospectus, (Compilation) Faculty of Education, p.8.

⁵³ Camena, supra note 49.

⁵⁴ Uma et al., (2014), Manual for Quality Assurance Of External Degree Programmes and Extension Courses Offered by Universities, University Grants Commission, p.23.24

developed through the *Distance Education Modernization Project in 2007*.⁵⁵ The performance indicators specified for each quality standard are used to conduct a self-assessment for continuous quality improvement. These indicators, along with measurable evidence, make it possible for an institution to evaluate the success of its particular quality assurance activity as it determines the role of distance education within the larger context of performance improvement.⁵⁶

2.4 Open University of Tanzania

The Open University of Tanzania (OUT) is an Open and Distance Learning (ODL) institution established by the Government's Act No. 17 of 1992.⁵⁷ The OUT is an ODL institution, offering academic degrees, diploma and certificate programs to over 60,000 students spread over 28 Regional Centers found within Tanzania and outside (Kenya, Uganda, Rwanda and Namibia).⁵⁸ Through ODL, OUT offers two flexibilities. One of the underlined objectives of OUT was to provide learning opportunities to those who, due to inflexible schedule, could not attend on-campus education. As an Open University, the quality assurance initiative was embedded within OUT from its inception; that is why the necessary structures were put in place at the time of the establishment of the OUT in 1992 and its subsequent commencement in 1993.⁵⁹ In OUT, the bodies responsible for quality assurance are Senate (as a supreme academic decision making body) at the top, and faculty and institute level quality controlling committees. Among the initiatives taken to ensure quality education in OUT was starting with a small number of students, and then through time, admitting a greater number of students after checking the progress. For instance, it started with only 79 students, but as ODL, gained momentum in terms of its recognition and trust. The number has now grown to more than 60,000 within the initial 20 years of OUT's existence.⁶⁰

Moreover, the other quality enhancement measures taken in OUT includes creating a quality assurance unit for the appointment of a coordinator and evaluation officers among the full time staff. Furthermore, the quality assurance efforts of the University were further developed to a project level with the purpose of enhancing academic quality assurance. The project helped in strengthening the quality assurance unit, developing quality assurance policy, developing and implementing quality assurance operational procedures, designing monitoring and evaluation systems, implementing monitoring and evaluation systems, and

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Kassimu A. Nihuka, Student Support at The Open University Of Tanzania (OUT) for the Past 20 Years, p.2 Available at: <https://www.ajol.info/index.php/huria/article/view/110772/100525>

⁵⁸ Id.

⁵⁹ Kihwelo P.F, supra note 29...

⁶⁰ Id.

mainstreaming feedback and learning mechanism.⁶¹ Finally, the Open University of Tanzania found out that quality has improved more, and public trust in the University has developed.

3. Best Experiences from Case Study Universities

This comparative study can lead to fresh, exciting insights and a deeper understanding of the practices of other countries as far as ODL is concerned. Moreover, it can help stakeholders in identifying knowledge gaps and may suggest possible directions that could be followed. It can also help to sharpen the focus of analysis of the issue under study by suggesting the experience of other countries in administering distance learning programs in both private and public higher education institutions. More importantly, it may alert, especially the policy makers (in our case, Higher Education Relevance and Quality Assurance Agency) about the right to access education, in general, and legal education in particular to those persons who, owing to different reasons lacked the opportunity to attend on-campus education. In addition, the study enlightens concerned bodies what quality assurance measures could take to ensure quality education for the public. The other significance of the study is that it revealed that, in our country, there is increasing demand for legal professionals on one hand, and lack of variety of law teaching programs, on the other. Based on these backdrops, some of the good practices of other countries in teaching law through distance learning programs and relevant lessons that can be derived for Ethiopia from each case country are listed and explained below:

3.1 Open University of United Kingdom

- ✓ It has explicit quality assurance policy and strategy. The University gives more attention to the implementation of quality enhancement initiatives, and as a result, it is one of the more valued institutions in England.
- ✓ Quality improving efforts are subjected to public criticism and suggestion. The discourses like ‘this institution gives quality education; that institution does not’ always emanate from the customers of the institutions. Institutions praised by public in terms of quality education get public confidence, whereas those higher education institutions susceptible to poor quality are disrespected by the public. The Open University of United Kingdom, to avoid public fear over the University, always consults the public to see its efforts in quality improvement.
- ✓ Academics from other universities are invited for collaborative practice of courses and teaching materials development. Course syllabus preparing and teaching materials development clearly affect the quality of education. In fact, preparing smart course outlines and comprehensive learning modules require higher academic qualifications and profound academic and research experiences because, after all, the distance learner is required to independently read and understand each point in the modules.

⁶¹ Id.

