CHAPTER 5

Legal Education and its Statutory Framework

5.1 Statutory Mechanism to Regulate Legal Education

One of the peculiar features of the Indian Legal profession is the single window system provided for the entry into the profession. So a person having profession degree in law as an advocate without passing any examination conducted by the professional body, the Bar Council. The Bar Council of India constituted under the Advocates Act 1961 has several solemn duties to perform. Among other it has to lay down the standards of professional conduct and etiquette of legal education. The State Bar Councils do enrolment of advocates and enforcement of discipline is part of the obligations of the state Bar Council and the Bar Council of India exercise appellate jurisprudence. Advocates Act, 1961 lays down the functions of the Bar Council of India, which are as follows:

a) ……… (omitted)
b) To lay down standards of professional conduct and etiquette for advocates;
c) To lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar council;
d) To safeguard the rights, privileges and insert of advocates;
e) To promote and support law reform;
f) To deal with and dispose of any matter arising under this Act. Which may be referred to it by a State Bar Council;
g) To exercise general supervision and control over State Bar Council;
h) To promote legal education and to lay down standards of such education in constitution with the University in the India imparting such education and the State Bar council;

1 Prior to the enactment of the Advocates Act 1961 for practicing as a lawyer a person has to pass the examination conducted by the professional body. Even today several countries followed this practice.
2 Advocates Act 1961, Section 7 (1) (h)
i) To recognize University whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect University or cause the State Bar councils to visit and inspect Universities in accordance with such directions as it may be given in this behalf;

(ia) To conduct seminars and organize talks on legal topics by eminent jurists and publish journals and papers of legal interest;

(ib) To organize legal aid to the poor in the prescribed manner;

(ic) To recognize on a reciprocal basis qualifications in law obtained outside India as an advocate under this Act;

Another statutory body, established by the University Grants Commission Act 1956, also has certain important powers in the matter of recruitment to legal profession’. The UGC was established under entry 66, List I of the Seventh Schedule of the constitution viz. “Coordination and determination of standards in institutions for higher education”.

The Preamble to the UGC Act\(^3\) states that the Act is intended “to make provision for the co-ordination and determination of standards in Universities.”

According to Section 2(f) of the UGC Act the UGC has control over the universities as well as affiliated colleges. So the UGC can control both universities and law colleges, in the matter of maintaining of standard of legal education. According to the view taken by the Supreme Court “the University Grants Commission has, therefore, greater role to play in shaping the academic life of the country. It shall not falter or fail in its duty to maintain a high the University research and scientific and technical institution\(^4\)”

\(^3\) The Section of Objects and Reasons Appended to the original Bill which preceded the UGC Acts, states that word “standards” in Entry 66 of List I means standards of “teaching and examinations in Universities”. It says that the “commission will also have the power to recommend to any University, the measures necessary for the reform and improvement of University education and too advise the University concerned upon the action to be taken for the purpose of implement such recommendations. The Commission will act as an expert body to advise the Central Government on problems connected with the co-ordination of facilities and maintenances of standards in university and to advise on any matter which has been the subject of an inquiry or inspection.”

UGC could take all steps necessary to maintain standards, including fixing qualification. According to the view by the Supreme Court “qualification for teaching staff could also be prescribed by Regulations of the UGC and the said Regulation would override any other legislation.” The powers of the UGC includes power to recommend to a University the measures necessary for the improvement of University education and to advise in respect of the action to be taken for the purpose of implementing such recommendations. The UGC is also invested with the power to perform such other functions as may be prescribed or as may be deemed necessary by it for advancing the course of higher education in India.

So in the matter of legal education three statutory bodies viz. Bar Council of India and University Grants Commission and concerned University are operating in the same field, Quite often this situation may create confusion since conflicting approach may the three statutory bodies charged with the duty to maintain the standard of legal education.

5.1.1 Constitutional and Statutory Perspective

A) The UGC Act & Entry 66 of List I

The University Grants Commission Act, 1956 was an Act passed by Parliament with respect to the subject matter of Entry 66 of List I of the Constitution of India, viz.,

“Entry 66, List I: Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”

The Statement of Objects and Reasons appended to the original Bill which preceded the UGC Act, states that the word “standards” in Entry 66 of List I means standards of ‘teaching and examinations in Universities’. It says that the “Commission will also have the power to recommend to any University, the measures necessary for the reform and improvement of University education and to advise the University concerned upon the action to be taken for the purpose of implementing such recommendations. The commission will act as an export body to advise to central government on problem connected with the coordination of facilities and maintenance
of standards in universities. The commission, in consultation with the university concerned, will also have the power to cause an inspection or inquiry to be made of any university and to advise on any matter which has been the subject of an inquiry or inspection.”

The Preamble to the UGC Act states that the Act is intended, “to make provision for the co-ordination and determination of standards in Universities.”

In view of section 2(f) of the UGC Act, the UGC has control over the Universities as well as affiliated colleges. In *Premchand Jain vs. R.K. Chhabra*\(^5\), the Supreme Court referred to Entry 66, List I as being the basis of the UGC Act of 1956. Later, in *Osmania University Teachers Association vs. State of AP*\(^6\), the Supreme Court observed:

> “The University Grants Commission has, therefore, greater role to play in shaping the academic life of the country. It shall not falter or fail in its duty to maintain a high standard in the Universities.”

It was pointed out that the UGC could take all steps necessary to maintain standards, including fixing qualifications, written tests etc. and the UGC could withhold grants to the Universities if its directives were not implemented. In *University of Delhi vs. Raj Singh*\(^7\), the Supreme Court held that qualifications for the teaching staff could also be prescribed by Regulations of the UGC and the said Regulations would override any other legislation, even if made by Parliament, such as the Delhi University Act, 1922. The Court observed, while dealing with the UGC Act, as follows:

> “These are very wide ranging powers. Such powers, in our view, would comprehend the power to require those who possess the educational qualifications required for holding the post of lecturer in Universities and colleges to appear for a written test.”

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\(^5\)AIR 1984 SC 981.

