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BAR COUNCIL OF INDIA

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**CONTRIBUTION OF THE BAR COUNCIL OF INDIA TOWARDS LEGAL
EDUCATION¹**

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Introduction

The Bar Council of India constituted under the Advocates Act 1961 was a significant step towards a momentous development in the area of legal education in India.² Though, under the Act, the Bar Council has several solemn duties to perform yet it enjoys a significant function in relation to legal education. Section 7(h) of the Advocates Act lays down, “promotion of legal education and laying down standards of such education in consultation with the universities in India imparting such education and State Bar Councils” is one of the important functions of the Bar Council. Section 49(d) authorises the Bar Council to make rules prescribing “the standards of legal education to be observed by universities in India and the inspection of Universities for that purpose”. The act has thus empowered the Bar Council to prescribe the legal education standards and recognition of law degrees for enrolment of persons as advocates in India. Consequently, the Bar Council lays down the content, syllabi and duration of the law degree. Therefore, it has got immense power to influence the quality, content, and standards of the legal education in the country and can play a very essential role in the progressive development of Indian legal education.

Structure of the Bar Council

The Bar Council of India consists of 18 Members. The Attorney General of India and the Solicitor General of India are Ex-officio Members of the council and the other 16 Members represent the 16 State Bar Councils in the country. The Members are elected for a period of five years and the Chairman and Vice-Chairman are elected for a period of two years from among the Members of the Bar Council of India. The Bar Council further consists of various committees viz., Legal Education Committee, Disciplinary Committee, Executive Committee, Legal Aid Committee, Advocates Welfare Fund Committee, Rules Committee and various other Committees formed to look into specific issues arising from time to time.³

² Veeraraghavan, Legal Profession and the Advocates Act, 1961. (1972) 14 JILJ. 229.

³ <http://www.indlii.org/barcouncilofindia-IndiaLegalInformationInstitute.htm>.

Legal Education

“Legal Education is essentially a multi-disciplined, multi-purpose education which can develop the human resources and idealism needed to strengthen the legal systemA lawyer, a product of such education would be able to contribute to national development and social change in a much more constructive manner.”

In a democratic welfare society, the significance of legal education cannot be over emphasized. In democracy where the dogma of rule of law prevails, law defends and promotes the individual, “the individual being the unit of society social welfare is merely a shorthand description of the welfare of individuals” who constitute the society. In such a society law serves as an instrument to achieve socio-economic development. Today, law is viewed not merely as an instrument of social control but also as an instrument to achieve social change and lawyers have been characterized as social engineers. As liberal education, legal education may serve the society by imparting to law students general and cultural education making them good law abiding citizens. Such education will instill in them the significance and relevance of democratic culture. As professional education, legal education equips law students for filling different roles in society and discharging various law jobs, i.e. policy makers, administration, lawyers, academicians, etc. Accordingly, it is realized in modern India that legal education ought to have breadth, depth and wide perspective.

Law, legal education and development have become inter-related concepts in modern developing societies which are struggling to develop into social welfare states and are seeking to restructure the socio-economic condition of the people by peaceful means. The same is true for India. It is a crucial function of legal education to produce lawyers with social vision and outlook.

Contribution of Bar Council towards Legal Education

To commence with its contribution towards development of legal education in India, the Bar Council prescribed uniformity in the legal education by declaring graduation as the prerequisite for admissions to the LL.B course.⁴ Previously in universities of Bombay and Andhra, the LL.B course could be secured by those students who passed only the intermediate

⁴ Resolution No. 2/66. The Bar Council resolved that a law degree obtained after 1st October, 1966 by a non-graduate would not be recognised by the Bar Council

education while in other parts of India the LL.B course was a two years course after graduation and those who wanted to practice in courts had to put in one more year to undertake instruction in certain procedural subjects.

In order to end this inconsistency, the Bar Council adopted graduation as the minimum qualification for an LL.B degree course, because it felt that intermediate examination did not give enough maturity to a student to pursue the Law course. The qualification after admissions to the course was discussed at full length at the Kasauli and Poona seminars and after much discussion a consensus among the participants was arrived at, which was that the course should be of three years duration. This meant that in order to obtain an LL.B degree, 10 years of schooling clubbed with 4 years graduation and a 3 year law degree was made essential by the Bar council.

