

REVIEW OF LEGAL EDUCATION IN BANGLADESH

FINAL REPORT

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Review of Legal Education in Bangladesh

Final Report

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REVIEW OF LEGAL EDUCATION IN BANGLADESH

FINAL REPORT & RECOMMENDATIONS

1. Introduction

Law pervades everywhere and everything; it is all-embracing and permeates every sphere of life and society. Knowledge of law, both professional and general, therefore, is indispensable for human development. Law which is created based on social demand and human need is an imperative category, and ought to rule. Everywhere it ought to be the rule of law – law as a body of norms regulating human and institutional behaviour and their interrelationships. General perception of the concept of rule of law brings to one's imagination two elegant categories of personalities i.e. judge and lawyer, who form the core of justice system. When law is abused, or law is misapplied, or law is not properly made, it is the task of the justice system i.e. the judiciary to intervene to ensure that law prevails, and only law rules. However, this is only one way, fundamental though, of looking at rule of law. Judges and lawyers are not the only actors in the broader spectrum to provide for rule of law. Rule of law would depend on many factors, individuals and institutions.

In order that law can rule effectively, there is great need for education in law, both general and specialised, we call legal education. Quality of legal education in the higher seats of learning in our country which is the main focus of the present study is more obligated to contribute to rule of law. Law graduates from the universities and colleges would become not only future judges, lawyers, legal counsels, law officers, teachers and researchers, but also responsible employees in public and private sectors to take part in overall governance of the country.

Peculiarity of the subject of law imposes special responsibility on the graduates of law. Law students, therefore, ought to study not only law in its theoretical and practical aspects, but also to know the people and the society where law is applied. To know law, society and the people better, law students would be required to study besides law other related subjects like history, economics, sociology, ethics etc. Interdisciplinary approach towards study of law would make the law graduates more competent not only for judiciary, but also for other professions.

Responsibilities of law graduates do not end with performing their professional functions at the bar, bench or elsewhere. Legal education entitles and endows the law graduates, whatever professions they may be pursuing, with solemn duty to take law to the people. It is to make the people aware of laws and their rights; to help them seek remedies through courts and alternative dispute resolution (ADR) in facilitating access to justice; to make them understand intrinsic value of law. Law graduates in their different professional capacities also need to relate and apply their knowledge and skills for improving governance in public and private sectors, and for overall socio-economic development of the country.

Are our students at the faculties of law in the universities and in the law colleges being prepared to efficiently shoulder the responsibilities that we have described above? What is in fact the state of legal education in Bangladesh now? Have we given sufficient thought over the impact legal education is capable of making on the law-making, law-interpreting, law-applying and law-enforcing process i.e. the impact on the quality of legislature, judiciary and executive as well as on the governance of public and private sectors of the economy? If we have appreciated the importance of role of law and rule of law for the country, have we sufficiently appreciated the importance of legal education both for role of law and rule of

law? We would only be too happy to answer these questions in the affirmative. Unfortunately, reality is different. Assuming these questions are vitally important, it is important to know what are the law schools in the country, and how are they doing. It is important to know what is being taught there, and who are teaching as well as who are being taught and how are they being taught. Finally, it is immensely important to know with what legal and other knowledge, practical skills and values the students pass out of the law schools.

There is a general consensus amongst experts and concerned persons that state of legal education in Bangladesh is not satisfactory, although some observers may see it otherwise.¹ Existing legal education does not sufficiently correspond to the needs of the nation, and hence it needs to be reviewed and reformed. The only qualitative change that legal education in Bangladesh experienced in the last three decades was introduction of four-year LL.B. (Hons.) and one-year LL.M. courses in the Universities of Dhaka and Rajshahi after independence, and which were later adopted by the Universities of Kushtia and Chittagong. Undoubtedly, it improved the quality of legal education in the country, although in a very limited scale and for limited few. Otherwise bulk of it, college legal education, continued as it continued during Pakistan period inheriting the legacy of British Indian legal education – no change in curriculum, or in teaching methodology, or in the duration of courses. Number of colleges multiplied, while quality deteriorated.

In the last several years, there have been lot of discussions, seminars, workshops and conferences of lawyers, judges, law teachers, students and members of the civil society, who underlined the need for reform of legal education. There have also been institutional participations in these discussions – government, education commissions, law teachers' association, law students' association, bar,

law faculties and colleges. Lot of constructive resolutions and recommendations have been made, which contain striking similarities as regards underlining the need for reforms and the contents of proposed reforms. Piles of files have accumulated, but only to gather dust.

Inaction on the part of the government and concerned agencies to reform legal education has been a sad story in Bangladesh. Government apathy towards legal education has also been reflected in the absence in the country of any viable mechanism to control and monitor existing legal education. It testifies to non-appreciation by the government and concerned agencies of the importance of a vital sector of national education. After independence the country had undergone and is still undergoing hard days of national reconstruction and desperate attempts at national reconciliation and cohesion. Unfortunately, in our struggle for nation-building, strengthening the foundations of national economy, democracy, rule of law, human rights and poverty alleviation, judiciary was never in the priority list. Be that as it may, there were some attempts at reforming our civil and criminal justice delivery system with a few amendments of CPC and Cr.PC, specially with the introduction of court sponsored pre-trial mediation in civil cases,² which aims at expediting delivery of justice. But we completely ignored legal education, which needs to be seen as part of legal and judicial system of the country.³ In fact, march of justice ought to start from the class rooms of law schools where law graduates are actually groomed to man the judiciary having immense impact on rule of law and national development.

Legal education in our country is considered as just another branch of knowledge hiding thereby its huge potential power for every aspect of national development. Unbelievably, the last Education Commission of Bangladesh (2003) headed by Professor Moniruzzaman Miah made no mention of legal education in

its reports other than that there are sixty-seven law colleges in the country!⁴ Let us console our good souls by thinking that by its silence the Commission was hinting at the need to form a separate legal education commission in the country. Our common apathy towards legal education strikingly appears from a recent article by a former chief justice of Bangladesh published in an esteemed national daily where the honourable justice writing on the importance of judiciary has enumerated and described all possible institutions and issues relating to justice, law and judiciary. At the conclusion of the article he has rightly written, “we need honest and dedicated people to reform and to man the judiciary of Bangladesh. Ultimately, the man behind any system is of great importance”.⁵ Conspicuously, institution from where his ‘man behind any system’ will come is missing from his list of institutions, bodies and issues, whose importance for judiciary he has analysed and tried to impress upon. In fact, author’s writing is indicative of general attitude towards legal education in our country. It needs to be changed. It is believed government appreciation of the seriousness of the matter, and a paradigmatic shift in policy to incorporate legal education in government policy priorities can change the situation.

In neighbouring India, the government and concerned agencies since independence have been very consistent in focusing attention to legal education.⁶ Following Indian Law Commission’s recommendation on legal education in mid-fifties, Advocates Act, 1961 entitled the Bar Council of India (BCI) to take necessary steps to improve and supervise legal education in India. Since then BCI has kept under constant surveillance and periodically reviewed legal education in India working in creative collaboration with the University Grants Commission (UGC). One very significant result of BCI’s efforts has been the introduction in India of five-year undergraduate course and establishment of National Law School of India University (NLSIU) at Bangalore in 1986 as a

model of five-year course. It has been a stunning success. Five more NLSIU type law schools have been established in India,⁷ and the government has plans to establish a national law university with multiple campuses in different regions.⁸ Law Commission of India has again submitted a report to the Government in December 2002 with further recommendations of reforms in legal education and enrolment in the bar.

Although belated, Law Commission of Bangladesh has undertaken the task of reviewing the existing legal education in the country. This task falls within the purview of the authorities of the Law Commission under section 6 (Jha) of the Law Commission Act of 1996. The aim is to underline the importance of legal education for national development specially for judiciary; to identify its existing problems; and to make recommendations to the government urging the government to take concrete steps to raise the standard of legal education by making enactments, if necessary.

2. Methodology of Work

To accomplish its task the Law Commission embarked on a course of working out a detailed methodology of work. The main focus of the methodology has been to solicit expert and general opinion on the problems of legal education and their probable solutions.

Law Commission in collaboration with Canadian International Development Agency (CIDA) has had recourse to following methods of work.

1. To seek opinions of various stakeholders – individuals and institutions, judges, lawyers, teachers and students of law, teachers and students of related disciplines, members of the civil society, law faculties, law colleges, bar associations, bar council, UGC, representatives of the private sector, NGOs, by way of –
 - (a) holding regional consultations in different parts of Bangladesh;
 - (b) circulating questionnaires amongst the stakeholders;
 - (c) interviewing eminent concerned persons;
 - (d) visiting concerned institutions i.e. faculties, law colleges, bar council, UGC, national university, and also obtaining information from these institutions by correspondence.
2. To procure and work out available materials and literature on legal education in the country.
3. To procure materials and literature on legal education of foreign specially neighbouring countries.
4. To make comparative study of legal education in other countries and use their experience for Bangladesh.

Law Commission began its work last year (2004) with a roundtable discussion in Dhaka where eminent lawyers, law deans, academics, Attorney General, were invited. The roundtable was conceived as to provide guidelines for future discussions. A background paper on the review of legal education was formally presented in the roundtable. Discussions were very fruitful and productive. Background paper was subsequently revised in the light of the critical observations and suggestions of the participants. The revised background paper served as the main agenda for regional consultations in Chittagong, Rajshahi and Dhaka. These three regional consultations held during April-June this year (2005) were widely represented. Amongst others, all law colleges, local bars, public and private universities were invited to send representatives. Law teachers and students of the public and private universities and law colleges, members of the local bars, judges, representatives of NGOs and private sector, civil society actively participated in the consultations. Regional consultations generated great interest and enthusiasm amongst the participants. All of them eloquently underlined the need for reforms. Many of them came up with new ideas and suggestions. It needs to be specially mentioned that the Law Commission received huge inspiration from the creative enthusiasm of the participants, and the Commission felt more motivated to continue its work.

Responses to the questionnaires which were prepared on the basis of the issues raised in the background paper and subsequently discussed in the consultation process were very encouraging. Several thousand questionnaires were sent across the country, and more than half of them were returned to the Commission with imaginative and enterprising responses.

3. The Issues and Problems

The issues and problems of legal education in Bangladesh which dominated the discussions at the roundtable in Dhaka and at regional consultations as well as the responses to the questionnaires form the contents of the present paper. Observations and recommendations of the paper generally reflect the views of the stakeholders. The issues may be enumerated as below.

1. Objectives of legal education meaning what national goals we would pursue with the education we receive in the law schools.
2. Nature of legal education, shedding light on dichotomy of academic and vocational legal education.
3. Policies and standards of legal education which in keeping with the objectives and nature of legal education would set the requirements and conditions for quality legal education.
4. System of legal education, focusing on different types of law schools which provide legal education in Bangladesh and the degrees they award.
5. Curriculum development.
6. Teaching methodology.
7. Clinical legal education which means not merely methodology of teaching, but also service to the community.
8. Students' pre-qualifications for admission to law schools and the procedures for admission.
9. Duration of law courses.
10. Examination and evaluation of the students.
11. Qualification, recruitment and remuneration of teachers.
12. Evaluation and accountability of teachers.
13. Education and training of the teachers.
14. Teaching Materials.

15. Development of analytical and communication skills in law students.
16. Research in law.
17. Ethical values and human rights and gender sensibility in legal education.
18. Transnational aspects and global vision of legal education.
19. Development of job opportunities for law graduates.
20. Medium of instruction i.e. language.
21. Continuing legal education.
22. The question whether basic legal education should be introduced in secondary and higher secondary levels of our national education system.
23. Role of certain national bodies like Bar Council and University Grants Commission in legal education.
24. Whether having a national agency on legal education with sufficient monitoring and controlling power would assist in providing quality legal education.