\(^6\)AIR 1987 SC 2034

\(^7\)1994 Suppl (3) SCC 516
These (powers) include the power to recommend to a University the measures necessary for the improvement of University education and to advise in respect of the action to be taken for the purpose of implementing such recommendations (clause (d)). The UGC is also invested with the power to perform such other functions as may be prescribed or as may be deemed necessary by it for advancing the cause of higher education in India or as may be incidental or conducive to the discharge of such functions (clause (j)). These two clauses are also wide enough to empower the UGC to frame the said Regulations.

Thus, regulations made by the UGC could override any other statute made by Parliament. The recent decision of the Supreme Court in *Preeti Srivastava vs. State of MP*[^8], in relation to medical education, is of great relevance in as much as the Court was there considering the provisions of another statute like the UGC Act, passed by Parliament under the same Entry 66, List I of the VII Schedule, namely, the Indian Medical Council Act, 1956, which specifically deals with “standards” of medical education.

The Preamble to that Act also states (like the Preamble to the UGC Act, 1956) that the Act is intended, among other things, to provide for the prescription of standards of post graduate medical education. Section 20 of the Medical Council Act, 1956 deals with the constitution of the P.G. Medical Education Committee to assist the Medical Council in matters concerning P.G. Medical education and it states that in case there is difference between the Medical Council and the P.G. Medical Education Committee, the Medical Council “shall forward them together with its observations, to the Central Government for decision.” Once Regulations are made by the Medical Council on the basis of the recommendations of the P.G. Medical Education Committee, they would be binding on the State Governments. The Regulations are not to be treated as merely recommendatory. Standards of education under Entry 66, List I include caliber of teaching staff, proper syllabus, student-teacher ratio, caliber of students admitted to the institution, equipment and lab facilities, adequate accommodation for the college, the standards of examination, including the manner in which the papers are set and examined.

[^8]:1999(7) SCC 120.
From the above decisions of the Supreme Court, the scope and effect of a law made under Entry 66 of List I dealing with ‘standards of education’ is quite clear. The law, be it the UGC Act, 1956 or the Medical Council Act, 1956 (in so far as the latter authorized the laying down of standards of PG Medical Education), and laws made under the said entry for the purpose of laying down the ‘standards’, which include standards of teaching, syllabus, examination, at the admission level or later and they would override any other law made by Parliament.

The University Acts, passed by the State Legislatures under Entry 25 of List III or under old Entry 1 of List II would also be subject to the provisions of the UGC Act, 1956.

B) The Advocates Act, 1961 & Entries 77 and 78 of List I

The Advocates Act, 1961 has been passed by Parliament by virtue of its powers under Entries 77 and 78 of List I of Schedule VII of the Constitution of India. The legislative subject here is “practice in the Supreme Court or in the High Court.” In fact in the latter case, namely, the Bar Council of UP case the Supreme Court specifically held that in pith and substance, the Advocates Act, 1961 deals only with the following subject-matter referred to in Entries 77, 78 of List I:

“Entry 77: Constitution, organization, jurisdiction and powers of the Supreme Court (including contempt of such court) and the fees taken therein; persons entitled to practice before the Supreme Court”.

Entry 78: Constitution, organization (including vacations) of the High Court’s except provisions as to officers and servants of High Courts; persons entitled to practice before the High Courts.” The Advocates Act, 1961 thus deals with the conditions which a person has to satisfy before he can be permitted to practice in the Supreme Court or the High Court, but the Statement of Objects and Reasons or the Preamble of the Advocates Act, 1961 does not expressly refer to ‘standards of legal education’ as do the Preamble and Statement of Objects and Reasons of the UGC Act, 1956 or the Medical

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9See O.N. Mohindroo vs. Bar Council, AIR 1968 SC 888,
11AIR 1973 SC 231
Council Act, 1956. It is only section 7(1)(h) of the Advocates Act which refers to this aspect.

In the view of the Commission, so far as law courses in Universities which offer certain law degrees or diplomas (and where such students are notified that those degrees or diplomas will not entitle them to practice are concerned) which do not enable a person to practice, the Bar Council of India cannot impose mandatory conditions. The UGC has the prerogative in such cases. However, in the laying down of standards by the Universities even in regard to such courses, though the prerogative is with the UGC and the Universities, they would benefit much by consulting the Bar Council of India. In other words, in regard to courses in law which do not lead to a professional career, the UGC and the Universities could, at their option, consult the Bar Council of India, though it is not mandatory.

C) Width of Entries in one List of Schedule VII of the Constitution not to be limited by Entries in other List or even same List

Whenever there are provisions in the Constitution referring to separation of legislative powers between federal and state legislatures, it is necessary to examine the width of the subject upon which the Federal or 20 States legislatures, as the case may be, is primarily entitled to legislate. This exercise is performed by examining the pith and substance of the legislation which is made with reference to those legislative entries. Certain well-settled principles of interpretation apply.

Firstly, each entry in each list has to be given its widest scope, without any limitation. Incidental encroachment into the field of legislation of another legislature is permissible to a limited extent, i.e. if it is not in direct conflict with the latter’s express provisions. For example, where a federal legislature legislates on one of the subjects within its field, it may incidentally encroach into the field of a State legislation and vice-versa, so long as it does not directly conflict with express provisions of the other statute. As long as the pith and substance of the legislation is attributable to a subject within the field of that legislature, as allocated by the Constitution, such a limited incidental encroachment into the field of another legislature, is permissible and is not liable to be struck down as ultra-vires.
However, conflict, in the present context, does not arise between legislations made under Entries pertaining to the Federal legislature and the State legislature. Here the issue arises between two legislations made by the same legislature, i.e. UGC Act and Advocates Act, both made by Parliament. In the case of the UGC Act, 1956 and Advocates Act, 1961, we are concerned with two legislations in List I itself though they are made under different entries.

If the UGC Act, 1956 is expressly meant to deal with standards of education, can the Advocates Act 1961, which is meant to deal with the ‘right to practice’ is deemed as a law which is in pith and substance, one also relating to ‘standards of education’? The point here is that, as stated above, both laws are made under different entries in List I. In that event, what is the principle of interpretation that is applicable?

It was stated in India Cement vs. State of TN\(^{12}\), that the constitutional principle mentioned in the preceding paragraph as between laws made by a Federal legislature and a State legislature is equally applicable in the case of legislation made under different entries in the same List by the same legislature. In the above case, Sabyasachi Mukherji, J (as he then was) observed\(^ {13}\): “In interpreting an entry, it would not be reasonable to import any limitation by comparing or contrasting that entry with any other one in the same list.”