- ✓ It requires a special way of attracting and rewarding committed and talented instructors. Although face-to-face lecture time is limited in distance learning, teachers play a crucial role through tutoring, providing relevant reading materials and any other necessary supports. In order to do these, there must be good incentives and rewarding mechanisms for role models and committed academic staff so that they will do better things in the future.
- ✓ It demands implementing effective and continuous monitoring system to check the progress and collecting regular feedback from the students. Having quality assurance policy and strategy by itself cannot ensure provision of quality education. Besides, monitoring and continuous evaluation system helps to progress and may indicate what other measures should be taken to bring better improvement.
- ✓ It needs establishing internal quality assurance and external quality auditing committees. The external quality assurance committees are composed of academics from other universities to assess students' performance and report to concerned bodies of the University

3.2 Vermont Private Law School

- ✓ Through its distance learning program, the school was able to reach and affect students from remote rural areas in its expertise of Environmental Law. However, before launching the distance learning program, the school faced a challenge of having very small number of students.
- ✓ With regard to quality assurance techniques, Vermont Law School has a nationwide Education Quality Assurance Team with particular objective of giving training and other supports concerning the application improvement of science approach (exploring how to undertake quality improvement well) for continuous improvement of plans.
- ✓ It shares experiences with other institutions. In addition, the Vermont law school took experiences from other quality improved universities.

3.3 Open University of Sri Lanka

- ✓ One of the efforts the Sri Lankan Government has undertaken to ensure access to education to marginalized communities was introducing distance education. The Government seriously considered distance education as a viable solution or response to the increasing demand of access to education in the country.
- ✓ Regarding the teaching and learning method, it has identified that only 20 hours are allowed for face-to-face teaching for each course material. Besides, print materials, audio-visual aids and workshops, seminars and online teachings are provided to students.
- ✓ As far as quality assurance is concerned, the study found out that the Sri Lanka Government launched and implemented *Distance Education Modernization Project in 2007*. The project helped the government in many instances such as developing quality assurance guidelines, evaluation criteria, and preparing performance indicators. By using the products of the project, University largely improved its educational quality.

3.3 Open University of Tanzania

- ✓ Similar to that of Open University of Sri Lanka, the Open University of Tanzania initially targeted to bring higher education within the reach of those people who, for whatever reasons, have not had access to it and to enable them receive higher education in another form.
- ✓ As distance learning institutions are more prone to quality critics, the University included its educational quality assurance statement in the University Mission.
- ✓ Moreover, the University established the quality assurance committees at Department, School/College, and Institute level. The Senate, as the superior academic decision making organ, was given the power to seriously follow up the implementation of quality assurance standards.
- ✓ The other experience of the University is that it started with small number of students and increased its intake capacity through checking the progress in terms of quality of education. For instance, the University started with only 79 students and has grown to more than 60,000 students within 20 years of its establishment.
- ✓ Similar to the Open University of Sri Lanka, the Open University of Tanzania, with a view of enhancing the quality of education, implemented Quality Assuring Project. The Project aimed at developing quality assurance policy, developing and implementing quality assurance operational procedures, designing and implementing monitoring and evaluation systems, strengthening quality assurance units established at different levels, and mainstreaming feedback and learning mechanisms.

4. Summary of Lessons and Recommendations

As discussed in the introduction part, the Ethiopian Higher Education Relevance and Quality Assurance Agency (HERQA), through a directive, banned the teaching of law in private higher education institutions in both distance learning mode and conventional mode due the pretext of poor quality. But the researcher strongly believes that banning teaching law in private higher education institutions via distance mode could not be a viable solution to the quality related problems because poor quality issues need strong stakeholders commitment and serious follow up measures to implement quality assurance policy and strategy. The logical argument that could be raised here is that still now that HERQA has not banned teaching law in public universities. Hence, does this mean that all law schools in public universities are accredited in terms of giving quality law education? The answer to this question might not be affirmative. As discussed above, in all of the above case studied universities, the education quality assurance measures were seriously taken and have brought remarkable results. One of the factors affecting accreditation agencies in many developing countries, including Ethiopia, to fully carry out quality assuring tasks is financial constraint. In this regard, as stated before, other countries have launched projects in quality assurance activities. Therefore, the researcher suggests that giving due emphasis to quality controlling and assuring systems through different means including project-based quality enhancement should be encouraged.

The other important point to indicate as a good lesson for Ethiopia is the establishment of Open Universities. As highlighted before, in other jurisdictions, there are separately designated Open Universities specifically established to give opportunities for those who lacked opportunities for higher education through distance education programs. The study also identified Open universities are not the only one that have distance learning programs, but there are also universities training students both in on-campus and off-campus programs. In Ethiopia, there are not Open Public higher education institutions to make marginalized section of society beneficiary to accessing higher legal education. Most of the public higher education institutions' law schools do not have distance learning programs due to unknown reasons. On the other hand, currently, the country's demand for law graduates is increasing as the conflicts and the rate of crime is increasing. Therefore, the researcher would like to recommend two alternative points here: one is considering the increasing demand for legal education in the country, it is recommended to establish Open Universities to establish special law teaching programs. Secondly, if this is not possible, alternatively, it is also advisable to urge public higher education institutions' law schools to launch distance learning programs.