CHAPTER 3

Historical Development of Legal Education in India

3.1 Introduction

Law is a special calling demanding high quality of study and research and commitment to the cause of justice. This is one of the reasons why a lawyer has been referred to as a member of a profession, as one pursuing a learned act by Roscoe Pound. The study of law must, therefore, be of that quality and standard as would justify Pound’s description of a professional. However, there has been immense criticism of the quality of the Bar. The ‘basic structure’ of the legal system is unarguably the area of legal education as only after acquiring the same do people become advocates and Judges subsequently. This, the law University or the entire body of law students determine the quality of not only the Bench and the Bar but affect largely the legal system. The Bar and the Bench are but reflections of the prevailing legal education scenario.

Thus, the quality of the legal education system is an imperative determinant of the legal systems which ultimately comprises the Bar and the Bench.

This chapter traces the history of Legal Education in India during the pre-colonial era and transformation of legal education in colonial era, with particular reference to the evolution of its teaching mission and how that mission should be framed for the future. It then provides an overview of current initiatives and measures of reforms in Indian Legal Education.

3.2 Development in Legal Education during the Pre-colonial Era in India

In examining the trends in legal education in the pre-colonial era, this part highlights two important eras, namely Pre-Mughal and Mughal. These two periods represent distinct religious ideologies with peculiar features which influenced the society's perception of law and need for trained legal professionals.
3.2.1 Pre-Mughal Era

Legal Education in India could be traced from as early as the Vedic age, when it was essentially based on the concept of Dharma. However, there is no hint of any formal legal education offered at that time the training in law was self-learning and mostly the kings themselves dispensed justice. Occasionally, judges were appointed to administer justice. These judges were not formally trained in administration of justice but were well known for their “righteousness and justness” and for following Dharma.

The Vedas were the original sources of law, and the Smritis announced the message of the Vedas. The Smritikars were great jurists, of which, Gautama, Bondhayana, Apastambh, Harita and Vaishtha were particularly respected for their Dharmasutras, which were considered most ancient expositions on law. Life in India during this period was simple and the form of judicial procedure was less complicated than that of western countries. The basic concept of education in ancient India was to provide correct direction in the various spheres of life. Education was aimed at teaching Dharma Righteousness, recognizing that "Man is potentially divine, but is the victim of his ignorance, passions and immoral tendencies, created by his own past actions(karma)." Thus, the goal of education, as well as the Hindu religion, is to overcome these weaknesses.

The notion of Dharma was not confined to religion, but was understood to have two facets; religion and law. It is well known that "Hunger, sleep, fear and sex are

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3 Dharmasutras are theoretically a part of Vedic literature, which entails that they are considered to be revealed texts transmitted to humans by ancient sages (Rushi). See Gavin D. “Flood, Theblackwell Companion To Hinduism”, 104 (Blackwell, 2003).
4 Abbe J.A. Dubois, “Hindu Manners, Customs And Ceremonies”, 662 (Reprint, Book Faith, New Delhi, 1999).
5 See Katha Upanishad (iii,6)available at http://www.attributetohinduism.com/ Education in Ancient India.htm
common to all animals; human and sub-human. It is the additional attribute of dharma that differentiates man from the beast.” Dharma being the central idea of the Hindu religion, separate training akin to modern legal education was not felt to be necessary. During the ancient period, legal disputes were settled by mediation, negotiation and some form of arbitration. Thus, what we perceive to be modern alternative dispute resolution mechanisms were the usual methods for resolving dispute in ancient India.

Further, the law was believed to be very clear to all, requiring no complex human interpretation. Thus, there can be no doubt that parties to a dispute in ancient Hindu law had a right to represent. But such representatives do not. Appear as independent trained third persons corresponding to the Advocates, Vakeel.

Therefore, in absence of a need for trained legal professionals, there was no institutionalization of legal education as a separate branch but the same could be said to have been imparted as a part of general education which revolved around the notion of Dharma.

3.2.2 Mughal Era

The Mughal period in India began with the invasion by Babar in 1525 and extended till the ascendency of British dominion in India. During this period the Emperor was the head of the judiciary. As Islamic jurisprudence is derived from the Quran, it is treated as immutable by any human agency. Further, the Sunna, which helped in explaining the Quran also became a major source. “A system of courts, following formal procedures, to adjudicate criminal and civil cases, came to be

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10 P.V. Kane says, "so far the smriti are concerned, there is nothing to show that any call of persons whose profession was the same as that of modern counsel, solicitors or legal parishioners and who were regulated by the State, existed it. See Kane, P.V, “History Of Dhamasastra”, 288 (1948). See also Sarkar U. C, “Epochs In Hindu Legal History” 37 (1958); Abbe says "the Hindus have neither banisters nor solicitors; neither are they compelled to submit to those long proceeding...” See Abbe J.A. Dubois, supra note 4 at 661. For opposite view See, Jolly J., “Hindu Law And Custom”, 299(B.K. Ghosh Transl. 1928).
established with Mughal rule. The adoption of rules of evidence, introduced further complexities in administration and seeking of justice.