The same principle as in India Cement was reiterated by Sabyasachi Mukherji, J (as he then was) in Synthetics & Chemicals Ltd. vs. State of UP\(^ {14}\). In other words, provisions of the UGC Act under Entry 66 of List I dealing with standards of education and the provisions of the Advocates Act must be given as wide a scope as possible. The UGC Act was passed under Entry 66, List I and deals with standards of education while the Advocates Act owes its existence to Entries 77, 78 of List I. That Entry no doubt, does not refer to ‘standards of legal education’ but deals with a subsequent stage, ‘the right to practice’.

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\(^{12}\) 1990(1) SCC 12.

\(^{13}\) Id at p 23, para 18.

\(^{14}\) 1990(1) SCC 109 at 151 (para 67)
5.2 Harmonization between Powers of BCI and UGC

It must be noted that the Bar Council of India depends on the Universities for imparting legal education which is necessary for the profession. The Universities prepare students for professional practice except where the law course is one for those who cannot practice. This raises a question for application of the principle of harmonious construction. Section 7(1)(h) of the Advocates Act, 1961 does enable the Bar Council of India to lay down ‘standards of legal education’. Section 7(1)(h) cannot be treated as in conflict with the UGC Act, 1956. The reason is that under section 7(1)(h) the BCI has to consult the Universities. The UGC can lay down ‘standards of education’ and the Bar Council of India can lay down the conditions for eligibility of a law graduate to enter the legal profession. If a student who joins a law university desires to enter the legal profession but is taught law in a manner not acceptable to the Bar Council of India, the law schools will not be serving the career class of students and, in fact, will find few takers. Therefore, as a practical proposition, the law schools will have to conform to the conditions set by the Bar Council of India, if they have to supply prospective lawyers to the Bar. At the same time, the Universities and UGC are concerned equally with standards of legal education, whether for practitioners or otherwise. The Universities are answerable to the UGC in the matter of standards of legal education and so are the affiliated colleges. In other words, the subject of legal education comes within the purview of two entities, the UGC and the Bar Council of India. Precisely to ensure harmony, the Advocates Act in sec. 7(1)(h) has required consultation by the Bar Council of India with the Universities. The two are partners with a common goal.

Yet another aspect is that the Universities and affiliated colleges employ thousands of law teachers at various levels. A large number of these teachers are highly qualified. A good number among them have Doctorates or Masters Degrees from India and several of them have Doctorates or degrees from reputed universities in the world like, Cambridge, Oxford, Yale, Harvard and Stanford and so on. Several of these teachers have been teaching law for ten to twenty years or even more. It is incumbent, therefore, that these law teachers, who have ultimately to perform the function of teaching, are consulted or allowed to express their difficulties or problems particularly
when a new curriculum is introduced. The obligations of consultation are reciprocal and not one way. There is ample need for the Universities to consult the Bar Council of India and likewise for the Bar Council of India to consult the Universities. A fine balance has to be established with the mechanism of sec. 7(1)(h) of the Advocates Act which requires consultation with the Universities. Consultation means ‘effective’ consultation.

In this connection, we may refer to the article “Revamping professional legal education: Some observations on the LL.B curriculum revised by the Bar Council of India” attended by Faculty from all over India. The volume is published by the Delhi University Law Faculty. The article refers to a large number of problems arising out of the recent curriculum introduced by the Bar Council of India which problems could have found easy solution if there was effective prior consultation with the faculty.

Here, one other aspect may be pointed out. The Bar Council of India, by letter LE dated 21st Oct. 1997 had, after referring to the titles of the LL.B. courses and the title of the papers to be offered, left the details to be evolved by the Universities. The Bar Council of India stated in that letter:

“The identification of the content and number of each paper in the prescribed courses is left to the discretion of the University Academic bodies. The CDC Report (1988) Commissioned by the UGC may be followed by Universities while preparing the syllabi for the various courses.”

The CDC Report 2001 of UGC, in fact, admits of considerable harmony in the process of consultation between the Bar Council of India and the Faculty but in our view, the same has to be strengthened. After referring to sec. 7 (1) (h) of the Advocates Act, 1961.

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15 By Prof. Gurdeep Singh published in the volume “Legal Education in India in 21st Century: Problems and perspectives” (Jan 1999), published after the All India seminar at Delhi 24.
16 Cir.No.4/1997.
17 Quoted from pp. 1, 2 of the CDC Report of 2001 of UGC.
18 sec. 12 of the UGC Act, 1956, the said Report of 2001 states (page 2):
5.3 Role of the Bar Council of India in regulating standards of Legal Education

Sound legal education is sine qua non for better for better legal service to the society and ensuring up to mark administration of justice. Burke rightly commended, “law is a science which does more to invigorate the understanding than all the other kinds of learning put together.” But, it is common knowledge that law is not self-applying. It is applied by men the society. This element was very well exposed by Hon’ble Mr. Justice (Dr.) A.S.Anand in his H.L Sarin Memorial Lecture at Chandigarh, when he remarked. “to achieve reality and a meaning for law, there is therefore, need for the services of a group skilled in the knowledge and education in law. In order to have good lawyers, it is necessary to have a sound legal education system. It cannot be otherwise.”19

Society is changing very fast, so must law and consequent legal education. How to have a sound legal education system is a million dollar question.

The demand of the society and expectations from legal fraternity in nation building, not only through helping the clients to seek justice in the courts of law, but also through rendering services to the society in general and its poor segments in particular, are becoming more pressing. The Bar Council of India is trying its best to prescribe courses of study and regulate standard of the legal education.