4. Objectives of Legal education

Formal legal education in our part of the world began with the advent of colonial rule in India. In 1857, Universities in Calcutta, Madras and Bombay introduced legal education as a subject for teaching for the first time. At that initial stage, there were hardly any standards for legal education. Students studied law as one of the subjects of instruction, along with others, rather than as a separate field of study. Upto independence, there were very few institutions that taught law in India. "Legal education remained functionally aimless, non-academic in content, poor as training in professional skills [and] socially indifferent".⁹

If anything legal education during colonial period served the purpose of colonial administration. Legal education meant post-graduate study of law. Classes were evening shift, taken by part-time teachers. After independence India brought

forth appreciable changes in legal education on the basis of reports of various commissions (supra) to suit it to long-term goals of national development. Unlike in India our legal education remained almost where the British left us in 1947. As mentioned earlier, only positive development that took place was introduction of four-year LL.B.(Hons.) and one-year LL.M. courses in our universities. Bulk of the legal education remained as before – part-time evening-shift two-year graduate education in some private law colleges. There is no central planning, no national initiative to systematise legal education to give it a purpose and to integrate it with the goals of educational and socio-economic development of the nation.

Introductory part of the present paper has focused on the general objectives and perspectives of legal education. These objectives and perspectives need to be further defined, specified and concretised in detail, and appropriate directions given for their realisation. The first Education Commission of Bangladesh (1974) headed by Dr. Qudrat-e-Khuda attached immense importance to legal education for the country, and broadly stated its objectives. It also attempted to identify the main problems of the existing legal education and made recommendations to the government for their solution. The Commission underlined the need for quality legal education for producing efficient and morally competent lawyers, jurists and judges, who would play vital role to provide for effective rule of law and to ensure justice for the people. The Commission also stated the need for liberal education for law students to enable them to understand the impact of contemporary economic, political and ideological forces.¹⁰ The National Committee on Education Policy (1996) headed by Professor Shamsul Haque also echoed the ideas of Dr. Qudrat-e-Khuda Commission, and added that legal education *inter alia* ought to aim at making the people at large aware of laws and their rights and developing responsible citizenry.¹¹ Unfortunately, no

government in Bangladesh has ever taken any concrete step to implement the recommendations of the Commission or the Committee, nor any government agency or any other relevant body has ever formally stated any objective of legal education and pursued concrete policy to implement them. It is absolutely imperative that objectives of legal education be clearly stated at national level, and concrete measures undertaken to fulfil those objectives.

Legal education ought to pursue six major objectives:

1. To provide an understanding of the fundamental principles and concepts of law and legal system keeping in mind that law is not only principles and provisions, it is also values of justice and fairness with which societies organise themselves through orderly institutions.¹²
2. To prepare law graduates equipped with substantive and procedural knowledge of law as well as with practical skills to enable them to enter legal profession of a lawyer, or of a judge.
3. To prepare law graduates who would become not only lawyers and judges, but legal counsels, legislators, law officers, mediators, teachers, researchers, human rights activists and social reformers with emphasis on specialisation in particular branches of legal knowledge.
4. To provide liberal legal education emphasising academic and intellectual aspects of law to be studied in combination with other subjects, which would likely better qualify law graduates for responsible positions in public and private sectors.
5. To equip the law graduates with social and ethical values of law emphasising that law has great social engineering role, that law as a pervasive discipline can be used as tool for distributive justice which is so indispensable for poverty alleviation and protection of human rights in a country like Bangladesh.

6. To promote the transnational aspects of law meaning in the context of irresistible force of globalisation to know more of international law, law of conflicts of law (private international law) and the laws of foreign countries so that the graduates of law are better trained to face the challenges of globalisation.

It is evident the above objectives are interrelated and cannot be viewed in isolation. National policies and standards of legal education, curriculum and teaching methodology would need to be formulated keeping in view the above objectives in varying degrees, giving more or less emphasis on a particular objective depending on the options and preferences of the individual students, courses and institutions.

To shed more light and further elaborate on what has been stated above it would be useful to quote some scholarly observations.

Director of the UK centre for Legal Education at the University of Warwick

Roger Burridge wrote:¹³

Legal Education is now required to fulfil a range of functions, in addition to preparing those who aspire to practice law. It promotes knowledge and expertise about the role of law and how it works to a wider audience than those immediately concerned in the administration of justice. Its role in promoting the market and containing excessive state power is well established. It is a vehicle for defining and upholding democratic and legal accountability; for describing and maintaining the function of the legal system and the administration of justice; for providing instruction in and about law for any personnel who work with it; for monitoring and evaluating the use of state power, the regulatory role and the discharge of statutory duties and fulfilment of civic responsibilities; and it can assume a significant role in securing rights for individuals and collectives. It is a discipline that is gaining international recognition as a focus for reflection, critique and comparative evaluation. In a

small but significant way legal education can contribute at more than one level to the quest for 'instrumental freedoms' in development.

One of the most comprehensive studies on legal education was undertaken in mid-seventies by the New York based International Legal Center's (ILC) Committee on Legal Education in Developing Countries. The Committee in its report elaborately dealt with the problems and prospects of legal education in developing countries. Making its observations on the objectives of legal education, the report related them with the objectives of general education. It stated:¹⁴

While it may be amorphous, educational planning is generally directed at concerns such as the following:

1. *Socialization Objectives*: the use of education to develop perceptions and understanding of the environment, local and global; to understand the problems of one's society; to influence values and attitudes.
2. *Manpower Objectives*: the use of the total educational system to generate the kinds of skills and knowledge needed for tasks in society.
3. *Opportunity Objectives*: the use of education to broaden opportunity and mobility in society - notably among groups who may have been historically deprived or repressed.
4. *Research Objectives*: the use of educational facilities to develop research of value to education and society.
5. *Administrative Objectives*: the use in planning of the governance of institutions; the use of more sophisticated methods in budgeting, managing and evaluating programs.

In keeping with these objectives the Committee on Legal Education in its report observed, "The planning of the basic degree program should, ideally, include planning a curriculum which may help students become better educated citizens as well as lawyers and provide opportunities for many kinds of educational experiences, e.g., participation in legal aid and community service programs, internships, moot courts, research, publication of scholarly journals, forums, task forces, workshops and other enterprises devoted to current issues of

significance”.¹⁵ On manpower objective the report observed, “Beyond studies of the existing situation, strategies may be needed to convert systems of large scale legal education into systems of more general, multi-disciplinary, multipurpose education which are more directed to human resource needs of the environment, which will better help graduates adapt to a wider variety of job situations. Along with these strategies others might be used to develop a more particular stream of professional training for students who demonstrate the appropriate motivation and qualifications to study law for the purpose of entering the legal system and qualifying for professional law roles”.¹⁶ Writing on opportunity objectives the report stated that “The very nature of law may make it important that the professionals who operate the legal system be, as a group, broadly representative of all elements in society. This seems particularly so where society is plural, diverse In some countries the elites within the legal system, as a group, do not reflect the actual composition of society. Women or various ethnic or socio-economic groups may be excluded disproportionately from law schools, not to mention the opportunity to become judges, or exercise other important law roles. The reasons for such discriminations may be historic and complex; to some extent remedial solutions may lie outside legal education”.¹⁷ In relation to research objectives the report suggested that law schools can provide critical intellectual guidance to the study of law, to the making of legal culture, to understanding issues of legal development and other important problems in the society. It underlined the need for intensive and extensive research to emphasise the need for change of law and legal institutions in keeping with the changing values and demands of the society.¹⁸

Barrister Amirul-ul Islam, Chairman of the Legal Education Committee of the Bangladesh Bar Council, underlining the importance of legal education wrote, “legal education needs to be viewed as part of the total commitments for a legal

order and the role of law in relation to the society and its development. Law, legal education and development thus are not only interrelated with each other but have become an integrated concept for any developing society seeking to ameliorate the socio-economic condition of the people through democratic and peaceful means. Hence, a change in the quality, content and complexion of legal education is to be viewed as an urgent social necessity".¹⁹ He further observed, "In the background of constitutional commitment and the societal needs object of legal education must embrace a broad and comprehensive concept. Legal education therefore should be rendered with a view to create an environment and ability for reshaping the structure of the society for the purpose of achieving those national goals. Besides helping the students to master the lawyering skill, legal education must be able to develop inter-disciplinary approach for building the personality and the intellectual ability to understand the society and the human situation in a changing social order".²⁰

Barrister Shafique Ahmed, a practising lawyer, a teacher and Secretary General of Bangladesh Law Teachers Association (BLTA) wrote:²¹

Legal system and legal education modelled on English pattern is based on analytical thought and tradition which consider law to be a self contained discipline whereunder the principles of law applicable to a particular fact-situation can be deducted from the statutes. Such an approach completely disregards any enquiry into the socio-economic-political consideration and conditions under which the law was passed and into the socio-economic background of the conflict-situation which may be before the court for decision. Thus analytical approach cannot contemplate social justice in the context of the country's multifarious problems of over-population, scarcities and violence. Problem solving approach rather than a merely analytical definitional approach is the need of our society and the legal education must be oriented in this direction.

Professor Jay Erstling from the University of St. Thomas, Minnesota, USA, who worked as consultant to the Bangladesh Bar Council, giving his views on legal education in Bangladesh wrote:²²

a. Legal education must inform students about crucial societal issues, including poverty alleviation, the role of women, the environment and human rights, and must focus on ways in which the legal system can help to solve the problems plaguing society. In other words, legal education must not teach students simply what the current law says, but rather it must provide students with the vision and skills to make the law more responsive to the development needs of this country. Put simply, it must train students to be social engineers.

b. Legal education must not only teach students about legal theory, but must prepare students to engage in the practice of law or law-related professions. Students, therefore, must learn not only how to be outstanding lawyers but also outstanding members of the judiciary, government service, NGOs or industry. To accomplish that goal, legal education must impart skills in research, drafting, oral communication, interviewing, interpreting and advocacy.....

It is clear life's demand on law is diverse and all-embracing. Legal education needs to face upto this challenge. Legal education, therefore, ought to be relevant to social, economic and constitutional needs of the society.²³ Law graduates need to be equipped with intellect, knowledge, skills and values which they would be required to apply not only in the formal dispensation of justice through courts, but in maintaining justice and rule of law in the broader field of life by observing, interpreting and applying law. Legal education, therefore, would aim to produce enlightened educated citizens, specialising in law and understanding the problems and needs of life through law. Law has to be studied not merely as a body of rules and regulations, to be applied mechanically to factual situation,²⁴ but as norms reflecting human problems, their dreams and aspirations, joys and sorrows, conflicts and contradictions. Creation, application and interpretation of law, therefore, must have a socio-human purpose. Study of law along with other

related subjects ought to convey to the students deep insight into life and society. The ILC Report advocated a study of law as a dynamic discipline that draws upon the sources of philosophy, history and the social sciences as well as from its own memories. The report emphasises, “the wider significance for societies than accrediting lawyers for practice that legal education hoods, recommending that the law degree should be capable of equipping students for a wide variety of jobs”.²⁵

For there is social value of law, and law is considered an instrument of social change, law graduates irrespective of professions they would pursue, have responsibilities to take law and justice to the doorsteps of the people in various many ways. Legal education – both curriculum and teaching methodology – ought to be pro-people, based on the needs of the society. Law is to provide justice to the people, and hence legal education must be justice education in character. Law students must be sensitized to the needs of the cross sections of the people; they must learn to apply law to maximise social benefits, to use law to reform society and hence to promote social engineering role of law. Law is called upon to defend people from ills and evils of the society and to accelerate social advancement which must manifest in economic growth, poverty alleviation and protection of human rights. Law students need to be educated to know what laws are good for the people and what laws are not, and to play a role in law reforms.