These changes in the legal system necessitated the involvement of legal experts, who were addressed as *Vakils*.12 Also, two Mughal Codes, the *Figh-e-Firoz Shahai* and the *Fatwa-e-Alamgiri* were adopted to deal with the duties of *Vakil*.13

Thus, legal professionals began to play an important role in the administration of justice. Though the Mughal legal system was extended mostly to the towns, in religious matters, disputants were allowed to settle their disputes in accordance with their religious, including Hindu, customs.14 Further, at the village level, *Panchayats* continued to exercise their powers to adjudicate on most disputes except those involving serious crime. However, an unsatisfied party could prefer an appeal from the decision of the *Panchayat* before the court established under the Mughal law.

Thus, legal assistance became increasingly necessary as the administration of justice became more complex. Further, such situation also meant that disputants without sufficient financial resources were placed in disadvantageous situation.

Thus particularly during the reigns of Muslim emperors Shahjahan15 and Aurangzeb16, the *Vakil(s)* appointed by the State for this purpose were known as *Vakil-e-sarkar*.17

Though a system of third-party representation was formalized in Mughal era, people who could function as such representatives do not appear to have their queried specialized legal education and there is no evidence of formal legal education system.

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12 This term was used in Muslim India in the sense of an agent or ambassador who represented his principal for varied reasons. Even *Vakils* were used for clearing an arrear of revenue or other miscellaneous deeds. Thus the term *Vakil* did not specify the class of legal practitioner. See Misra, B. B. “The Indian Middle Classes”, 162-163 (Oxford University Press, Bombay, 1961).
15 Shahjahan reigned from 1628 to 1658.
16 Aurangazeb reigned from 1658 to 1707.
3.3 Legal Education and its Development in Colonial Era

3.3.1 British Period

Although some sort of representation before the adjudicating authorities, existed in the pre-colonial era, the modern Indian legal profession dates from British rule with the establishment of law courts in Madras, Bombay and Calcutta in the year 1726. However no specific qualifications were laid down for persons who act or plead as legal practitioners before these courts. This trend seems to have continued even after passing subsequent Charter in 1753 and the Regulating Act, 1773.

For the first time, the Bengal Regulation VII of 1793 established regular legal profession for the East India Company's Courts. This Regulation controlled the appointment of Vakils in civil judicature courts in the provinces of Bengal, Orissa and Bihar and conferred special powers on the Sudder Dewani Adalat to enroll pleaders. The Regulation was enacted with a view to strengthen the legal profession in the best interests of the litigant public, members of the bar serving as trustees of their clients and thus helping in the sound administration of justice. The regulation created for the first time a regular legal profession for the Company's Adalats.

The subsequent Bengal Regulation, XXVII of 1814, extended the power of Sudder Dewani Adalat to Provincial Courts and it further empowered the pleaders to act as arbitrators and provide legal advice for a fee. The profession gained momentum in the first half of the 19th century by virtue of the Bengal Regulation XII of 1833 and

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18 For example, Regulating Act was passed in 1773 and a Supreme Court was established in Fort William in Bengal on 26th March, 1774, under the Kings Charter. The Charter empowered the Supreme Court to approve, admit and enroll such and so many advocates and attorneys to appear and plead and act for the suitors at law court. These so called advocates were English.

19 See Jain, M.P., "Outlines Of Indian Legal History", 118 (Wadhwa &Co, Nagpur, Reprint, 1999)


21 This Regulation was introduced by Lord Cornwallis with a view to create and organize the profession of lawyer's vakeels on a regular and sound basis. For the details of the Regulation see Jain, M.P., Outlines of Indian legal history, 145 — 147 (5th Edition, Wadhwa & Co., Nagpur 1999).