In view of the view above issue section 7(1) (h) of the Advocates Act, 1961 becomes most relevant. It reads:

“The function of the Bar Council of India shall be to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the state bar council.”20

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The Judicial opinions of the apex court and the Punjab and Haryana High courts are that section 7(1) (h) is mandatory, Thus, the Supreme Court of India dealing with the issue in *V. Sudeer Vs BCI*\(^2\) laid down that the universities must be consulted before making a change in set-up providing legal education. *V. Sudeer* was a little different in the sense that it dealt with the issue of reenrollment training and apprenticeship as a condition precedent for enrolment as an advocate. The reference to consultation with the Universities was made in reference to Sec.7 (1) (h). The direct issue of non-consultation with the universities and State Bar Council himself arose in *Gopal Krishna chitrath Vs. BCI*.\(^2\) The chairman, State Bar Council himself filed a Public Interest Litigation challenges the constitutionally of amending Rule 2(1) of Section B in Part IV of the BCI Rules without consulting the Universities and the Bar Council. The amendment related to the ban of evening courses in law. The hon’ble High Court striking down the said amendment, observed:

“The perusal of section 7(1) (h) and section 49 (1) 9(d) definitely leads us to a conclusion that for promoting legal education and for laying down the standards of legal education the universities in India and the state Bar Councils were required to be consulted and that the said consultation had to be effective consultation because the universities are engaged in imparting the legal education. There has been no consultation of the universities in India at the of promulgation of the amendment carried out under Rule 2(1) of the time Rules, Thus, we hold that the amendment promulgated under Rule 2(1) of the Rules in not sustainable and is violation of section 7(1) (h) being not promulgated with consultation of universities in India and State Bar Councils, as such they said amendment is struck down.”

The other thing to be noted is that Parliament enacted the Advocates Act, 1961 in fulfillment of its obligation to enact law to deal with the person entitled to practice before the Supreme Court and the High Court.\(^3\) Thus, the Bar Council is the statutory of legal education. The other statutory body concerned with the standard of legal education is the University Grants Commission formed under UGC Act, 1956 in the

\(^2\) AIR 1999 S.C. 1167.
\(^3\) AIR 2001 P and H 41.
\(^3\) Entries 77 and 78, Union List, the Constitution of India.
The fulfillment of parliament obligation to deal with co ordination and determination of standards in institutions of higher education or research and scientific institutions.

UGC is an umbrella organization for all institutions of higher education. The Bar council of India is the apex professional body concerned with the standard of the legal education. The active involvement of the UGC is also felt and the Law Commission of India in its 18th Report, 2002 suggested a proper working relation between the two bodies. From time to time UGC has constituted its curriculum committee to suggest the subjects to be taught in legal studies. In a nutshell, the Bar Council of India has regulate the standards of the legal education and while the doing so it has to take help of or consult the universities, State Bar Councils and the University Grant Commission.

5.3.1 Basic Components of the sound Legal Education

The Sound And up to mark legal education can ensured if all the components of the legal study are up to mark i.e. search of the good and career oriented students, duration of the course study, well qualified, and committed full time teachers; up to date syllabi contents, good and innovative method of teaching and involvement of the students and control over the institutions imparting legal education. The BCI has made progressive regulations to ensure upgrading of all the segments of the legal education.

A) Ensuring Admission of Best students with definite duration of the Study

The men become wiser by experience. So has been the case with the Bar Council. Prior to the start of the Bar Council of India no uniform eligibility was fixed for taking admissions in the law courses. It could be possible even after metric education, in view of the opinion of the 14th Report of the Law Commission of India, 1958 (which formed basis of the enactment of the Advocates Act, 1961) that only matured students be allowed to pursue the legal studies and only graduates should be to take degree course in the law, the Bar Council of India adopted two years degree course with admission of only graduate degree holders in arts, science, commerce etc., with a view to ensure more rigorous study with a little emphasis on the study of practical subjects like Cr. P.C, C.P.C, Evidence and practical training, the two duration was

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24 Entry 66 Union List.
found to be insufficient. Consequently, the Bar Council of India the time duration from two years to three years.

Three years course started from 1968. The graduation degree course in other subject/disciplines was raised to three years from two years. The Bar Council of India realized the need rethinking on the course duration of law degree. It was due to two reasons. First, all sorts of students used to take admission in law courses without any career stake and commitment; and second law graduates were put in disadvantageous position in comparison to the student, of other professional courses like medical, engineering and others. The Bar Council of India rules Part-IV Chapter 1 rule 2(VI) defines Bachelor Degree in Law to mean and include a degree in law conferred by the University recognized by the Bar council of India for the purpose of the Advocates Act,1961 and includes.

(i). a bachelor degree in law after the bachelor degree in science, arts, commerce engineering, medicine or any other discipline of a University for the period of not less than three years, and

(ii). an integrated bachelor degree combining the course of a first bachelor degree in any subject and also the law running together in concert and compression for not less than a period of five years after 10+2 or 11+1 courses as the case may be.25

Rule 426 explains the time duration for double degree integrated course, first double degree integrated course such as B.A., and LL.B. can be completed within (3-1) i.e.5 years.

(1) Eligibility for Admission in three year Law Degree course

An applicant who has graduated in any discipline of knowledge (like science, arts, commerce, medicine, engineering etc.) from,

i. any university established by an Act of Parliament or by a state legislature; or

25 BCI, Rules Part IV, Chapter I, Rule 2(vi) Similar provision is given as to law course in Rule 4.
26 Explanation 1, Rule 4, Part IV, Chapter 1, the Bar Council of India Rule.
ii. an equivalent national institution recognized as a deemed to be university; or

iii. foreign university recognized as equivalent to status of Indian university by an authority competent to declare equivalence,

may apply for a three year degree programme in law leading to conferment of LL.B. degree on successful completion of the regular program conducted by a university whose degree in law is recognized by the Bar Council of India for the purpose of enrolment. 27

(2) Eligibility for admission in Integrated Degree Program

A candidate who has successfully completed Senior Secondary School Course (+ ‘2’) or equivalent (such as 11+1’ A level in Senior School Leaving Certificate Course) from

(i) a recognized university of India or outside or

(ii) from a Senior Secondary Board or equivalent, constituted or recognized by the Union or by a state government or from any equivalent institution from a foreign country recognized by the government of that country for the purpose of issue of qualifying certificate on successful completion of the course, may apply for and be admitted into the program of the Centers of Legal education to obtain integrated degree in law with a degree in any other subject as the first degree from the university whose such a degree in law is recognized by the Bar council of India for the purpose of the enrolment 28.