Law curriculum and teaching methodology should be designed in a way as to involve people’s participation, which can be done by clinical legal education (infra). There must be community lawyering by the students, i.e. helping the community solve their problems with the help of relevant laws. Communities of different groups of people can be converted into practical classes for law

students where they will provide legal aid to the people, and in the process learn the law. In a broader sense, legal aid encompasses legal awareness, ADR, and also assisting the clients in actual litigation by providing legal counselling as well as advocating for them in the courts. Students need to be taught the attributes of judicial activism to progressively interpret laws in order to protect justice and interests of the marginalised sections of the people.

5. Nature of Legal Education

Law is a practical social science. Therefore, both academic and vocational nature of legal education is important. We in Bangladesh have so far failed to combine or blend these aspects of law to create opportunities to provide quality legal education. In the universities and colleges of the common law mother country U.K. academic character of legal education predominates, while there is institutional provision for vocational legal training in the inns of court before a law graduate can practise in the courts. We are said to have been following U.K. university and college model, but without subsequently providing for any vocational requirements before calling the law graduates to bar. Present system of pupillage for six months has been proved to be a failure for reasons well known to concerned persons. During pupillage, “due to constraints of time and other related factors senior lawyers, despite their noble intentions, are often not in a position to adequately explain, coach and impart the skills necessary to enable a law graduate to effectively work as a lawyer”.²⁶ Recently introduced Bar Vocational Course²⁷ is commendable, but insufficient, and definitely not an alternative to institutional form of imparting practical legal training. Some law faculties of public universities have introduced some practical law courses in the form of moot court and mock trial, and drafting and conveyancing. They are also commendable, but insufficient. Moreover, these courses are available only in

two/three law faculties. Vast majority of law colleges and law faculties have no practical courses.

Understanding the evolution and character of legal education is one useful way to apprehend the rule of law and the role of lawyers in any particular society. Intramural contests over the shape and content of legal education reflect broader social debates external to law school precincts.²⁸ These social issues and debates can be illustrated by six major contemporary models of legal education: (i) bifurcated or dichotomous (academic/vocational) approach in UK; (ii) the case method (vocational) model in USA, Canada, Australia and New Zealand; (iii) civil law system legal education in continental Europe and Latin America; (iv) post-revolutionary system in the former Soviet Union and China; (v) the bureaucratic/business training model in Japan;²⁹ and (vi) Indian sub-continental model with its variable and mixed contents.

It would be useful to make brief acquaintance with these models specially the English legal education system,³⁰ for it had greatly influenced the origin and development of legal education in our part of the world.

Dichotomy between academic legal education and vocational legal education still persists in England and there is an ongoing debate on what proportions can they be combined at different levels to serve the purpose of legal education.³¹ There are three separate legal jurisdictions within the UK – England and Wales, Scotland and Northern Ireland. While all three are based upon common law system, the legal education of the three jurisdictions differs in respect of both academic and practical aspects. However, the most common feature is that the legal education systems of all three jurisdictions involve two pre-qualifications stages – the academic and the vocational.

Academic stage is concerned with the analysis of legal texts, concepts, doctrines and the identification of legal principles. It is important to remember that more than 50% of the law graduates in UK do not become professional lawyers. The careers they pursue are wide ranging in public and private sectors. This stage, therefore, emphasises to provide liberal legal education with the end in view that the students become intellectually sound and critical scholars. Vocational stage concentrates more on skills and competencies that practising lawyers require.

Academic stage usually consists of undergraduate and post-graduate courses which is offered both by UK universities and colleges. However, unlike Bangladesh, both universities and colleges maintain fair degree of similarity in terms of duration of courses and curriculum. But colleges hardly offer LL.M. course. The undergraduate course commonly leads to a Bachelor of Laws. In England, LL.B. course lasts three years, in Scotland, it is four-year course. The undergraduate courses intend to give general idea about laws, specific subjects, legal system and legal principles to the students. The post graduate course aims at acquiring a systematic understanding of knowledge in particular area and intends to provide the students a critical awareness of current problems and new insights, and advanced scholarship in the discipline. Post graduate courses are more directed to specialisation in a particular field.

Legal curriculum is formulated by institutions themselves, but with consultation of relevant professional bodies. Although universities being autonomous institutions are free to determine the syllabus and curriculum of the disciplines including law, the bar council and law society exercise considerable influence in formulating legal curriculum in England and Wales. Over the years, the Bar

Council and Law Societies have issued a series of joint statement indicating the necessary contents of syllabus for law courses.

Alternative law degree is available for non-law graduates who have first obtained an undergraduate degree in another discipline. It is known as common professional examination (CPE), which is also known as the post graduate diploma in law. It spans one year. It is offered by a small number of universities. It provides tuition about the core law subjects prescribed by the professions for entry into the vocational stage.

Learning of legal skills and clinical legal education programme are recognised as an established feature within the curriculum. Legal skills include drafting, research, interviewing, negotiation, advocacy, legal analysis and communication.

Professional responsibility for lawyers is highly maintained and regulated in the UK. In UK, professional responsibility is monitored by the professional bodies like the bar and also by the judiciaries. Teaching of legal ethics is one important part of vocational training, but it is also taught in some law schools.

There are two main categories of legal professional in England and Wales - barrister and solicitor. The law students, who wish to practice law, must select one of the two professions and apply for entry and complete the vocational stage. The vocational stage places a strong emphasis upon the practical skills that lawyers require.

In England and Wales, the Law Society, the professional body representing solicitors, requires those who wish to qualify to join a Legal Practice Course. If they successfully pass this they will have to obtain a Training Contract from a

solicitors' firm, which will provide further two years training, before a successful law student is finally 'admitted as a solicitor' or entered on the Roll of Solicitors.

In England and Wales, the General Council of the Bar has franchised a one year programme and examination called Bar Vocational Course (BVC) for those wishing to become barristers. The Bar Vocational Course (BVC) was introduced in 1989 to emphasize the practicing skills required for court work. The course utilizes practical exercises for the competencies in Drafting, Research, Advocacy, Interviewing and Negotiation (DRAIN).

Upon successfully passing the bar exams, a student can be called to the Bar by her/his Inn of Court. All those wishing to become barristers have to join one of the four Inns of Court (Gray's Inn, Inner Temple, Middle Temple or Lincoln's Inn). Call to the Bar however does not entitle automatically a barrister to practice. S/he must complete a further 12 months 'pupilage' in a group of barristers' offices or chambers of barristers in order to appear in court.

Undergraduate English and U.S. instruction in common law began at roughly the same time, the late eighteenth century. After several decades of attempting to teach law as an integral part of a liberal arts education, institutions such as Yale University, the Universities of Maryland and Virginia, and the New York University abandoned the effort. Instead, beginning in the 1820s, these institutions affiliated private law schools as discrete entities offering post-graduate law courses.³²

In 1870 Christopher Columbus Langdell, Dane Professor and Dean of law at Harvard University, proposed to found a science of law derived from its sources, the cases. By

1940s, Langdell's case-method approach had become entrenched as the centerpiece of U.S. legal education in a three-year postgraduate course of study of law leading to a professional degree, which entitles the law graduates to sit for bar examination to become attorney-at-law. By the turn of the twentieth century, although the case method continued to influence law teaching, legal education in the United States was increasingly challenged by alternative approaches emphasising socio-legal studies, clinical legal education, internships, externships, and modes of electronic and digital pedagogy.³³

By contrast, legal education in the civil law continental Europe is basically undergraduate general education – strong on theory and culture. Inquisitorial in nature, administration of justice in civil law jurisdiction has little or no regard for judicial decisions as source of law, and hence case study and case-method of teaching law is almost non-existent in civil law legal education. Based on custom, code, statute and statutory interpretations, civil law jurisdiction's natural approach is academic in legal education.³⁴

That law and legal education reflect socio-economic and political trends and structures of the state at a given point of time is evident from post-revolutionary periods in Russia (1917) and China (1949). Socialist view of state and law as instruments of capitalist exploitation, and assumed withering of these institutions under socialism led immediately after revolution to closure of many institutions providing legal education in these two countries. However, this was only briefly the case.³⁵ Russia revived its legal education which was of

continental model based on civil law system, obviously with socialist contents, and now going back to pre-revolutionary property and market orientation.

The Japanese civil code owes its origin to French and German sources imported during the middle of the Meiji period. Consequently, the Japanese approach to legal education resembles that of the civil law countries.³⁶ However, after their comprehensive legal education reforms in 2004 it incorporated some features of U.S. model.

Traditionally, there has been no formal legal education requirement to sit for the national bar examination in Japan. Although most of the candidates have been law graduates, no degree or other formal training in law was required. Partly because the bar examination didn't require a law degree, and partly because not all students thought they wanted to be lawyer, the majority didn't, in fact, about ninety universities in Japan that have faculties of law or other law-related programs, offer liberal legal education in a four-year undergraduate course. No specific career path is associated with traditional law programs.³⁷ Generations of University of Tokyo law graduates for example have been trained to become administrators in central or local government or as in-house counsel for business.

Successful candidates at the bar examination continue their studies at the Legal Training and Research Institute, an agency of the Japanese Supreme Court, where they receive practical legal training for one and half year. Thereupon, they pursue careers as assistant judges, deputy prosecutors, or private attorneys.³⁸

Existing system failed to meet the increasing demand for lawyers to meet the need of justice system and business world. Subsequently, the Justice System Reform Council was formed, and the Council recommended to establish new

graduate programs to train practice lawyers. Under new law school program, the so called “Japanese-style law schools”, only those who would complete the program are eligible to sit for the (new) bar examination. Basic period of education is three years but school may shorten to two-year for those who already have legal background. Traditional undergraduate programs in law are kept, but the new program admits good number of applicants who have non-law background or working experiences.³⁹

Although based on common law tradition and on legacy of legal education left by the British, legal education in the Sub-continent presents a unique complex of variations not only in the region but also in individual countries of the region. In India legal education is supposed to be professional in nature, for there is no provision for bar examination for the law graduates to qualify for enrolment in the bar. This explains why the Bar Council of India has very wide power over law schools to ensure quality legal education, both theoretical and practical. Advocates Act 1961 has empowered BCI not only to accredit, or de-accredit law schools, but also to set precise standards and rules for practically meaningful legal education and to monitor the performance of the law schools. While Indian legal education is predominantly three-year post graduate law college education, BCI revolutionised legal education by introducing in early 1980s five-year undergraduate LL.B. courses. They established six model law schools offering five-year courses in different regions of India starting with now famous NLSIU at Bangalore in 1986. Now both post-graduate and undergraduate courses run parallelly in the law colleges and universities as well as in model law schools. All equally qualify to practice law. For obvious reasons five-year undergraduate courses are more inter-disciplinary in nature, and both three-year and five-year courses offer practical programs in the final years.