22 This Regulation came into force on 1 February 1815. But rules prescribed by this Regulation do not apply to pleaders appearing in the Munsifs' Adalatas. For details see Jain, M.P., "Outlines Of Indian Legal History" 118 (Wadhwa &Co, Nagpur, Reprint, 1999) at 673.

the Legal Practitioners Act, 1846, which allowed persons with prescribed qualifications to enroll as pleaders irrespective of their nationality and religion.24

These Adalats came into existence in the year of 1772. New phase in the development of legal profession in India began with the East India Company’s rule in 1857 and setting up of a unified judiciary under the Indian High Courts Act of 186225. The Legal profession became distinct in 1883 when a Law Commission was established to codify the laws in India26.

The Letters Patent of 1865 conferred powers on High Court established under Royal Charter to make provisions with respect to the enrolment of legal practitioners. Accordingly, the High Court of Judicature at Fort William in Bengal was empowered to admit, approve and enroll such persons as Advocates, Vakils and Attorneys as it deemed fit.

Other High Courts, established other than by Royal Charter, were empowered to make rules regarding admission of persons as advocates of the court by the Legal Practitioners Act, 187927. However, women could not be enrolled as pleaders28. Subsequently the Legal Practitioners (Women) Act, XXIII of 1923, removed this disability of women.29 Munshi Iswhar moved in Feb. 1921, a resolution in the legislative Assembly recommending legislation “with view to create an India Bar so as to remove all distinction enforced by status or by Practice between Barristers and Vakils”

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24 Legal Practitioners Act was the first enactment that applied to all pleaders in the Mofussil Courts in India. Section 4 of the Act made all persons irrespective of nationality and religion to practice.
28 In Re Regina Guha, ILR 40 Cal. 290.
In 1923, the Indian Bar Committee was constituted under the Chairmanship of Sir Edward Chamier to consider establishment of an All India Bar and Bar Council for High Courts\(^\text{30}\).

This Committee recommended the establishment of a Bar Council at each High Court, and suggested that the Bar Council so established should be empowered to enquire into matters on disciplinary action against a lawyer. However the idea of establishing a Bar Council of India, at the national level, did not find favor with the Committee\(^\text{31}\).

In 1926, the Indian Bar Councils Act was passed to give effect to some of their commendations suggested by the Indian Bar Committee. This Act mainly focused on the constitution of Bar Councils at High Courts. The Act empowered the Bar Councils to make rules, subject to approval of the same by the concerned High Court. In spite of this enactment, the power to enroll advocates was still with the High Court and the function of the Bar Council was merely advisory in nature.

In the beginning to become Vakils they were required to study at the Hindu College in Benares, or the Calcutta Madrassa\(^\text{32}\).

Though knowledge of Persian was mandatory for every Vakil till 1826; English gradually replaced Persian as an official language in courts. During this period training of Vakils was largely focused on regulations, and the principles of law were completely ignored. Formal legal education started in 1855, when the first professorship of law was introduced in the Government College in the three Universities in 1857.

In Bombay, Madras and Calcutta, bearing the respective names, formally introduced legal education\(^\text{33}\). The formalization of legal education became necessary due to the institutionalization of British legal system.

\(^{30}\) The other members of the Committee were: Justice Courts Trotter, Judge of the Madras High Courts; S.E. Das, Advocate — General, Bengal; Col. Stanyona, Barrister; T.Rangachari, Vakil, Madras High Court; Sitaram Sundar Rao Patkar, Government Pledger, Bombay; and Lalit Mohan Bannerjee, Government Advocate, Allahabad.


However, the language of British statutes being English, anyone who learnt English, was eligible to study law and thus qualified to become a legal representative.\(^{34}\)

The early legal education emphasized practical training, due in part to the need for more judges and lawyers resulting from the passing of the governance of India to the Crown in 1858. Legal education during the British India period continued as a two-year program with traditional lecture method.\(^{35}\)

Attendance would be taken but never enforced. Students used to study only abbreviated pamphlets and everyone used cribs and aids to pass the examinations.\(^{36}\)

Calls for reform in legal education were made as early as 1885, when Justice Muthuswami Iyer stressed the need for a formal college setup to impart legal education on a scientific basis. Along the same lines, the First Indian University Commission recommended in 1902 that a Bachelor’s degree either in science or arts be required as a qualification to join the LL.B. degree course.

It also recommended the use of tutorial and case methods to teach law. In 1910, the Chagla Committee concluded that a law student should spend at least 6 years in legal education before qualifying as a lawyer. It also advocated for pre-legal education, with the idea that only those who passed a pre-law exam would be admitted to the LL.B. course.\(^{37}\)

The quality of legal education was quite uneven in the colonial era, as summed up by the Unemployment Committee appointed by the UP government in 1935:

“Our own view is that so far as Universities in these provinces are concerned legal education has not occupied the place to which its importance entitled it; and we are not prepared to say that the standard of legal education has risen to the extent to which it has risen in certain other departments.”