The applicants who have obtained +2 Higher Secondary Pass certificate or First Degree Certificate after prosecuting studies in distance or correspondence method shall also be considered eligible for admission in the law courses. 29

However, the applicants who have obtained 10+2 or graduation /post graduation through open universities system directly without having any basic qualification for prosecuting such studies are not eligible for admission in the law courses. 30

27 BCI, Rules, Part IV, Chapter II Section 5(a)
28 Ibid; Rule 5.
29 Ibid; Proviso to Rule 5
(3) Minimum Marks in qualifying examination for Admission

The Bar Council of India may from time to time prescribe minimum percentage of marks. But, it must not be below 45% of the total marks in case of the general category applicant and 40% of the total, marks in case of SC and ST applicants, to be obtained for the qualifying examination. For example, +2 examinations in case of integrated five year course or degree course in any discipline for three years LL.B. course.31

This requirement of minimum of 45% for general category and 40% for SC and ST does not qualify automatically to get admission. It is minimum prescribed by the Bar Council. The higher criteria can be fixed by institution concerned or by the concerned government32. The National Law Universities have prescribed passing of CLAT (Common Law Admission Test).

(4) Prohibition of Registration for Two Regular Courses of Study

Earlier a student could get admitted at two places and pursued two regular study courses like LL.B. along with M.A, or M.Sc. or M.Com (AG) etc. It made the law study most non-serious.

The Bar Council of India specifically prohibits registration for two regular courses of study. Part IV, chapter I, Rule 6 specifically mandates, “No student shall be to Simultaneously register for a law degree program with any other graduate or post-graduate or certificate course run by same or any other university or an institute for academic or professional learning excepting in the integrated degree program of the same institution.”33 Of course integrated degree program is integrated not double/two regular course of study. Degree is one B.A; LL.B. or B.Com; LL.B or B.Sc; LL.B. and so on.

30 BCI, Rules; Explanation to Rule 5
31 Ibid; Rule 7
32 Ibid; Rule 7
33 Ibid; Rule 6
The prohibition exempts certificate courses on language, computer science or computer application.\(^{34}\)

(5) Prohibition Against Lateral Entry and exit

‘Lateral entry’ means an admission given to graduate applicants at the beginning of third year in an integrated five year course.\(^{35}\) ‘Lateral exit’ means opting out the end three year after successfully completing the course up to the third year, from an integrated five year course on being awarded bachelor degree.\(^{36}\)

Rule 13, mandates, “Three shall be no lateral entry on the plea of graduation in any subject or exist by way of awarding a degree splitting the integrated double degree course, at any intermediary stage of integrated double degree course”.\(^{37}\)

However, certificate of participation may be allowed. Thus, a university may permit any person to audit any subject or number of subject by attending classes regularly and taking the test for obtaining a certificate of participation from the University/Faculty according to the rules prescribed by the university from time to time and gives a certificate therefore.

(6) Maximum Age for Admission

Schedule III Rule 30 prescribes different age for the different degrees.

(i) Maximum Age for admission for 5 year integrated degree courses

The maximum age for seeking admission into a stream of integrated Bachelor degree of law program-

(a) is limited to 20 years in case of general category applicant, and

(b) to twenty two years in case of applicants from SC,ST and other Backward communities.\(^{38}\)

\(^{34}\) BCI, Rule 2; proviso
\(^{35}\) Ibid; Rule 2(XIV)
\(^{36}\) Ibid; Rule 2(XV)
\(^{37}\) Ibid; Rule 13
\(^{38}\) Ibid.; Rule 28(a)
However, such age limit is subject to the condition stipulated by a university on this behalf and the high degree of profession commitment required.  

(ii) Maximum Age for admission in three years degree course

The maximum age for seeking admission into a stream of three year bachelor degree course in law is limited to 30 years. The university will have right to give a concession of 5 further years for the applicant belonging to SC and ST or any other backward community.

However, this age limit is subject to the condition stipulated by a university and the general social condition of the applicants seeking legal education belatedly. Thus, the Bar Council is not hard and fast on prescribing maximum age limit. It has attached flexibility by giving upper hand to the university in view general social condition. But in the new development, of Hon’ble High Court Of Madras, in B. Ashok Vs The Secretary, Ministry of Union Law & Justice, government of India and others S.Mani Kumar, J., and V.M.velumaniJJ.“After the Pronouncement of the judgment, it is brought to the notice of this Court that as per the impugned admission notification, dated 04.06.2015, the last dated for publication of the ranking list to three year law decree course is 31.07.2015. Inasmuch as the aforesaid notification is struck down, the Registrar, Tamil Nadu Ambedkar University, Chennai is directed to issue a fresh notification, extending the time for admission to three year law degree course, in Tamil Nadu Ambedkar University, Chennai as well as other Government Law Colleges, for the academic year 2015-16. Admission process, selection, finalization of results and publication thereof, should be completed within a period of one month, from the date of receipt of a copy of this order”.

“The Hon’ble Supreme Court although dismissed the writ petitioner challenging the order passed by Madras High Court, but, Hon’ble Supreme Court has not passed any speaking order BCI.”

39 BCI; Rule 28(a).
40 *Ibid*; Rule 28(6)
41 *Ibid*.
42 W.P. (MD) No. 9533 of 2015
B) Ensuring Well Qualified Teachers

Earlier law had been most non-serious. It was run by part-time faculty. Advocates used the prime –time in their advocacy and in evening classes they spent pass-time. The Bar Council of India introduced the idea of full time teaching by full-time teachers are most pivotal in good education. Pointing out the importance of quality teaching, the supreme court of India observed in National Council for Teacher Education Vs Veneus Public Education Society\(^4\) that –

“The secret of successful teaching is to teach accurately, thoroughly, and achieved by cultivated education, matured training and keen intellect”\(^4^4\). However, the quality of education would depend on various factors but the most relevant for them is excellence of teaching staff. Quality of teaching cannot be qualified. The selection of the most suitable persons is essential in order to maintain excellence and the standard of teaching in the institution.”\(^4^5\)

The bar council has ensured the teaching by qualified teachers by laying down rules:

1) Minimum Qualified /Eligibility to join the Teaching job in Institutions Imparting Legal Education

(a) Qualified whole time Principal /Head/Dean/Vice-Chancellor:

The Bar Council of India acts in collaboration of U.G.C in this respect. Rule 16 of Schedule III to the Bar Council of India Rules provides. There shall be a principal for each constituent center of legal education of a university and a Dean for the University Department, who shall have minimum inscribed qualification in law as prescribed by the U.G.C for respective position like a principal of a center of Legal Education or a Professor of Law to hold deanship, as the case may be.