Since independence in 1947 there has been no appreciable change in legal education system of Pakistan. However, like India they have extended the duration of after graduation law course from two years to three years, and their undergraduate law course in the universities is a five-year course. But unlike in India, there is provision for bar examination in Pakistan for enrolment in the bar as it is in Bangladesh. It has been learnt that in a bid to help improve legal education in Pakistan the Asian Development Bank is funding under Access to Justice Programme a move to establish 2-3 centres of excellence of legal education i.e. to establish model law schools as in India. The Law and Justice Commission of Pakistan has also been envisaged under the programme to play a role in the endeavour.⁴⁰

In Sri Lanka the Sri Lanka Law College functions under the Council of Legal Education to administer legal education to persons who desire to be enrolled in the Bar of Sri Lanka. The Law College is the only institution which offers a complete course of study leading to examinations for those desiring to qualify for admission to the profession. As of to-day, while other institutions e.g. University of Sri Lanka in Colombo and Open University of Sri Lanka offer academic courses leading to a degree or other academic qualification relating to law, persons become eligible to practice law only after admission to the profession as provided for in the Rules of the Council of Legal Education. Thus, the Law College is the only gateway to the legal profession in Sri Lanka. Members of the profession are called Attorneys-at-Law. Non-law graduates are to qualify in entrance examination before they can be admitted to the Law College. Law graduates are entitled to exemptions from certain courses in the Law College as well as they enjoy exemption from entrance examination.⁴¹

Legal education in Bangladesh may seem to resemble that of India's, but there are marked qualitative differences. India's three-year post-graduate and five-year undergraduate courses against our corresponding two-year and four-year courses is only one. India's law courses are more practice oriented, and interdisciplinary in approach, blending academic and vocational aspects of legal education. They have established model law schools which are pioneering modern legal education not only by their practical teaching methodology and programs on different modes of lawyering and by incorporating in the curriculum new interrelated subjects, but also by using methods of clinical legal education through community legal services. Above all, BCI's control and monitoring of the law schools is tangible, constant and reasonably effective.

Ours is mostly lecture-based teaching with traditional curriculum. Encouragingly, some practical teaching methodology, practical courses and new subjects are creeping in, but they are exceptions, isolated attempts of individual institutions. What we need is systemic change. Either we have to go academic in the first phase of legal education and then vocational in the second phase as in the U.K. and some other common law countries, or we have to make a blend of academic and vocational education in the existing set-up of law schools, as it is done in the U.S.A. and in India before law graduates would be allowed to sit for bar examination.

To underline the vocational or professional nature of legal education, it is necessary to emphasise the need for practical methods of teaching law i.e. Socratic method, problem method, case-study, moot court and mock trial, clinical legal education etc. Some law schools may have introduced some practical methods of teaching law, but in most cases law teaching in Bangladesh has remained theoretical i.e. lecture based. However, some observers hold the view

that vocational or professional nature of legal education has often been overemphasised, and its academic importance undermined. Law is a social science and a very good subject for academic study in the seats of higher learning. Legal education is basically academic in nature. Only a few of the law graduates from public universities go for legal profession and the rest are absorbed in general public services and various sectors of national economy.⁴² Hence legal education should be more inter-disciplinary and academic in approach in order to provide the students a credible and liberal legal education. Practical methods of teaching law are important, but their importance may not be overemphasised. Those of the law graduates aspiring to become lawyers may be required to undergo a practical course of legal education for about a year before they would qualify to sit for the bar examination. These courses would be administered, coordinated and controlled by the Bar Council before the final bar examination.

6. Policies and Standards of Legal Education

To achieve the objectives of legal education, corresponding policies ought to be formulated and standards laid down in order that high quality legal education could be ensured. Policies and standards relate to (a) types of law schools that are desirable and necessary to fulfil the objectives of legal education; (b) courses and programmes that correspond to those objectives; and (c) the process of realisation of those courses and programmes. Policies and standards of legal education are to a great extent contingent upon the priorities that the government and other relevant bodies would attach to this sector. Unfortunately government priorities in our country to this sector are discouragingly low. No attempt has hitherto been made to formulate concrete policies and precisely lay down standards, for we never clearly defined the objectives of legal education in modern contexts. The attention of government ministries, departments,

directorates, semi-government organisations and autonomous bodies has not been specifically attracted to this problem, although all sectors draw heavily upon the subordinate judiciary to cater to their multifarious legal needs. We mechanically followed the old model, tradition and habits. If we have any standards, and sure we have them in some way, they are ill-defined or not defined at all, or they exist as a matter-of-fact way, which naturally fail to steer our legal education on to the right track.

Only body which has specific statutory responsibility as regards legal education in Bangladesh is the Bangladesh Bar Council. One of its functions is “to promote legal education and to lay down the standards of such education in consultation with the Universities in Bangladesh imparting such education”.⁴³ The Bar Council has been authorised by law “to frame rules to provide for the standard of legal education to be observed by Universities in Bangladesh and the inspection of Universities for that purpose”. However, as Barrister Amir-ul Islam, Chairman of the Legal Education Committee of the Bar Council, pointed out in his report to the first Meeting (June 22, 1994) of the Curriculum Committee of the Bar Council, traditional practice has left the legal education to the exclusive domain of the universities and law colleges. Barrister Islam observe that “perhaps this is an area which is not easy for a professional body like ours to handle on our own, nor are we equipped with the resources and necessary person-power to play this role in a meaningful and effective manner. The Bar Council, however, has greatly benefited from its collaboration with the Deans of Universities, Law Professors and Law Teachers through various programmes and workshops organised by the Legal Education Committee”. As mentioned above the Bar Council of India exercises extensive power and jurisdiction over the institutions of legal learning in India. BCI not only prescribes conditions for accreditation of law schools and accords accreditation, but can withdraw

accreditation for non-compliance with the conditions and non-observance of standards of legal education which are laid down by the Bar Council.

Standards of legal education *inter alia* are to address the issues of curriculum, teaching methodology, the question of academic legal education vis-à-vis vocational legal training, prequalification for admission to law schools, duration of courses and evaluation system. Barrister Amir-ul Islam writing on quality legal education observed, “.....Prequalification for studying law as well as the contents of teaching must be well thought out requirements suited for [those] national needs and objectives.

While designing the contents of legal education for a modern society it is important to remember that legal profession includes not merely the branch of litigation lawyering as practiced in courts, but also covers chamber practice, counselling, conveyancing, corporate practice, law teaching, law research, administration in different branches where law plays a role. Commercial and industrial employment and all other activities which postulate and require the use of legal knowledge and skill cannot be excluded from this scope”.⁴⁴

184th Report of the Law Commission of India (2002) dealing with legal education and professional training elaborately dwelt on standards of legal education, legal skills and values. It called upon the BCI to work out more detailed standards and issues of skills to further improve legal education, and made concrete recommendations in this regard. The report referred to MacCrate Report of USA (1992) which is the Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, commissioned by the American Bar Association (ABA). The Report titled *Legal Education and Professional Development — on Educational Continuum* has been acclaimed as very comprehensive, which elaborates on the requirements of modern legal education. NLSIU at Bangalore is said to have prepared a new curriculum and methodology based on MacCrate Report. The

MacCrate Report laid special emphasis on legal skills which has been mentioned in Chapter 5 of the Report as (1) problem solving, (2) legal analysis and reasoning, (3) legal research, (4) factual investigation, (5) communication, (6) counselling, (7) negotiation, (8) litigation and alternative dispute resolution (ADR) procedure, (9) organisation and management of legal work, and (10) recognition and resolution of ethical dilemmas.⁴⁵

The emergence of new economy — globalisation, privatisation and deregulation have thrown up new challenges. There are today revolutionary changes in information, communication and transportation technologies which require corresponding changes in the legal system. New subjects need to be included in the law curriculum, and new techniques of teaching introduced. The Indian Law Commission Report (2002) emphasising the responsibilities of the BCI for laying standards of legal education in consultation with the Universities and state bar councils recommended to amend the relevant part of the Advocates Act 1961 to make the BCI's responsibilities in this regard more specific and elaborate. The Law Commission recommended to substitute the existing clause (h) of subsection (1) of section 7 of the Act which merely refers to “promotion of legal education and laying standards in consultation with the Universities and State Bar Councils” by the following:⁴⁶

- (h) to promote *legal education* and lay down standards of such education in accordance with the recommendations of the Bar Council Legal Education Committee arrived at in the manner specified in section 10AA including, in the matter of-
 - (i) the prescription of standards relating to curriculum, admission of students, appointment and qualification of teachers;
 - (ii) the appointment of adjunct teachers from the Bar and from among the retired judges;

- (iii) the prescription of conditions of service of the law teachers;
- (iv) the prescription of student-teacher ratio;
- (v) the laying down of guidelines for adopting different teaching methods;
- (vi) specifying the conditions as to the location of law colleges, infrastructure, library and management;
- (vii) promoting excellence in legal education for the purposes of the accreditation scheme if any, introduced by the University Grants Commission;
- (viii) promoting alternative dispute resolution as a subject of academic study in the law schools for students;
- (ix) promoting continuing education on alternative dispute resolution for legal practitioners.

7. Institutional System of Legal Education

There is no institutional uniformity in legal education of Bangladesh. This problem is too well-known to the concerned persons to require any detailed description. To be brief, about seventy or so law colleges in Bangladesh offer two-year law courses, divided into preliminary and final, to award LL.B. degrees. Pre-qualification for admission to the law colleges is graduation in any subject. Academic and administrative control over these colleges is exercised by the National University of Bangladesh. These are evening-shift private colleges run mostly by part-time teachers recruited from amongst the members of the local bars. Traditional subjects of law are taught with no practical courses. Again for reasons well-known to concerned persons, quality of education in the law colleges is not upto the mark. Financed by students' tuition and examination fees and private donations, and with no government subsidy, the law colleges suffer from acute infrastructural problems, lack of adequate library facilities, lack of

good teachers, lack of effective administration and absence of healthy supervision by the National University.⁴⁷

Law faculties of four public universities at Dhaka, Rajshahi, Kushtia and Chittagong are an improvement over college legal education. They admit students after H.S.C. for four-year LL.B. (Hons.) and one-year LL. M. courses and award corresponding degrees. Besides traditional subjects of law, they have introduced many new subjects responding to the demands of modern economy, governance and globalization. Most of them have practical, tutorial and research courses. They are day-time faculties staffed by full-time teachers and controlled by respective universities.

New emerging law schools under private universities are being patterned on the public university law faculties, and are regulated under Private Universities Act, 1992.

Main concern is great variation in university and college education. Uniformity rather than variation in legal education is presumably congenial to quality legal education, and to the needs of the nation. How this uniformity can be achieved in Bangladesh is a challenging question for our legal education. Notable that most of the countries of both common and civil law system have uniform legal education.

There is little doubt about the deteriorating conditions of college legal education. The colleges need reforms both in curriculum development and methodology of teaching. There is perhaps a need for limiting the number of law colleges which mushroomed in recent years without fulfilling the basic requirements for such institutions. Proposals for the establishment of government sponsored model

law colleges at district level and appointment of good full-time teachers as well as opening law departments in general colleges with provision for LL.B.(Hons.) courses merit consideration.

There has also been deterioration of university legal education. With few exceptions, practical methods of teaching law are also absent in the law faculties. Tutorial classes have virtually evaporated. Many public university law teachers are, in fact, becoming part-time teachers, as they allocate a major share of their time to teaching in private university law schools. On the other hand, complaints against private universities are more serious. These private institutions are alleged to be more commercially oriented than they are academically oriented. This is reflected in their high tuition fee, arbitrary admission and evaluation of students, and in their own standards of awarding degrees.

While there are criticisms of both college and university legal education, and some suggestions made for their improvement, the issue of systemic change of legal education to make it more uniform is not deliberated in any great detail. People seem to have accepted the existing system of college and university stream of legal education, but emphasising the need for narrowing down the gap between the two. First Education Commission of Bangladesh while accepting the two separate streams of legal education, emphasised the need to narrow down the gap in curriculum contents of the college and university law courses, and with this end in view recommended three-year duration for colleges.⁴⁸

While university legal education's character, objective and institutional advantages make it more of quality in relation to law colleges, both university and college legal education suffer from curriculum and methodology of teaching deficiencies and fall short of the standards which we have mentioned and which

we intend to elaborate upon below. With necessary reforms, the faculties can be suited to the conceived standards. However, the law colleges shall need massive structural and systemic changes to adjust to and adopt the proposed reforms.