\(^{34}\) Iqbal Alli Khan, State of Legal Education in India, “Legal Education In India In 21’ Century Education In India: Problems And Perspectives”, 173 (Koul A.K. ed., All India Law Teachers Congress, Delhi University, Delhi, 1999).


\(^{36}\) Id. at para 44.

Thus, a number of committees assessed the status of legal education and recommended reforms. One of the common recommendations of these committees was that a comprehensive legislation should be introduced to regulate the legal profession and legal education. Accordingly several legislative attempts were made in this direction, including the Sri Anugraha Narain Siha Bill, 1936; Sri Akil Chandra Bill, 1939; and T.T. Krishna machari Bill, 1944.

These efforts resulted in the constitution of the Radha krishna Commission in 1948-49. This Commission highlighted the lack of internationally known expounders of jurisprudence and legal study in Law Colleges and opined that The Law Colleges existing at that time held neither a place of high esteem nor profound scholarship nor enlightened research.

Therefore, the Commission called upon the legal profession to take stock of this situation to contribute to wide social changes taking place in the country\textsuperscript{38}.

Thus, the history of legal education during British period reveals lack of seriousness in offering quality legal education. There is no unified legal education system prevailing during this period. Several differences in the duration of the course, subjects taught and even the eligibility to undertake law course made legal education ineffective. The beginning of formal legal education in 1855 and the call for reforming legal education made as early as 1885 clearly shows lack of seriousness in offering quality legal education. The process of formalizing legal education was slow and very little efforts were made on improving the content of legal education. Imparting information rather than developing critical understanding becomes the chief goal of the legal education. Therefore, not surprisingly most of the efforts to improve legal education were confined to institutionalize and regulate legal education and completely ignored the content pedagogy of legal education.

3.3.2 Portuguese Period

Portuguese entry to India brought their judicial system and legal concepts. The judicial system in Goa from the entry of Portuguese i.e. 1510 to 1964 Assumes

\textsuperscript{38} Sushma Gupta, “History Of Legal Education”, 51 (Deep & Seep Publications (P) Ltd., New Delhi, 2006) at 70.
important as Portuguese were the first to establish and the last colonial power to leave Indian shores.

Further, the Portuguese rule in Goa is different from British rule in the rest of the country as the former entered Goa as a representative of Sovereign King as compared to the later who entered the parts of India as a company of traders. Therefore, the administration of justice was the responsibility of the King of Portugal right from 1510. Moreover, the judicial system in Goa was based on continental jurisprudence as opposed to common law system followed by British in the rest of India.

The territory of Goa is situated on the West Coast of India in the Konkan region. It was ruled by Kadambas from 500 B.C. till the thirteenth century. Subsequently it was ruled by Yadavas of Devagari and finally by Adil Shah of Bijapur. The Portuguese conquered Goa in February 1510 lost it and reconquered in the month of November of the same year. Till 1961 Goa was under the Portuguese rule. Before the Portuguese, Goa was ruled by Adil Shah. Therefore, the administration of justice during those days was based on Sultanate system. Under this system the Sultan was the final authority and he was assisted by the Quazi. At the regional level, Courts such as Vazirs and Amir enjoyed both original and appellate jurisdiction. At local level administration of justice was undertaken by Gaonkaria. Gaonkaria is nothing but group of individuals from the concerned village communities. These Gaonkarias settled most of disputes at the local level and were assisted by a village clerk called as Kulkarni. Eight villages grouped together and formed a higher authority called Desh. This body consisted of sixteen members with two members hailing from each of the villages. Mostly disputes with inter-village repercussions and inter-communities were settled by this body and it was assisted by a scribe known as Nadkarni. Administration of justice during initial stage of Portuguese regime was carried out section ally. No attempt was made to bring uniformity in this area. The main reason for this may be the varied interests and pressure groups that existed in the Goan society. Groups such as Portuguese on deputation, the settlers or the married Portuguese, neo Christian converts, Hindus, and Ganokarias for the local population resulted in developing multi-

39 During Portuguese rule they were known as Communicate.
40 During Portuguese rule they were known as Camara General.
faceted adjudicating machinery. But due to several political changes in Europe, Portugal became a constitutional monarchy. This in turn resulted in bringing several judicial reforms not only in Portugal but also in its colonies. Judicial reforms in Goa, particularly from 1832 resulted in not only bringing uniformity in judicial administration but also brought much needed judicial hierarchy. The Decree of 1832 proposed a new plan for the judiciary in Portugal and necessitated a special law for the State of India. The Decree of 1836, Established a High Court in Goa. It divided Goa into three Comerica’s and each Comarca had a Comarca judge. Further the Decree also created Procurator of the Crown and Revenue to look after the King’s interest in the Courts. In each Comarca a Police Correctional Court and War Councils were established. In addition to creating new judicial system, the Decree abolished all offices of justice, functioning till 1836 in Goa.