\(^4^3\) Civil Appeal No. 7749 of 2012 (Arising out of SLP (civil) No. 11385 of 2012 Decided by the bench of K.S. Radhakrishnan and Deepak Mishra JJ. on 1, 11, 2012)
\(^4^4\) Ibid Para 2
\(^4^5\) Ibid Para 17

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In *Bar Council of India v. Board of Management, Dayanand Colleges of Law*\(^{46}\), the Supreme Court of India ruled that a law college must have a duly qualified person in law as its principal. The U.G.C. prescribes the minimum qualification of a principal. The qualification of a Principal is the same as of a professor i.e. eminent scholar with Ph.D. in law, published work of high quality, minimum of 10 years teaching in a University or college, experience of guiding research at doctoral level contributions to the to the educational innovation, design of new curriculum and or an outstanding professional with established reputation in the relevant field who has made significant contribution to knowledge.

With the adoption of five year integrated law degree course the National Law Universities have come into existence, by now there are seventeen N.L.U. They are to be headed the Vice-Chancellor. The Vice-Chancellors are required to be persons of the highest level of the competence, integrity, morals and institutional commitment. A Vice –Chancellor is required to be a distinguished academician with a minimum of ten years of experience as Professor in a University system or ten years’ experience in an equivalent position in a reputed research and /or academic/administrative organization\(^{47}\). A Vice-Chancellor is appointed by the Search Committee whose members themselves are required to be person of eminence in the sphere of higher education\(^{48}\). The visitor of the National Law Universities is the Justice of India himself or his nominee judge of the Supreme Court and Chancellor is the Chief Justice of the High Court.\(^{49}\) The Chancellor of R.M.L. viz, Lucknow is the Chief Minister of U.P.

(b) Well Qualified Teachers

The Bar Council insititually prescribed master of laws (LL.M.) degree to be the essential qualification for a teacher in the institution imparting legal education. But flexibility and more qualification are desired. If U.G.C. so fixes. Rule 20, schedule III annexed to Bar Council of India Rule, Part IV prescribed minimum qualification needed for faculty. It real’s. “Full-time faculty members including the Principal of the

\(^{46}\) (2007) 2SCC 202

\(^{47}\) As pr U.G.C. regulation

\(^{48}\) Ibid

\(^{49}\) Respective Acts of the N.L.U
Centre of Legal Education shall be holders of Master’s degree or as prescribed by U.G.C. or other such standard bodies.\textsuperscript{50} The U.G.C. has prescribed more minimum qualification in addition to the LL.M. degree. Earlier nomenclature of teachers was Lecturer, Reader and Professor. Now it is Assistant Professor, Associate Professor and Professor.

The eligibility for the post of Assistant Professor is (1) A good academic record with minimum of 55% marks at the master’s levels in law, and (ii) qualification the National Eligibility Test (NET), or a accredited test (State Level eligibility test SLET/SET). With certain Ph.D. degree holder is exempted from the requirement of NET/SLET/SET.\textsuperscript{51}

Eligibility for the post of an Associate Professor is –

1) Good academic record with a Ph.D. degree in the concerned /allied relevant discipline;
2) 55% of marks of equivalent grade wherever grading system is followed at the Master’s degree level.
3) A minimum of eight years’ experience of teaching of research in an academic /research position equivalent to an Assistant Professor in a University and like.
4) Contribution to educational innovation, design of new curricula\textsuperscript{52} and courses.

(a) Eligibility for Appointment as Professor is two fold.

(i) An eminent scholar with Ph.D. qualification in law/allied or relevant discipline and published work of high quality activity engaged in research with the evidence of published work with a minimum of 10 publications as books and/or research papers in indexed /ISBN/ISSN number Journal etc.

(ii) A minimum of 10 years with Ph.D. qualification in a University /College, and /or experience in research at the University/National Level Institutions, industries, including experience of guiding candidates for research at doctoral level;

\textsuperscript{50} Rule 20, schedule III, Chapter IV, The Bar Council of India Rules
\textsuperscript{51} As pr U.G.C. Regulation
\textsuperscript{52} \textit{Ibid}
(iii) Contribution to the educational innovation, design of new curricula and courses, and technology-mediated teaching learning process.

(b) An outstanding professional with established reputation in the relevant field who made has significant contribution to knowledge.\(^53\)

Since a new dimension of clinical education has been attached with legal education the Bar Council prescribes minimum qualification for teachers to teach clinical program, Rule 20, Schedule III, Part IV. The Bar Council of India Rules provides that faculty for teaching clinical program may be appointed from (i) retired judicial officer or (ii) form the Bar, a person with professional experience for a period of ten years. The Minimum ten years standing of practicing is essential for visiting faculty from the Bar, Bench or academy.\(^54\)

C) Sufficient Number of Teachers to Teach Law:-

In order to maintain the standard of the legal education is it highly desirable to have the sufficient faculty with specialized branches of the knowledge in law. To expect standard teaching without sufficient number of teachers would be a farce. With a view ensure the standard of teaching Rule 17, Schedule III, Part IV, The Bar Council of India Rules mandates that there shall be sufficient number of full time faculty members in each center of Legal Education i.e. Department, constituent and affiliated college to teach subject at all point of time for running courses.\(^55\)

Full –time teachers may also be supported by part-time or visiting faculty. Normally not more than 25% of the full of strength of regular teachers may be appointed as part-time from amongst the lawyers of reputation with long practicing experience. Visiting faculty may help in specialized subjects.\(^56\)

The Bar Council prescribes different number of core faculty in different streams of study.

\(^{53}\) As per U.G.C. Regulation
\(^{54}\) Rule 20, schedule III, Part IV, The Bar Council of India Rules
\(^{55}\) Id. Rule 14
\(^{56}\) Ibid
1) Core-faculty conducting both streams i.e.3 and 5 year courses

First year- not less than 6.
Second year-not less than 8.
Third year -not less than 10.