The pattern of graduation underwent a change all over India over time. Initially it was changed from 10+4 to 10+1+3 and then lastly to 10+2+3, i.e. the prospective student had to spend twelve years in school to pass the higher secondary examination and then spend three more years in college to attain a graduation degree. In order to keep pace with this change the policies of the Bar Council also underwent a change and in the year 1982 it introduced a five year LL.B Course directly after the Higher Secondary Examination. The justification given for this new scheme was that other professional courses, like medicine and engineering commenced right after 10+2 and duration of these courses are generally 4 or 5 years, therefore if a student after 10+2 was mature enough to pursue these courses, then there was no reason as to why they cannot undertake law as a course as well. Another reason given was, that studying of law from a sociological perspective involved some social subjects be studied with law and this was only possible in a five year integrated course. Further it was thought that introducing a career of law early in a student's life would make him a more committed and motivated student of law. The Bar Council has further prescribed that out of the five years, the first two years are to be devoted in studying seven pre-law compulsory subjects and the next three years in the study of law. However, the Bar Council has given the freedom to a university to include more subjects over the subjects prescribed by it.⁵

⁵ M.P. Jain, OUTLINES OF INDIAN LEGAL AND CONSTITUTIONAL HISTORY, pp. 702-707

Legal Education Committee of the Bar Council

Precisely, Legal education matters within the Bar Council are regulated by the Legal Education Committee, which consists of five Members of the Bar Council of India and five Members co-opted from outside and they represent Judiciary, Law Ministry, University Grants Commission and Academicians. This is a high powered committee which makes recommendations to the Bar Council of India on all matters pertaining to Legal Education in the country. The Legal Education Committee elects its own Chairman.

184th Report of the Law Commission of India

The Law Commission in its 184th report made few recommendations regarding to improving the legal education conditions prevailing in India. The more prominent ones include-

- (a) The Bar Council of India cannot be required to consult all Universities, however it must consult a body which effectively represents all the Universities and that such a body should be constituted by the University Grants Commission. This requires amendment of the Advocates Act, 1961 and the University Grants Commission Act, 1956.
- (b) The Bar Council Legal Education Committee shall meet at least once in three months and decide all matters in its meeting by majority of votes of the members present and voting, and in the event of equality of votes, the Chairman shall have an exercise a casting vote.
- (c) Bar Council of India should promote ADR as a subject of academic study in the law school to students and also to promote continuing education on ADR to legal practitioner.
- (d) The Bar Council of India should implement the decisions of the Legal Education Committee of the Bar Council of India.
- (e) Bar Council of India can lay down minimum standards necessary for courses for students who will come into legal profession
- (f) It is recommended that the 'problem method' be introduced in the examination system to an extent of about 75% in each paper, apart from 25% for theory. This will enable the students to apply their mind seriously to every subject and will also eliminate malpractices like copying or seeking help of invigilators. Attendance to classes is also bound to improve.

- (g) It is also recommended that the clinical legal education may be made a compulsory in legal education.

Setting up of National Law School

The concept of a national institution to act as a pace-setter and a testing ground for bold experiments in legal education came up before the Bar Council of India in the context of the Council's statutory responsibility for maintaining standards in professional legal education under the Advocates Act, 1961. The idea gained strength in the Legal Education Committee of the Bar Council of India and eventually the Bar Council of India demanded a deemed University status from the University Grants Commission.

The Bar Council in cooperation with the Karnataka State Bar Council gave the project distinct possibilities of realization over the years. The idea gained more supporters in course of time within the Council and outside who worked at different levels to establish the institution in the interest of better legal education and higher standards of legal research and training. Finally, after a lot of uncertainty, through a Gazette Notification, the National Law School of India University at Bangalore under the National Law School of India Act (Karnataka Act 22 of 1986) was established on August 29, 1987. The Chief Justice of India, as Visitor of the NLSIU and the Chairman of the Bar Council of India as Chairman of the General Council of the School provide a stature and prestige to the School unparalleled in the history of legal education in the country and it is perhaps the best example of Academy-Bar-Bench co-operation in the field of Law in India today.⁶

Following the setting up of National Law School at Bangalore, the Bar Council assisted in the setting up of National law schools in various prominent cities of India, which included Hyderabad, Kolkata, Bhopal, Jodhpur, Raipur, Gandhinagar and the latest to join the brigade is National Law School in Delhi which is established in 2008.

National Knowledge Commission's Report on Legal Education

The National Knowledge Commission (NKC) was established by the Prime Minister of India in 2005 to recommend and undertake reforms in order to make India a knowledge-based economy and society. An important constituent of the NKC's functions is professional education,

⁶ <http://www.nls.ac.in/history.htm>

particularly in the field of legal education. In light of its significance, the NKC constituted a Working Group on legal education in the country. The members nominated by the Chairperson of the NKC, Mr. Sam Pitroda, to the Working Group are Justice Jagannadha Rao(Chair), Justice Leila Seth, Dr. Madhav Menon, Dr. B.S. Chimni, Dr. Mohan Gopal, Mr. P.P. Rao and Mr. Nishith Desai.