The Subsequent decrees of 1856, 1866, 1894 and 1927 improved the changes brought by 1836 decree and channelized the uniform judicial system in Goa. As far as representation is concerned only the following two persons were entitled to represent clients:

1. Bachelors formed or Licenciate in Law, and
2. Those that have provision of license to practice advocacy.

However, officials of the colony who received remuneration from the State were not permitted to practice as advocates unless a special license was obtained from the government. But they were allowed to exercise the functions of advocates in suits of their own. However, they could not appear in any case against the State, against the resolution of the State, and acts of the Government of Colony. In the High Court and each Comarca Court a special book was kept to enter the names of the persons who could exercise functions of advocate. Once the names were entered in the Book, they were entitled to practice before the judicial Comarca in which their name was entered. The license to practice law would be granted to the Bachelors simply by registering their names with the High Court.

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41 Article 84, Advocates and Judicial Procurator Decree No. 14.453 of 1927
42 Id at Article 85
43 Id at Article 87
But license for advocates other than Bachlors i.e. Licenciate in law would be granted after the representative Comarca Judge heard the delegate of Procreator of Republic, and was convinced that there is no sufficient number of advocates who are Bachelor or Licenciate in law, available\textsuperscript{44}. Any person aggrieved by this decision such as the delegate of Procreator of Republic, or interested parties of Bachelor or Licenciates in law from the Comarca could appeal to the President of the High Court. Maximum number of advocate in each Comarca would be fixed by the High Court after hearing the respective judges of Comarca Courts\textsuperscript{45}. This number could be altered by the High Court itself on receiving the proposal of the respective Comarca Court. Once a person obtains Licenciate for advocacy, he was required to apply to the President of High Court attaching the following documents to the application\textsuperscript{46}.

1. Certificate proving that he is a major.
2. Certificate from criminal register to show that he is free from committing or involving in any crime.
3. Certificate of probity or good conduct issued by corporation or administration of respective area.
4. Certificate issued by delegate of Comarca that maximum number of provisional advocates is not filled
5. Certificate of final decision referred in Art.89.
6. Certificate which shows that the person has completed Lyceum Course or any Superior or Special Course. After receiving the application along with the above certificate, the President of High Court would examine it. If he is satisfied that the applicant has fulfilled all the requirements, the President may order the Comarca Judge of there specie Comarca to conduct the examination of the applicant. If the President is not satisfied then he may reject the application of the applicant\textsuperscript{47}.

The proposed examination would test the knowledge of the applicant on general notions of law, terms and procedural formalities. This exam would be conducted before

\textsuperscript{44} Advocates and Judicial Procurator Decree No. 14.453 of 1927, Article.89
\textsuperscript{45} Id at Article.90
\textsuperscript{46} Id at Article.91
\textsuperscript{47} Id at Article.92.
a Jury formed by the Comarca Judge. Jury would be presided over by the respective delegate of Procreator of Republic, Conservator of Registrar of properties.

In their absence, the Jury would be presided over by first substitute of the Comarca Judge. In a two judge Cameras, the Jury would be constituted by both the judges and presided over by the senior most Judges.

In the absence of both the judges, the Registrar of Properties and in his absence first substitute of the Civil Judge and in his absence the delegate of Civil Judge, and in his absence the delegate of the criminal judge would preside.

After conducting the examination, the Comarca Judge would remit the certificate of the proceedings of the exam to the President of the High Court. If the applicant was approved by the Jury unanimously then the President would grant the approval to practice. However, if the applicant was approved by the majority of the Jury, it would be the discretion of the President to grant the license.

The license for advocacy was given in the form of a certificate called `Alvara'. This Alvara was required to be registered in the head office of the High Court. Once this license is granted the applicant was permitted to practice in there spective Comarcas.