In addition to the above for 5 years integrated Law Degree Course, there shall be adequate faculty in the subjects offered in the liberal education subjects as part of the course by the institution.\textsuperscript{57}

These faculties in the liberal educational discipline may be in Arts, Science, Management, Commerce, Engineering, Technology or any other discipline. The faculties involved in teaching such liberal disciplines must also possess minimum qualifications:

(i) as required UGC guide-line or
(ii) required under such other standard setting body as the discipline is allotted to by any Act, Statute or Rules of the Government of India or a State.\textsuperscript{58}

2) Core Faculty for 3 year Bachelor of Law Two Sections without Honours Program

1\textsuperscript{st} year –minimum 4
2\textsuperscript{nd} year –minimum 6
3\textsuperscript{rd} year –minimum 8

In addition there shall be a Principal or Head or Dean.

3) Core Faculty for Honours

In case of the intending to run any specialized or honours course there must be at least 3 faculty in the group in which specialization and honours courses are offered.\textsuperscript{59}

\textsuperscript{57} Rule 14, schedule III, Part IV, The Bar Council of India Rules
\textsuperscript{58} Ibid
\textsuperscript{59} Ibid
D) Minimum Weekly Class-Program per Subject paper

There shall be for each paper (with 4 credits) four class-hours of one hour duration each and hour tutorial /moot court/project work paper work.\textsuperscript{60}

E) Good Service Condition for Faculty with UGC Pay scale

For the Principal and full-time core faculty the salary to be paid is required according to the scales recommended by the UGC from time to time along with other benefits.

For contract appoints remuneration is contract which would be comparable or more favorable to the faculty in composition with the UGC scale.\textsuperscript{61}

The salary shall be paid through account payee cheques.

F) Continuous Education Refreshing /Updating Faculty

Once appointed teachers involved in imparting legal education cannot remain satisfied with their academic achievements. For good teaching and latest developments awareness in law, there is need to involve teachers in continuous learning process in 2008 BCI Rules were added in Chapter IV of the BCI Rules containing provision relating to directorate of Legal education is constituted for the purpose of organizing, running, conducting, holding and administering –

a) Continuing legal education  
b) Teachers training  
c) Advanced specialization profession courses  
d) Education program for Indian students seeking registration after obtaining Law Degree from a foreign university.  
e) Research as professional Legal Education and Standardization.  
f) Seminar and workshop  
g) Legal Research

\textsuperscript{60} Rule 18, schedule III, Part IV, The Bar Council of India Rules, \textsuperscript{61} Id, Rule 22.
h) Any other assignment that may be assigned to it the Legal Education Committee and the Bar Council of India.\textsuperscript{62}

On October 24, 2009 BCI passed resolution to Prof. Satish Shastri (former dean, Faculty of Law, Rajasthan University, Jaipur) as Director of Legal Education and two young academicians capable of pioneering legal research to be appointed to the posts of Professor (Research) and Professor (Academic) in the Directorate.

Teachers are required to take orientation and refresher courses. More and more incentive is given to Ph.D. degree holders in law. Teachers are inspired to indulge in research publications requiring API scores, orientation, refresher / research methodology for promotion through Career Advancement Scheme in stages of Assistant Professor. For Associate Professorship additional five publications and course in methodology workshop, teaching learning evaluation technology programs etc. is required. For Professorship in addition to cumulative API scores, additional credentials are to be evidenced by:

I. Post-doctoral research outputs of high standard;

II. Awards/honors/recognition/patents and IPR on products and processes development/technology transfer achieved and additional research degree like Ph.D. Thus within the Assistant/Associate Professor and Professors grade itself research outputs contributes CDS benefit.

G) Minimum Infrastructural Facilities Required in Centre for Legal Education

In addition to the requirement minimum capital fund of Rs. Ten Lakhs to be kept into bank and required freehold or leasehold property, BCI requires the following for conducting / imparting legal education.\textsuperscript{63}

\textsuperscript{62} Rule 34, The Bar Council of India Rules
\textsuperscript{63} Schedule III Part IV, The Bar Council of India Rules.
1) Academic Building and Library Building

The Bar Council of India prescribes the requirement of the academic building which will provide-

(a) Separate classrooms for general classes for each section sufficient to accommodate sixty as per the requirement for per student floor space as specified by the UGC or such standard setting body like ACITE,

(b) Other rooms for tutorial, moot court room exercises,

(c) Common room for male and female students.

(d) Adequate library space for keeping books, periodicals and journals.\(^{64}\)

In the beginning the library shall have a set of AIR manual, Central Acts and Local Acts, Criminal Law Journal, SCC, company cases, Indian Bar Review, selected judgment on professional ethics and journals with back volumes for at least ten years and minimum number of required textbook in each subject in ratio of ten books per student.\(^{65}\)

The minimum requirement of investment in library in each year for one stream (3 year degree course) shall be Rs. Fifty thousand and both stream (5 year degree course also) shall be one lakh.

Library building shall have adequate space for computer facility with access to internet and national and international library access and data bases.\(^{66}\)

2) Use of Academic Building and Hall of Residence

Academic teaching classes may be conducted between 8.a.m. and 7p.m. in an institution which is not fully residential.

However, library may remain open till 10 p.m.\(^{67}\) the institutions imparting legal education shall have separate halls of residence (hostels) for male and female students.

\(^{64}\) Schedule III Part IV, sub-rule 4, The Bar Council of India Rules.

\(^{65}\) Ibid; Sub-rule 15

\(^{66}\) Ibid; Sub-rule 6

\(^{67}\) Ibid, Sub-rule 5
The halls of residence must be constructed on the direction and specification by U.G.C or any such other standard setting body affiliating on institution.68

3) Laboratories and Legal Aid Centre

If the institutions imparting legal education are running integrated law program shall have adequate laboratory facilities in various course studies, if offered in the curriculum for science, engineering and technology courses along with law courses.

The space of such laboratory, per capita space, equipment, supplies, and other facilities shall be as specified by the UGC or any such other standard setting and regulatory bodies for the purpose of affiliation of such an institution. Computer education shall be compulsory for all the students.69

Each institution shall establish a Legal aid Centre. Legal Aid Centre shall be supervised by a Senior Faculty Member. He may administer the clinic run by the final year students of the institution in co-operation with the Legal Aid Authorities with the list of voluntary and other NGOs engaged in this regard in the locality generally from which the student community of the institution, hail from.70

The Bar Council of India is required to prepare a list of suggested senior Advocates district wise with at least ten years’ experience that are willing to take under internship students during the vocation period. The list of such lawyers will be published by BCI in website so as to make, the list available with the institution.71

H) Prescribing Standard Course

Rule 8, Chapter II, Part IV, The Bar Council of India Rule read with Schedule II ensures standard courses to be taught in both 3 years degree course and 5 year integrated degree Course.