8. Curriculum Development

Curriculum is one of the fundamental elements of any education. Law curriculums ought to be designed in accordance with objectives and demands of legal education. As mentioned above, curriculum in the law colleges is traditional which includes only the core subjects prescribed by Bar Council.⁴⁹ Going beyond these core subjects, public universities have selectively introduced subjects like human rights, environmental law, international trade law, corporate law, intellectual property law, administrative law, criminology etc. However, subjects like law of information and communication technology, law of e-commerce, medical jurisprudence are yet to be introduced. There is a dearth of specialist teachers to deal with certain subjects.

Curriculum in our law schools is often not updated to keep abreast with amendments of municipal law as well as latest development of international law, both public and private. This problem needs to be specially addressed. Moreover, our law schools do not always make interdisciplinary approach in designing curriculum to deal with complex development of modern society.

It is natural that law curriculum must respond to the needs of modern economy and ICT. It has to be kept in mind that benefits of them have to accrue to common people. Legal education must be based on the philosophy that laws along with their interpretation and application are called upon to redistribute national wealth and maximise social justice and welfare. Here, inter-disciplinary

approach towards the study of law becomes very relevant. There is need for some study of economics, sociology, history, literature in the study of law.

The very approach of the law teachers in the class room needs to be changed. Parameters of the subject areas in the curriculum ought to be redefined. Human rights law could be brought within the dimension of land law when a teacher is teaching land law. Criminal law can be taught from the perspective of human rights.⁵⁰

The issue of inclusion of alternative dispute resolution (ADR) in law school curriculum is gaining relevance. Settlement of dispute by mediation is a rich heritage in rural Bangladesh. This practice needs to be institutionalised, strengthened and elements of professionalism instilled into it. A developed system of ADR can become an effective ally of justice system of the country. Settlement of family disputes by mediation under a recent special voluntary effort supported by the government relying on the conciliation clauses of the Muslim Family Laws Ordinance, 1961 and the Family Courts Ordinance, 1985 has given very encouraging result.⁵¹ 2003 amendment of CPC incorporating provisions for court sponsored mediation after filing of the suit is a major development in our civil justice system.⁵² There should be extensive study and research on ADR in legal academic circles.

9. Teaching Methodology

While there are isolated attempts in some university law faculties to make teaching more practice oriented, methodology in our universities, and, of course, in the colleges has remained largely lecture-based. Sometimes teachers attempt to make the classes interactive resorting to Socratic method and case-study, but within the framework of a lecture of 45 minutes. While lecture accompanied by Socratic and case-study method has not lost its effectiveness and relevance, teaching through practical demonstration, simulation exercise, moot-court and mock-trial needs to become more frequent and mandatory.

Teaching methodology has some relevance to the issue of legal education being academic or vocational in nature (*supra.* para – 5). Unless we can make provisions for institutional vocational legal education, more emphasis needs to be given on practice oriented methods of teaching in our law schools. This is to make good for lack of practical skills of law graduates who are taught by traditional method. Borderline between academic teaching and vocational teaching of law is not always very clear, and the difference between the two may not be over-exaggerated. Good academic teaching of law always requires some practical devices, while vocational or practical teaching is preconditioned by theoretical understanding of the issues. What is required is a new partnership between academic institutions and professional bodies at all stages of legal education and training. The North American concept of clinical legal education, if specially adapted to our conditions, can make a positive and practically significant change in teaching law in Bangladesh.

10. Clinical Legal Education⁵³

Clinical legal education is directly related to teaching methodology. It is practical legal training through moot-court, mock-trial, participation of the students in ADR and in public legal education i.e. mass legal awareness programmes, chamber practice with the lawyers, counselling, participating in the conduct of life cases, short of appearing in the courts. Clinical legal education is learning through doing, or by the experience of acting like a lawyer. Hence this is experiential learning. Clinical legal education merits separate treatment, for it is not merely a methodology of teaching or learning, it is also providing service to the people and, hence, more practical and noble. When young students at the formative stage of their career are exposed to community legal services, they get sensitized to the problems and needs specially of the marginalised sections of the people, and feel motivated to continue to work for them when they enter professional life. To state in the words of Dr. Mizanoor Rahman, broad objectives of clinical legal education are:⁵⁴

- a) to acquaint the students with the lawyering process and to develop skills of advocacy;
- b) to expose students to the social reality and instil in them sense of societal responsibility in professional work;
- c) to make one aware of the limits of legal system and appreciate alternative lawyering skills including exposition to alternative dispute resolution; and
- d) to develop a sense of professional ethics.

Sponsored by Ford Foundation, Dhaka and Chittagong University law faculties introduced clinical legal education in mid-nineties with encouraging success.

Describing university law clinics in Bangladesh Stephen Golub observed:⁵⁵

The clinics aimed to upgrade Bangladeshi student skills while exposing them to legal aid and NGO work. This experience takes place at a crucially formative stage in the students' careers, when many mix idealism with surprising cynicism about their

profession's ethics and orientation. As one observer put it, "NGO exposure can help put these students in touch with their country's problems, because many of them [coming from relatively privileged backgrounds] are removed from that reality." NGO links also can create a "pipeline effect," helping to convert student dedication into concrete knowledge and actions that broaden the community of legal activists. Some may commit to NGO or pro bono work after graduation; others might develop new perspectives on social justice. And as their role in the legal profession grows over the years, they could become powerful voices for reform.

11. Pre-qualifications for Admission, Duration of Law Courses and

Evaluation of the Students

The issues of students' pre-qualification for admission to law schools, duration of law courses, evaluation and examination of the students are to be stated keeping in mind that they vary greatly depending on whether it is university faculty or law college. Unless the system is uniform, the variation is likely to continue with diverging results for legal education.

Some of these issues have been stated above. It needs to be added that in most cases there is no admission test for law colleges while in the universities one seat is contested by more than fifty candidates, in spite of the fact that minimum qualification for application for admission is second division results in both SSC and HSC or GPA 5 in SSC and HSC combined. On the other hand, present mode of admission test, written or MCQ, is not capable of sufficiently testing students' motivation, aptitude and analytical skills considered so necessary for the study of law.

Evaluation and examination in public universities is by class test, tutorial, viva-voce, written examination and in some instances practical examination and submission of research paper. Questions in the written examinations are more of

theoretical nature than they are problem oriented. Problem oriented questions are more demanding, and hence more effective for evaluation. Law colleges under the National University conduct only theoretical written examinations. To add to this plight, class-attendance requirement for sitting for the examination is almost never followed in the law colleges.

Majority view is that duration of LL.B. (pass) courses should be extended from existing two years to three years.⁵⁶ There is substantial amount of support amongst concerned persons for abolishing third class in LL.B. examination, and for minimum second class (45%) as pass marks. There is also support for adopting rigorous admission rules, and even to disqualify candidates having third class in graduation to apply for admission to law colleges. One major practical problem in prescribing rigid pre-qualification and admission rules and limiting number of seats for admission in the law colleges is that the colleges are run by students' admission, tuition and examination fees. However, a rational balance needs to be found. Government financial assistance to law colleges can become a positive factor in addressing the problem.

On the other hand, there are arguments for continuing existing duration of two years for LL.B. (pass) course in the colleges. Present socio-economic condition of Bangladesh would not justify a three-year duration for LL.B. after obtaining graduation degree. It would put extra economic burden on the students of these courses who mostly come from lower and lower-middle class families, put the LL.B. students on a discriminated position in terms of time required for obtaining LL.B. degree vis-à-vis LL.B. (Hons.) degree from the Universities and eliminate many potential students from the colleges who find these degrees one of the probable ways of career-building and means of livelihood in a country where finding a job is anything but easy.⁵⁷ It may not, therefore, be advisable to

go for immediate extension of the duration, but do it in the long-run under a plan of phase-by-phase reforms of legal education.

12. Recruitment, Accountability and Training of Teachers and Teaching

Materials.

Recruitment of good teachers is vitally important for quality legal education. Present rules of selection of teachers for appointment in various departments of the university primarily on the basis of past academic results are questionable. More emphasis needs to be laid on efficiency and skills of a potentially good teacher through written and oral test. One ominous development in recent years has been to appoint teachers on political consideration rather than on merit. This can frustrate all attempts at improving higher education.

Whether it is in the universities or in the colleges, there is no effective evaluation and accountability of our teachers. While the evaluation of the teachers by the students as practised in many North American and European countries may be considered too radical for Bangladesh, some ways need to be devised to evaluate the performance of the teachers in teaching.⁵⁸ University autonomy has made the accountability of the teachers to higher authorities difficult to realise. Still it must be acknowledged that teachers' performance in most cases in the universities is not discouraging. However, it ought to be better with some form of evaluation and accountability.

The concept of preparation of teaching materials by the teachers as practised in developed countries is almost non-existent in Bangladesh. Teachers need to devote more time to the preparation of lectures and teaching materials than they do devote to the delivery of lecture itself. Under existing remunerations and emoluments of the teachers in Bangladesh, it is difficult to be more demanding of

the teachers. Under existing conditions, they look for part-time jobs outside of the universities. It may be noted that even in neighbouring India and Pakistan, teachers' salaries are more than double the corresponding national pay scale.

There is no provision for training and continuing legal education for the law teachers in Bangladesh. Opportunities for the teachers for higher studies abroad with scholarship or assistantship are decreasing. It is necessary that internal opportunities be created for training of the trainers.

13. Development of Analytical and Communication Skills of Law Students

The questions of developing analytical and communication skills in students are grossly ignored in our educational institutions. Lawyers and judges primarily deal with facts and laws, applying the latter to the former, which requires great thinking and analytical skills. Similarly, words are lawyers' tools of trade, which emphasises that they ought to acquire sufficient communication skills. Language whether Bengali or English, both written and spoken, plays decisive role in developing communication skills. These qualities need to be developed right from the beginning — one's own home and primary school. But often students are found lacking in them at graduate levels. It is immensely necessary to instil these qualities in law students. The students need to be given problems to solve by themselves. Teachers are only to guide them by providing references. Skill test should also be a criteria in admitting students to law schools.

14. Research in Law

Higher research in law is an essential condition for legal scholarship. Legal scholarship defines and identifies links between law and individuals, law and society, law and development, law and politics. Without quality research and legal scholarship, it is virtually impossible to speak of quality legal education. In

any developed system of legal education anywhere in the world research enjoys a place of priority.⁵⁹ In our seats of higher legal learning research is a much neglected area.

Research in law provides 'critical intellectual guidance to the study of law'. It is possible to know and form critical views of different socio-economic aspects of life by in-depth study and research of the relevant laws, and, on the other hand, socio-economic study of any problem informs what laws are necessary for its resolution and why. Research sets the goal of studying the impact of law on a particular issue; it studies the merits and demerits of a particular law and suggest law reforms. One of the fundamental aims of research is to determine social demand and people's aspirations, and accordingly suggest enactment, amendment or repeal of laws. Research is meant to abridge the gap between life and law. Research ought to inform how particular laws can affect people's life, healthily or unhealthily, and how good laws and their proper implementation can bring progressive changes in the society including poverty alleviation and elimination of social injustice, *inter alia*, gender and class discrimination. Research can greatly illuminate the need for special study of legal education, both general and specialised.

Research gathers and works out new information in different branches of legal knowledge enriching individual subjects of law. It endeavours to provide solution to constantly rising legal problems and intricacies. Results of research become invaluable materials for teaching. Good teaching always presupposes good research which makes teaching insightful and thought-provoking. Books and materials used for legal education in Bangladesh are largely foreign. Alien legal literature may be good, but not always. It fails to take into consideration local conditions and national perspectives, and may not be able to provide

answers to local questions. Effective teaching which emphasises the needs of local society and the national contexts depends on the production of new, localized teaching materials, which in turn require research into the local environment for law.⁶⁰

Research Advisory Committee of the International Legal Center (ILC) suggested several important perspectives of research in law, some of which are worth noting here:⁶¹

“..... If development is seen as a self-conscious effort to transform society, law has a multiple relationship to this process. Law may be seen as an *instrument* by which man in society consciously tries to change environment...