The Working Group identified the following topics of importance in the matter of legal education:

(1) Vision and goals of legal education-status today, roadmap and broad strategy to reach those goals-

- a. At least one centre of legal excellence in every state
- b. Broad based content and scope of legal education in the context of constitutional goals
- c. Restructuring governance of legal education system accordingly
- d. Regional and Advanced Centers of legal research excellence to advance policy development/teacher training/generating new knowledge

(2) Content and Scope of legal education (Multi disciplinary and based in social context)

- a. Curriculum planning and development
- b. Teaching materials
- c. Teaching/learning methods
- d. Skills education/training with emphasis on experiential learning
- e. Ethics/values for multiple roles
- f. Examination
- g. Legal knowledge management through legal education grid through Information and Communication Technologies (“ICT”) and distance learning

(3) Governance Structure

- a. Strict and professional control for quality
- b. Selection and service conditions
- c. Academic freedom
- d. Admission norms-procedures/access-needs blind; need fulfilled admissions

- e. Financing legal education-state financing for meritorious students/deserving colleges in rural areas;
- f. Accreditation, monitoring, accountability

(4) At least four independent research centers to be funded by the central government with investment of Rs. 100 crores each and the following objectives:

- a. Social justice promotion/judicial policy
- b. Processual justice for better justice delivery
- c. Dissemination of new knowledge/journals
- d. Research methodology including empirical methods
- e. Integration of research based learning
- f. Judicial/court/legal aid administration/management
- g. Alternative Dispute Resolution (“ADR”)/conflict resolution
- h. International law/comparative /globalization
- i. Shaping systemic legal change including indigenous traditions
- j. Teacher training- library development/continuity education

(5) Access, finance, infrastructure and management

- a. Support to students admitted on merit (loans and scholarships)
- b. Ensuring every law school admitting 100 students annually has the resources to meet an annual expenditure of Rs. 5 crores
- c. Representation of bar, bench, academia and students in management

Conclusion

Therefore, in the researcher’s opinion, the Bar Council of India has a lot of powers vested within itself, whereby exercising those powers in consonance with the University Grants Commission and the various Universities, it can restructure and reframe the entire legal education arena in the country. An example of such a power has been illustrated by the setting up the chain of National Law Schools in various parts of the country.

However, in comparison with the wide spectrum of powers that the Bar Council commands, it is doing very little in improving the legal education structure in India. In fact, it can be more predominantly envisaged that in modern times, apart from the setting up of National

Law Schools, it has hardly contributed constructively in the improvement of legal education in India. There are certain loopholes in the legal education arena in India today which the Bar Council must look into, in order to protect the legal education standard from degradation and to universally maintain the same standards of legal education as set by the National Law Schools.⁷

The major ones include:

- (a) To allow the three-year LL.B. course to continue as before side by side with the five-year integrated programme.
- (b) Reducing the eligibility criteria for admission to the professional law course; there is need to fix the age to get entered into a law college, like law school all other law colleges should fixed the maximum age within 20 years for the general category students 23 years for a economically backward students.
- (c) To mobilise funds for supporting improvements in legal education, particularly among institutions located outside metropolitan cities; the institution situated outside the metro city suffers from various problems due to lack of fund. They cannot afford a good law library, they cannot invite good faculty for these lack of fund.
- (d) To provide any meaningful guidance for institutionalising clinical teaching (of skills) and imparting education on professional ethics.

Chief Justice A.M.Ahmadi had once pointed out in one of his lectures, “I think we have waited long enough to repair the cracks of the Legal Education system of this country and it is high time that we rise from our arm chairs and start the repair work in right earnest.” The reforms in Legal Education and Legal Profession have been long overdue. There have been voices sometimes sharp and sometimes subdued for such reforms. Unfortunately, no serious attempt could be made. In fact so far, we have miserably failed to look into the problems of Legal Education and Legal Profession, which have been squarely facing us at our face. It is no use now putting the dust under the carpet as the atmosphere above the carpet is fairly polluted; it is high time we seriously look into these problems.⁸

⁷ N. R. Madhava Menon, member of Working Group on legal education, NKC.

⁸ Dyutimoy Mukherjee, LAW SCHOOLS AND LEGAL EDUCATION IN INDIA.