68 Schedule III Part IV, sub-rule 8, The Bar Council of India Rules
69 Id; Sub-rule 9
70 Id; Sub-rule 11
71 Id; Sub-rule 26
I) **Total Number of Paper /Subjects in Law to be offered in both Streams**

Twenty eight subjects are Prescribed - 18 compulsory, 4 clinical and 6 optional.

(a) For regular law courses either in the three years unitary stream or under integrated double degree stream, students have to take not less than twenty eight papers (subject) in all. It shall include

1) Eighteen compulsory papers viz.
   1. Jurisprudence;
   2. Law of Contract
   3. Special Law
   4. Law of tort;
   5. Family Law -1
   6. Family Law -2
   7. Law of Crimes
   8. Criminal Procedure Code
   9. Constitutional Law -1
   10. Constitutional Law-2
   11. Property Law
   12. Law of Evidence
   13. CPC and Limitation Act
   14. Company Law
   15. Administrative Law
   16. Public day
   17 Principles of Taxation
   18. Labour and Industrial Law-1
   19. Labour and Industrial Law-2
   20. Environmental Law

2) It shall include four compulsory clinical courses viz.
   21. Drafting, pleading, conveyance
   22. Professional Ethics
23. Alternative dispute Resolution
24. Moot court exercise and Internship.

3) Not less than six papers from any of the following groups: Each group has more than a dozen papers.
   25. Constitutional Law group
   26. Business Law Group
   27. International Trade Law
   28. Crime and Criminology
   29. International Law
   30. Law and Agriculture and

   (b) Honours: for specialized and/or honour course, a student has to take not less than 36 papers in all which shall include 18 compulsory papers, 4 clinical papers, 6 optional papers and 8 papers in specialized/honours course in any group as stated in serial no 25-31.

J) Medium of Instruction

   English shall be the medium of introduction in both the integrated five year and three year courses.

   However, other language may be allowed if University Committee on Legal Education allows, but such students have to take English as a compulsory subject.

K) Total Subjects in Liberal Discipline in Integrated Stream

   In integrated stream of Arts and Law, Science and Law, Management and Law, Commerce and Law etc. as the case may be, one has to take one major subject or such number of compulsory papers subjects and such optional with Honours in Law, as the case may be from the specified area in addition to English, as may be prescribed by the university concerned.
In social science and language (B.A;LL.B) English shall be compulsory. In addition three shall be one major subject with two minor subjects. The students are required to study at least one foreign or Indian language. There shall be six papers in major and three papers each in minor and in language.

Similar major and minor arrangements will be applicable in B.Sc. LL.B; BBA.LL.B. and B.com LL.B.

In non-law subject’s syllabus must be of equal standard as UGC prescribes for three year bachelor degree in other universities.

(i) Semester System\textsuperscript{72} and examination

The Centre for Legal Education may adopt Semester or Trimester.

**Semester**

1. Unitary stream may adopt semester of not less than 15 weeks.
2. Integrated double degree stream may adopt semester of not less than 18 weeks.
3. The teaching shall be of not less than 30 class hours per week including tutorials, moot room exercise and seminars.
4. But, there must be at least 24 lecture hours per week.

**Trimester**

Universities are free to adopt trimester system with appropriate division of courses per trimester will each of the trimester of not less than 12 weeks.

National Law School of India University, Bangalore has adopted trimester system.

**Eligibility for End system Test\textsuperscript{73}**

(1) 70% attendance in each subject is mandatory to appear in the end semester test.

It shall include attendance of moot courtroom exercise, tutorials, practical training conducted in the subject.

\textsuperscript{72} Rule 10, Part IV, The Bar Council of India Rules.

\textsuperscript{73} Rule 12, Ibid
Dean /Principal /Vice-Chancellor /Director may allow the student with 65% in a subject provided he fulfills the requirement of 70% of classes in all subjects taken together.

However, a list of such students allowed to test with reasons recorded has to be forwarded to the BCI.

(L) Maintenance of Standards of Legal Education through Exercise of Control over Centre for Legal Education.

The Bar Council of India is empowered under the Advocates Act, 1961 to frame rules for maintaining the standard of legal education requiring universities to observe the rules regarding the standards of legal education and inspections of universities for that purpose. The Centre for Legal Education /University has to follow the directives of the Bar Council. It is mandatory. The Bar Council of India standards of legal education by-

(i) Granting Approval—Affiliation of a center of Legal Education can be accepted only if the applicant fulfills as to legal entity, sufficient property, building, and library of residences separately for male and female students, indoor and outdoor sports complex.

(ii) Inspection—The Bar Council of India inspection committee will ensure required infrastructure facilities, sufficient teaching facilities for imparting practical training, adequate library, computer and technical including online library facility are available.

It has different types of inspections-initial inspection; permitting new center of legal education; regular inspection for granting regular approval at least once in every five year; surprise inspection without notice and inspection for accreditation.

(iii) Revocation of Approval- If the conditions on which the permission for temporary or regular approval was given is not substantially fulfilled.

74 Section 49(1) (d), The Advocates Act, 1961
75 Schedule III, Part IV, The Bar Council of India Rules
76 Rule 16, Chapter III, Part IV, Ibid.
77 Id. at Rule 18.
78 Ibid
79 Id at Rule 27.
(iv) Cancellation of regular approval on adverse report of the Legal Education Committee.\textsuperscript{80}

(v) Grant of accreditation for five years is based on state or national level gradation.

It is clear from the above that since the year 1947, much thought and action have gone into tackling developmental problems of legal education and several significant steps have been adopted towards the goal of its overall improvement. The task of developing and improving the quality of legal education in India is a difficult and arduous one and will need greater effort, sincerity dedication and determination on the part of all the concerned persons and authorities.

\textsuperscript{80} The Bar Council of India Rules, Rule 28-29.