“Some may also see law as a value, or as a process so fundamental to the realization of certain values that it becomes closely tied to the values themselves. For example, many believe that law is important in the protection of individuality... and that the development of effective legal institutions and processes can contribute to the strengthening of individual rights and the pursuit of equality ...

“Law may also be seen as a useful ‘prism’ through which to view societies and understand the nature of social processes [within them]. Societies differ fundamentally in their attitudes towards law, and in the extent and nature of their use of legal processes Legal study may, therefore, be essential to any comprehensive study of state, society and economy in developing societies.

“Finally, ‘law’ may also be part of the world that is to be transformed if development is to be achieved. We know that modern states employ statutory and other forms of law as part of an effort to reach the goals they define as ‘development’. But law may also be an obstacle to developmental aspirations. Legal rules or institutions may reflect the very ideas, values or institutions which nations wish to transform. And law may serve to delay or distort development efforts rather than to realize them. Thus there is also a widespread recognition that the law, and legal processes of individual nations, must frequently be changed – often in drastic ways – if the social, economic, cultural and political goals contained within the idea of development area to be attained.

“Research must be sensitive to all these dimensions of or perspectives on law and development.

15. Ethical Values and Human Rights Sensibility

Legal ethics as a separate course is almost non-existent in our curriculum. Very purpose of legal education and profession could be frustrated by the lack of ethical values. Ethical value is not divorced from professional or social value of law. Whether it is to protect clients' interests or professional interests of lawyers or to protect general societal interests and human welfare, or whether it is to safeguard the rights and interests of the marginalised sections of the people or to protect the victims of violations of human rights, legal professionals need to be imbued with high spirit and standards of personal morality and ethics as well as compassionate understanding of social and human needs. Lawyers must rise above self-interests to uphold clients and social interests; judges ought to dispense justice with caution and care; all other legal activists need to devote to their work with a spirit of sacrifice and service to suffering humanity. Unfortunately, even the Bangladesh Bar Council canons of professional conduct and etiquette are not taught in our law schools. A specific course on legal ethics and morals needs to be developed and incorporated in our curriculum.

Above mentioned MacCrate Report devotes considerable attention to professional values and ethics of lawyers. These values *inter alia* include the value of striving to promote justice, fairness and morality, and the value of striving to improve the profession; explore the ideals to which a lawyer should be committed as a member of a self-governing learned profession.⁶²

Our Constitution cherishes, and has incorporated high ideals and provisions of fundamental human rights and freedoms.⁶³ Protection and promotion of human rights are the major goals of the international community as it has been so proclaimed in the UN Charter and other international human rights instruments.

However, human rights education has not been sufficiently developed in our legal education. What is given in our law schools, if at all, is mechanical study of some texts of statutes or international legal instruments, without practical motivation. The norms, values, inspirations and enlightenment essential to fight against violation of human rights are hardly reflected in teaching and learning process of law in Bangladesh.⁶⁴ Justice Mohammad Habibur Rahman observed, ‘... the students of law are the sentinels of human rights. They are the persons supposed to be fighting the battle against tyranny and exploitation, mobilizing the mass people to voice their rights. Therefore, the need of equipping them with the necessary orientation, motivation and training in the light of international human rights standards, domestic legal framework and prevailing human rights situation can hardly be over emphasized. But the present curriculum of the faculties of law in the various universities are admittedly inadequate in this respect ...’⁶⁵

Women’s rights are also human rights. Gender specific rights of women need to be specially taken care of. Unequal position of women is starkly manifest in the socio-economic, cultural, political and legal system of Bangladesh. Unless legal position and status of women is improved, the nation will remain perpetually deprived of the full potential of half of the population of the country, always dwarfing the attempts at national development. Our judges, lawyers, legislators, paralegals and members of the civil society need to be comprehensively sensitized to the special needs and rights of the women. Sensitization and motivation needs to start specially from law schools. Treatment of women’s rights is yet to enjoy priority in the curriculum and teaching in our university law faculties and law colleges.

16. Transnational Aspects and Global Vision of Legal Education⁶⁶

Globalisation is leading the states to look beyond national horizon of law. Inter-dependence of states, massive international transactions at both public and private levels and emergence of innumerable common issues and problems have rendered transnational approach to law inevitable. This is not merely for academic interest that the law students now have to study international law or comparative law, these subjects have acquired significant practical importance. Instances of lawyers referring in the domestic courts to state obligations undertaken at international level, or the cases at international judicial or quasi-judicial forums where lawyers from respective state-parties argue their viewpoints are rapidly increasing. International trade and foreign investment accompanied by rapid cross-border mobility of capital, labour and services have led to transnational or global legal practice, which is likely to be more frequent in the coming years.

The above development has not been sufficiently reflected in our legal education, neither in curriculum, nor in teaching methodology, nor in the attitude of providers of legal education. Our curriculum continues to centre around traditional subjects of national law, and our judges and lawyers are averse to application of international law in domestic courts. Reluctant and unattentive attitude of our judges and lawyers towards international law are greatly explained by lack of transnational components of legal education in Bangladesh.

Transnational law has been described by experts as to consist of (a) public international law, (b) private international law or law of conflicts of laws meaning in a sense international civil law and (c) knowledge of foreign law or comparative law.

Traditional view is that international law can be applied within domestic jurisdiction only by way of implementing legislation enacted by the parliament. Norms of international law cannot, therefore, be directly applied by domestic courts in state territories. This notion has long kept our judges and lawyers away from the domain of international law. However, the world is changing. If any norm of international law does not collide with the relevant provision of domestic law, or there is no relevant domestic law applicable to the obligations undertaken by the states under international law, there is no reason why the domestic courts cannot apply international law directly, or refer to international law or inform domestic law by relevant norms of international law.⁶⁷ Similarly, there is no reason why individual parties cannot claim and base their rights on international law if they do not violate domestic law. Civil law jurisdiction in the continental Europe and in Latin America is increasingly developing in line with direct domestic application of international law, specially norms of international human rights law. In the USA, self-executing treaties are directly applied by the US Courts, while international customary norms are regarded as part of the law of the land both in USA and UK to be directly applied by courts.⁶⁸ Domestic laws are everywhere assumed to be in harmony with norms of international law, and domestic laws are to be interpreted, as far as possible, as not to contradict international law. Our law students need to be informed and taught these principles of law. Creating links between the study of domestic and international law is necessary for legal education because in our new global reality domestic lawyers will need to address issues of international law. From the point of view of international protection of human rights, in numerous instances, domestic law offers fewer protections than those established by international human rights law.⁶⁹

Sphere of application of private international law is expanding even more rapidly. Traditional state-state relations is being increasingly accompanied by person-person or private enterprises based relationships across the borders. Private relationships and disputes necessitate invocation of private laws of the state of nationality of the individuals or the companies, which often lead to conflicts of laws of different jurisdictions. In the situations, judges and lawyers need to know not only foreign laws, but, more importantly, norms and principles of international treaty and customary law regulating and resolving the conflicts of laws of differing state jurisdictions. Study of foreign laws and legal systems may also be necessary for enriching one's own legal system. Our rigid adherence to common law based adversarial or accusatorial system of administration of justice has long prevented us from taking a closer look at inquisitorial system of justice in the continental Europe and appreciate many of its merits which, if selectively adopted in our system, could go a long a way in expediting our justice delivery.

17. Development of Job Opportunities for Law Graduates

Academically sound and vocationally skilful law graduates would make great human resource for various sectors of our national development. To become lawyers and judges, the law graduates will need added training, but many of them would not become lawyers and judges, nor the bar and bench can absorb all of them. Legal knowledge, both substantive and procedural, along with interdisciplinary experience and motivation and vision of legal education of those graduates who would decide not to become judges and lawyers, would need to be employed for services other than judiciary and legal practice, where their specialised knowledge of law would be required. While law graduates with professional and liberal legal education would be competent to efficiently work in general administrative services and corporate sectors requiring qualities of

leadership, it would be most appropriate and desirable to create job opportunities for them where they would be better able to apply their specialised knowledge of law. Given that law graduates have received modern and socially relevant legal education, their knowledge ought to be used and applied to the needs of the nation in various government, semi-government, autonomous, non-government and private sectors.

There is no sector where law is not a big factor. Every organisation, institution or agency is established by law, and has to function on due observance of law. Every such institution faces multifarious legal problems in its day to day activity, which it attempts to address by employing legal counsels, experts, advisors or lawyers, mostly on temporary basis. It is not only an issue of litigation when an institution engages lawyers to represent it in the court. It is a question of encountering innumerable legal and administrative issues requiring knowledge of law, starting from drafting a document to interpreting the documents, to clarifying a legal position, or advising to avoid legal hazards, to strictly following the requirements of law. For this purpose judges of the lower judiciary are often posted on deputation in various government departments to do works which are not directly related to administration of justice proper, but no doubt requiring their expert knowledge of law. This is somewhat taxing on judiciary. A judge is to adjudicate. It is better if he is not put elsewhere on deputation by the government. It would be more convenient and effective if these works could be done by the regular and permanent staff of the respective departments or organisations. In fact, presence of permanent personnels with qualified knowledge of law, capable of addressing legal issues, is supposed to enhance the efficiency of the institutional work. This can well become a factor of good governance.

It is recommended that the government create a separate service, could be called legal service, consisting of law graduates who will have to qualify in competitive examination to be conducted by the Public Service Commission. Members of this cadre service, called legal service, or BCS (legal) in distinction from judicial service, would be employed at various ministries, government and semi-government agencies to deal with legal issues. This service could also develop on to specific specialisations, i.e. foreign ministry employing personnels having specialisation in international law and organisation, commerce ministry employing personnels with specialisation in commercial and international trade law, environmental ministry taking environmental law people etc. Any ministry or agency would employ personnels having subject specialisation more relevant to that particular ministry or agency. Similarly, it could also be made mandatory for private sector, public companies and corporations to have in their permanent staff personnels with specialised knowledge of law. To add to the logic, having a human rights officer or monitor, presumably with law background, in any project or enterprise, is now increasingly becoming a donor's condition for funding. To conclude, it is believed, mandatory presence of enlightened law graduates in the staff of the government, semi-government and private organisations with specific legal duties would enhance discipline and order having great impact on institutional governance.

Planned and BCS oriented recruitment of law graduates for legal service, and mandatory requirement for the corporate sector to employ qualified law graduates will have great back impact on the quality of legal education. Enhanced demand for high quality law graduates is sure to lead to enrichment of curriculum and methodology of teaching, opening of new subjects, intensification of legal research for diversified specialisations and opening of new law schools capable of facing new challenges.

18. Language

Bilingual hazards in legal education and in legal profession are well-known in Bangladesh. Neither the government nor any concerned institution in Bangladesh has so far been able to adopt any clear and bold step towards resolving this issue. Bilingual hazards, therefore, continue to linger. Only the private universities have opted for unilingual system making English the sole medium of instruction. While bilingualism is not unworkable, unilingual system is considered more effective for education.

Our peculiar language problem can be traced to long presence of English as the dominant language both in legal education and in profession, which has overshadowed Bengali and never actually allowed it to come to prominence, although it was only too natural to expect that the mother tongue, the state language of Bangladesh, Bengali, would gradually replace English. But it did not happen. Rather we have steeped in a linguistic dilemma which got very interesting reflection in Professor's Erstling's words:⁷⁰

It is sadly ironic that Bangladesh, a country whose quest for independence includes a struggle for the maintenance and integrity of *Bangla*, still faces the question of what role the English language must play in legal education. I think it is fair to say that Bangladesh, like many other developing countries, suffers from what might be termed "language imperialism". Bangladesh not only inherited a transplanted English legal system that adopted English as the language of the law, but now finds that English is the predominant language of international commerce, diplomacy and law. The unfortunate but undeniable result is that legal education in Bangladesh faces a dual burden. If law students are to be educated to play a meaningful role in this nation's future, they must develop competency in English. At the same time, steps need to be taken to fortify the role of *Bangla* in legal education to ensure that the national language has a healthy future in the law.

English occupies a very dominant position in legal education and legal profession in common law countries including Bangladesh. Its power, influence and advantages are undeniable. It has also gained prominence internationally, short of becoming international lingua-franca. However, advantages of English need to be assessed and weighed in the light of the advantages of national language. There cannot be any confusion that mother tongue is the most effective way of teaching and learning. When we speak of taking law and justice to the door-steps of general people, can there be any better alternative to mother tongue? ⁷¹ The question of choice for language, English or Bengali, as medium of instruction becomes all the more obvious when it is universally acknowledged that Bengali is one of the major and rich languages of the world. There are also reasons to look at the issue through the prism of national obligation to nourish one's own language and culture. This hitherto unresolved problem of medium of legal instruction needs to be resolved with clear perspective without further delay.

There are no doubt some practical advantages of using English as medium of instruction in the law schools. Most of the laws and decisions of the higher courts in Bangladesh are in English. If we want to invite foreign direct investment, and definitely we do want to invite, corporate laws, business laws etc. have to be in English, or at least there has to be authentic English version of these laws. In the age of globalisation there seems to be little option for us in the choice of language of law. On the other hand, if we sincerely want to take law to the general masses and facilitate their access to justice we have little option but to teach, learn and practise law in Bengali.

Looking at private international law and rapidly growing international trade and investment law, it is understandable that law is being universalised or

globalised. For the purpose of modern international trade and ICT, English has become an international language – a virtual lingua franca. For good communication skills of law graduates, good command over English language is indispensable. It is not a question of doing away with Bengali. The world is going bilingual, or even multilingual. The present practice in Bangladesh is bilingual, and arguably this can continue for foreseeable future.⁷²

Quality of English language teaching and learning has deteriorated in Bangladesh over the past years. Its impact has been very negative for legal education. It is recommended that reasonably good knowledge of English form part of prequalification requirements for admission to law faculties and law colleges. It is also recommended that English language be included in law school curriculum as a compulsory subject, as it has been so included in Chittagong University law curriculum.

In all major countries of the world law is taught and practiced in national language, and in each of these countries at least one of the major foreign languages is invariably taught as the second language. In our case, choice for second language is not only English but due to common law character and background of our legal system, English merits special attention and must be so taught and learnt. If ‘words are lawyers’ tools of trade’ language skills, both in Bengali and in English, must be developed for learning and applying law.

19. Continuing Legal Education

Law is a dynamic and practical subject. It keeps on changing responding to the changing needs of the society. Besides, its depth and vastness can only be realised in the process of its application. Acquiring legal knowledge, therefore,

becomes a life-long professional and intellectual pursuit. This underlines the need for continuing legal education for lawyers as well as judges.

Powers, programmes and functions of the Judicial Administration and Training Institute (JATI) of Bangladesh may be broadened to provide compulsory continuing legal education and training to the judges of the subordinate judiciary for a considerable period of time.

Bangladesh Bar Council initially introduced continuing legal education for young lawyers and law graduates. Now it has introduced Bar Vocational Courses as requirements for enrolment in the bar. However, the question of education and training of young and junior lawyers is still far from being sufficiently addressed. Their training needs to be institutionalised on national scale. It is also to be considered whether Barristers, who have now to pass a regular academic, clinical, vocational and practical examination before being called to the Bar, are still needed to undergo a Bar Council vocational course.

20. Universal Legal Education

The proposal that basic legal education be introduced at SSC and HSC levels as general science or general social studies are studied at these levels in Bangladesh, merits caring attention. It may serve three essential purposes. First, it is expected to enhance national legal awareness which is considered necessary for implementation of law and facilitating broader access of the people to justice. Second, it will strengthen the institution of mediation at grass-root levels as it would more likely be based on knowledge of rights and laws. Third, it would better equip the future law students to undertake the study of law at higher level. It is also to be considered whether it will overburden the students or not or whether it should be kept as an optional subject.⁷³

21. A National Body for Legal Education

The body which has specific statutory responsibility as regards legal education in Bangladesh is the Bangladesh Bar Council. One of its functions is "to promote legal education and to lay down the standards of such education". The Bar Council has been authorised by law "to frame rules to provide for the standard of legal education to be observed by Universities in Bangladesh and the inspection of Universities for that purpose". However, so far the functions of the Bar Council have remained limited only to prescribing some core subjects as part of law school curriculum, and conducting bar enrolment examination. As Barrister Amir-ul-Islam, Chairman of the Legal Education Committee of the Bar Council, pointed out in his report to the first Meeting (June 22, 1994) of the Curriculum Committee of the Bar Council, traditional practice has left the legal education to the exclusive domain of the universities and law colleges. Barrister Islam observed that "perhaps this is an area which is not easy for a professional body like ours to handle on our own, nor are we equipped with the resources and necessary person-power to play this role in a meaningful and effective manner. The Bar Council, however, has greatly benefited from its collaboration with the Deans of Universities, Law Professors and Law Teachers through various programmes and workshops organised by the Legal Education Committee."

It has been argued that bar is not the only stakeholder of legal education, and law graduates would also be serving in various sectors and professions other than legal practice.⁷⁴ Bar Council may not be able to take into consideration multifarious requirements and conditions of legal education which qualify the law graduates for diversified jobs. This seen in the context of the fact that bar is a highly professional body, and now being highly politicised, busy with its own activities and problems would not make the bar council most effective body for

the overall control of legal education, although its suggestions on issues of legal education would be necessary. It is argued, therefore, a separate but independent national body consisting of academics, lawyers, judges and representatives of the government to administer and monitor legal education in Bangladesh, is likely to be more effective.

It is worth recalling that the Quarat-e-Khuda Education Committee in 1974 while underlining the role and importance of the Bar Council and the universities to provide for quality legal education, mentioned the need for the establishment of a Council of Legal Education for the same purpose.⁷⁵

Countries of the world have devised their own ways to materialise control over legal education. In Sri Lanka for example, it is the Council of Legal Education which administers legal education to persons who desire to be enrolled in the Bar of Sri Lanka. There is a similar Council in Nigeria⁷⁶. In the USA it is the American Bar Association (ABA) in collaboration with Association of American Law Schools (AALS) which pursues similar goals.

Recommendations

1. Inclusion of legal education in government's policy priorities, and to undertake concrete steps to improve its quality.
2. Formation of a Council of Legal Education for overall control, monitoring and supervision of legal education in Bangladesh. The Council will exercise its functions in collaboration with the Bar Council and the University Grants Commission. Necessary law is to be enacted for the formation of the Council, which would also entail amendment of the Bangladesh Legal Practitioners and Bar Council Order 1972, in so far as it concerns legal education.
3. To form legal education committee in the University Grants Commission consisting of the representatives of the law schools, and with this end in view to make necessary amendments in the University Grants Commission Order, 1972 and the relevant rules.
4. Provision for additional vocational course up to one year for law graduates as prequalification for appearing at the bar examination. How this course would be designed and run would be determined by the proposed Council of Legal Education.
5. Rational combination of academic and vocational character of legal education to make sure law graduates acquire knowledge, skill and competency for legal practice as well as law related general services. It is necessary to provide for more practical methods of teaching law i.e. Socratic method, problem method, case study, moot court and mock trial, clinical legal education etc.
6. Promotion of inter-disciplinary approach to curriculum to help students better understand the societal problems. Subjects like national history, economics, political science, sociology, logic etc could be included in the law curriculum.

7. Inclusion of new law courses (subjects) in the curriculum to respond to the needs of modern economy, ICT and globalisation. Subjects such as corporate law, international economic law, e-commerce, intellectual property law, environmental law, medical jurisprudence need to be included.
8. To include in the curriculum separate courses on ADR, legal ethics, research, drafting and conveyancing.
9. Need for emphasising transnational aspects of law to include more subjects on public and private international law and comparative law.
10. To enhance human rights and gender sensibility of legal education. Separate papers on these issues are suggested to be included in the syllabus
11. Narrowing down the gap between college legal education and university legal education by including more subjects in college curriculum and extending its duration.
12. Introduction of clinical legal education which means learning law by providing legal services to the community. Students need to be involved in various ADR activities where they will be exposed to real life situations and get opportunities to apply their knowledge of law as well as be sensitised to the rights of the marginalised sections of the community.
13. Immediate need for massive reforms and overhauling of college legal education by —
 - (a) extension of duration of courses from existing two years to three years with emphasis on practical courses in the final year;
 - (b) introduction of admission tests;
 - (c) limiting number of seats for admission;
 - (d) mandatory appointment of full time teachers;
 - (e) provision for government financial assistance;

- (f) provision for adequate infrastructural facilities like class-rooms, library, books, computers etc;
 - (g) provision for effective supervision of the colleges.
14. Establishment of government sponsored model law college to set the norms and standards of modern legal education.
 15. Evaluation and examination of students by problem oriented questions.
 16. Introduction of basic legal education at SSC and HSC levels as a part of general legal awareness, and as a stage of prequalification for higher studies in law. Ministry of Education is to provide necessary directives and frame rules to incorporate fundamentals of law of the land in SSC and HSC curriculum.
 17. To preserve the present bilingual character of medium of instruction for law with an emphasis on effective learning of English.
 18. To provide for institutional accountability of teachers, and their evaluation by the students. Details of the procedures of accountability and evaluation would need to be worked out.
 19. Provision for training of the teachers.
 20. Besides legal profession of a lawyer and a judge, to create more diversified professional job opportunities for the law graduates in various government and non-government departments. One of the ways to do it is to create by competitive examination BCS cadre service(legal) for law graduates to perform law related works in various government and autonomous bodies.

Notes and References:

1. Almost all the participants of the consultative discussions and more than 80% of the respondents to the questionnaires consider the present state of

- legal education to be unsatisfactory. Similar view prevailed in a survey conducted in 2000 by Dr. N.R. Madhava Menon, Consultant, Judicial Administration and Training Institute (JATI), Dhaka, amongst lawyers and judges of Bangladesh, see “A Preliminary Report for Discussion at the Consultative Meeting” held on March 25, 2000, under *Project on Judicial Capacity Building: Developing Judicial Training*, p.16.
2. Amendment incorporated in Art. 89A of the CPC in 2003.
 3. Annexure to H.L. Saris Memorial Lecture titled “Legal Education in India — Past, Present and Future”, at National Law School of India University, Bangalore, by Justice Dr. A.S. Anand, then Chief Justice of India, January 31, 1998.
 4. *Riviziq wkwlv Kugkb* - 2003, *cZte`b, wkwlv gšYvj q, MYcRvZšx evsj vř`k mi Kvi*, XvKv, 2004, cř 108
 5. Justice Latifur Rahman, “The Judiciary and Its Importance”, in *The Daily Star*, July 16, 2005, p.18.
 6. Reports of various agencies which have influenced development of legal education in India are (1) Report of the Chagla Committee, 1955; (2) Report of the Bombay Legal Education Committee consisting of Dr. V. Kane, Justice N.H. Bhagwati; (3) Report of the Inter-University Board, 1950; (4) Report of the All India Bar Committee, 1953; (5) Report of the Rajasthan Legal Education Committee, 1955; (6) 14th Report of the Law Commission, 1958 presided over by Shri M.C. Setalvad; (7) Recommendations of the Gejendragadkar Committee, 1964 appointed by Dr. C.D. Deshmukh, VC of Delhi University; (8) Formulations of All India Seminar on Legal Education, 1972; (9) UGC Curriculum Development Report, 1988-90 presided over by Prof. Upendra Baxi; (10) Justice Ahmadi Committee Report, 1994; (11) The UGC Curriculum Development Report, 2001; (12) 184th Report of the Law Commission, 2002.

7. New law universities have been established in Hyderabad (1996), Bhopal (1997), Delhi (1998), Kolkata (1999) and Jodhpur (2000).
8. N.R. Madhava Menon, "Halting Progress of Legal Education", *The Hindu*, Online Edition, Oct. 23, 2001.
9. Indian UGC Report on *The Status of Teaching and Research in the Discipline of Law*, 1981, p.5.
10. Kî i Z-G-Lÿ v wk¶¶v Kugkb wi tcvU, evsj vt`k Ktj R-uekte` vj q wk¶¶K miguZ, 1998, ct 148
11. RvZxq wk¶¶vbwZ cÿqb KuguU - 1997, cÿZte`b, wk¶¶v gŠÿvj q, MYcRvZŠÿ evsj vt`k mi Kvi, XvKv, 1997, ct 129
12. Brac Law School Website: www.brac.edu/law, as cited in Monirul Azam, "Reforming Legal Education in Bangladesh", Keynote paper at the seminar on *Legal Education in Bangladesh*, Premier University, Chittagong, July 15, 2004, pp. 1-2.
13. Roger Burrige, "Six Propositions for Legal Education in Local and Global Development", in Conference Proceedings of *Association of American Law Schools (AALS) Conference on Educating Lawyers for Transnational Challenges*, May 26-29, 2004, Oahu, Hawaii, (www.aals.org/international2004) p. 495.
14. *Legal Education in a Changing World*, A Report of the Committee on Legal Education in Developing Countries, 1975, International Legal Centre, New York, p. 46.
15. *Ibid.* p. 47.
16. *Ibid.* p. 50.
17. *Ibid.* pp. 50-51.
18. *Ibid.* p. 51
19. M. Amir-ul Islam, "In the Quest for a Modern Education in Law", paper presented at Bangladesh Law Teachers' Association (BLTA) Symposium on *Legal Education in Bangladesh: Problems and Prospects*, November 21-22, 1992, Dhaka, p. 10.
20. *Ibid.*

21. Shafique Ahmed, "Legal Education in Bangladesh: Problems and Prospects", Key-note paper presented at BLTA Symposium, *op.cit.*, p.1.
22. Jay Erstling, *Reform of Legal Education in Bangladesh*, Consultant's Report submitted to the Bangladesh Bar Council, 1994, P.3.
23. Article 17 of our Constitution underlines the importance of "relating education to the needs of society and producing properly trained and motivated citizens to serve those purposes".
24. Md. Zakir Hossain and Md. Mohiuddin Khaled, "Public Legal Education and Socio-Economic and Democratic Development: Bangladesh Perspective", *Chittagong Universities Studies – Law*, Vol. I, December 1996, p.28.
25. *Legal Education in a Changing World*, *op.cit.* p.56
26. Shahdeen Malik, *Continuing Legal Education*, pamphlet circulated by Legal Education Committee of the Bangladesh bar Council, 1995, p.1.
27. Bar vocational course has been made mandatory for enrolment in the bar. This six-week course is conducted by the Legal Education & Training Institute (LETI). LETI has been registered under Societies Registration Act, 1860, and it acts as the implementing agency of the Bar Council under special arrangement with the Council.
28. Legal Systems of the World – A Political, Social, and Cultural Encyclopedia, ed. Herbert M. Kritzer, Vol. II, ABC-CLO, Santa Barbara, Denver, Oxford, 2002, p.882.
29. *Ibid*
30. See generally, Richard Grimes, "Research Reports on Legal Education: Legal Skills and Clinical Legal Education", *Web Journal of Current Legal Issues*, 1995; P. Harris et al, *A Survey of Legal teaching*, Sweet and Maxwell, 1993; J. Woolson, A Third Survey of University Legal Education in the United Kingdom, 13 *Journal of Legal Studies*, 1993; Julian Lonbay,

- “University Training: The Implications of the Bologna Declaration for the UK”, *European Journal of Legal Education*, 2001, pp. 11-29.
31. Willian Twinning, “What are Law Schools for”? in *Law in Context: Enlarging a Discipline*, Oxford UP, 1997, pp. 297-298, 301-302.
 32. *Legal Systems of the World*, *op.cit.* p.883.
 33. *Ibid.* pp 883-884.
 34. *Ibid.*
 35. *Ibid.* p. 884
 36. *Ibid.*
 37. Hisashi Aizawa, “Judicial Reform and New Law Schools in Japan”, in *AALS Conference Proceedings*, *op.cit.*, p. 301.
 38. *Legal Systems of the World*, *op.cit.*, p.885.
 39. Hisashi Aizawa, *op.cit.*, p.303.
 40. Internet message from Hafiz Aziz ur Rahman, Lecturer in Law, Faculty of Law, International Islamic University, Islamabad Pakistan, August 19, 2005, email: aziz@thenetwork.org.pk
 41. Information sent from Sri Lanka Law College, Ministry of Justice and Judicial Reforms of Sri Lanka, by email attachment on March 8, 2005, file:// c: Documents and Settings/Administrator/ Desktop/ Sri Lanka Law College. htm
 42. Views expressed by Dr. Borhanuddin Khan of the Dhaka University Law Faculty at the first roundtable held in Dhaka on July 8, 2004.
 43. Section 10(i), *The Bangladesh Legal Practitioners and Bar Council Order*, 1972.
 44. M. Amir-ul Islam, *op.cit.*, p.11.
 45. Margeret Y.K. Woo, “Ethical Lawyering in a Global Context”, in *AALS Conference Proceedings*, *op.cit.*, f.n.5, p.672.
 46. Law Commission of India, 184th Report on The Legal Education and Professional Training and Proposals for Amendments to the Advocates

- Act, 1961 and the University Grants Commission Act, 1956, Chapter-V, December 2002, pp.60-61.
47. RvZxq ঝকণবঝ cণqb Kণgল - 1997, *op.ct.*; The National University has no law faculty or separate legal education section or expert legal personnels to supervise the academic activities of the law colleges. This has led some observers to suggest that law colleges be returned to the jurisdiction of public universities which formerly exercised control over colleges.
 48. Kì ivZ-G-Lý ঝকণ Kণgkb ঝ tcvl, *op.cit.* p.152.
 49. It has been learnt from National University sources that a Syllabus Committee headed by Professor M. Ershadul Bari is finalising a new syllabus for law colleges which will consist of twenty subjects for a three-year course adding seven more subjects to existing thirteen-subject two-year course.
 50. Views expressed by Professor Mizanoor Rahman at the first roundtable, *op.cit.*,
 51. Inspired by a joint study by San Francisco based Institute for the Study and Development of Legal Systems (ISDLS) and Bangladesh Legal Study Group (BLSG) headed by Justice Mostafa Kamal, an Implementation Committee headed by Justice K.M. Hassan persuaded the Government to form Family Courts in some major districts under a pilot project to settle disputes based on conciliation clauses of the relevant laws. Several thousand family disputes were settled on conciliation within reasonably short time, substantially reducing backlog of family cases.
 52. Money Loan Court Act was also amended to incorporate mediation provisions. Overcoming initial hesitancy lawyers and litigants are increasingly resorting to pre-trial mediation in civil and money loan cases ushering in a new area of civil justice delivery system in Bangladesh.

53. See generally Brayne, H. and others, *Clinical Legal Education: Active Learning in Your Law School*, New Delhi, Oxford University Press 2003, 278p; N.R. Madhava Menon, "Clinical Legal Education: Concept, Concern and Methods", paper presented at BLTA Workshop on Legal Education, Nov. 9-11, Dhaka, 1993; *Manual for Clinical Legal Education*, ed. by M. Shah Alam, Faculty of Law, University of Chittagong, 2001, pp.1-12.
54. Mizanoor Rahman, "Clinical Legal Education in Bangladesh: Establishing a New Philosophy?", Chittagong University Studies – Law, Vol. I, 1996, p.8.
55. Stephen Golub, "From Village to the University: Legal Activism in Bangladesh", in *Many Roads to Justice*, ed. Mary McClymont, Stephen Golub, Ford Foundation Publication, 2000, P.145.
56. More than 80% answers in the questionnaires were in favour of three-year duration.
57. This point was specially raised by Advocate Ali Akbar Pramanik, Principal, Rajshahi Law College, at the first roundtable, *op.cit.*
58. More than 90% student respondents in the questionnaires asked for some form of evaluation of the teachers by the students.
59. UK legal education system, for example, highly emphasises research components as part of undergraduate course. The universities are increasingly attaching value to the learning of research skills at both undergraduate and postgraduate levels. However, research components figure more prominently in postgraduate course. In postgraduate level, the whole degree may be offered as fully research based or partially research based when the course is taught as one.
60. *Legal Education in a Changing World*, *op.cit.* p.51.
61. *Ibid.* pp.51-52.
62. Margaret Y.K. Woo, *op.cit.*

63. Part-III, Articles 26-44.
64. Monirul Azam, "Legal Education in Bangladesh", *The Daily Star*, October 5, 2004, p.9; Prashanta Bhushon Burua, "Combating the Future", LETI Bulletin, Bangladesh Bar Council, April-June 2003, p.14.
65. Cited in *ibid.*, pp. 14-15.
66. See generally AALS Conference Materials, *op.cit.*
67. See generally John H. Jackson, "Status of Treaties in Domestic Legal Systems: A Policy Analysis", Vol. 86, No.- 310, *The American Journal of International Law*, 1992; Danilenko, Gennady M. "The New Russian Constitution and International Law", *The American Journal of International Law*, Vol. 88:451, 1994.
68. See generally J.G. Starke, *Introduction to International Law*, Tenth Edition (1989), First Indian Reprint, 1994, pp.77-88; Paust, Jordan, "Self-Executing Treaties", 82 *American Journal of International Law*, 760, 1988; Vazquez, Carlos Manuel, "The Four Doctrines of Self-Executing Treaties", 89 *American Journal of International Law*, 695, 1995.
69. Claudio Grossman, "Global Legal Education and Human Rights", in AALS Conference Materials, *op.cit.* p.567.
70. Jay Erstling, *op.cit.*, p.18
71. *Legal Education in a Changing World*, *op.cit.* p.85; participants at the Commonwealth Legal Education Association Conference in Hong Kong (1992) specially devoted to language and culture issues emphasised the need for promoting national language for legal education.
72. Views expressed by Barrister Amir-ul Islam at the first roundtable at Dhaka, *op.cit.*
73. All participants at the first roundtable at Dhaka and at regional consultations and the respondents in the questionnaires unequivocally supported the idea of introducing basic universal legal education at SSC

and HSC levels, although some of them suggested to include it as optional subject.

74. Sheikh Hafizur Rahman Karzon, "A Brief Appraisal of the Legal Education System in Bangladesh", *Journal of Law*, Association of Law watch, Volume Two, 2004, Dhaka, p.22.
 75. Kî i vZ-G-Lj v wk¶v Kugkb wi ‡cvU,® *op.cit.*, p.155.
 76. S.O. Akindipe, "An Appraisal of the objectives of Legal Education", AALS conference materials, *op.cit.*, p.370.
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