In essence, there was no formal legal education required to enter into legal profession in case of Licentiate of law. As far as Bachelors are concerned, legal education was offered in Lisbon University, Portugal. Therefore, it is safe to assume till Goa was freed from the Portuguese rule, the legal education was neither introduced nor institutionalized in Goa. Even after Goa become part of India, legal education was offered in Goa only after 1973 when the first Law College was established at Panaji.

### 3.4 Development in Legal Education in Free India

Legal education gathered momentum and acquired importance in free India. India became free with a large number of its citizens being poor and illiterate. The

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48 The Jury cannot function without the presence of at least 2 Magistrate members

49 Article 93, Advocates and Judicial Procurator Decree No. 14.453 of 1927
immediate concern was to minimize inequalities and provide basic amenities to millions of people. With the adoption of a democratic form of government, legal education was expected to bring the legal system in tune with social, economic and political desires of the country.50

Thus, the basic concern for the legal system in the early period of free India was to fulfill the objectives set out in the Constitution. With the adoption of Constitution in 1949, the ‘rule of law’ became the basic component of the Indian democracy.

The essence of free India was well summed up in Art.14 of the Indian Constitution which entitles every person, equal protection of law to guarantee the enjoyment of justice, liberty, equality and fraternity; the four paramount aspirations of the Constitution. Judicial trends in interpreting the Constitution particularly from Meneka Gandhi case,51 made due process of law a cornerstone of constitutional ideology in post independent India. With judicial activism, access to justice becomes part of due process and law is viewed as an instrument to bring progressive changes in the society. In conformity with the said ideology, Several legislations were passed in order to bring the much needed social reforms in the country.52 Law and justice can no longer remain distant neighbors. To achieve the constitutional goal of access to justice, legal system should ensure moderate court fee, availability of affordable, competent and socially relevant lawyers.

Further, Courts with humanistic approach are necessary to narrow the distance between law and justice. In this scenario the legal profession which is the custodian of providing justice is expected to play a dynamic role. Law Schools being recruit grounds for legal profession there was a need to inject a new spirit into the content of legal

51 Narrow interpretation of the term “personal liberty” in A.K. Gopalan case was over ruled by the Supreme Court in this case and it expanded the horizons of the expression “personal liberty”. Supreme Court equated the expression of “procedure established by law” in Art.21 with the expression of “due process of law” given under USA Constitution. See AIR 1978 SC 597.
education to make lawyers and legal professionals socially relevant and professionally competent\textsuperscript{53}.

Unfortunately, there is a general feeling that legal education in India is not “meaningful” and "relevant".\textsuperscript{54} The way legal education has been structured in India appears to suggest that it is intended to provide students only with some knowledge of statutes\textsuperscript{55}.

The curriculum is neither helpful in shaping aspiring lawyers in their traditional roles of problem solvers nor in their expanded roles of arbitrators, counselors, negotiators or administrators\textsuperscript{56}. Due to prolonged neglect of legal education, numerous substandard institutions and “teaching shops,” with abnormally large number of students, grew up around the country\textsuperscript{57}. As a result, admissions to Law Schools became disorganized\textsuperscript{58} and the quality of the students was poor\textsuperscript{59}. With few exceptions, the Law Colleges failed to attract brighter students to the legal profession\textsuperscript{60}.

The situation was exacerbated by the meager salaries paid to law teachers, because of which, the teaching profession did not attract more competent persons. Further, the teaching faculty was over burdened by heavy teaching loads\textsuperscript{61}. Many colleges had and continued to have a large number of part-time teachers which resulted in overloading the full-time teachers with additional administrative and committee duties\textsuperscript{62}.

\textsuperscript{53} Chairman BCI, available at www.barcouncilofIndia.org.
\textsuperscript{55} Chairman BCI, available at http://www.barcouncilofIndia.org/bar-council/chairman.php (last visited 15 – 6- 2014)
\textsuperscript{57} I.P. Massey, “Quest For Relevance' in Legal Education”, 2 SCC (Jour) 17 (1971).
\textsuperscript{58} Ibid.
\textsuperscript{61} A full time teacher is required to take 18 lectures a week.
The approach used in classroom teaching was the outdated lecture method. More emphasis was given in verbal analysis of a rule or a judgment. Little or no attention was paid to the underlying principles or social intricacies that resulted in the making of a particular rule. Students had no exposure to the policy underlying the law, the function of the law, or the needs of the nation and the expectations of the people. No effort was made to understand the law in a social context. In the words of Prof. Mohammad Gouse, "they were not alive to the dynamic role of law in the development of the country." By adopting the British model of external examinations, the law teacher lost control over scholarly content of his course. Further, the external examination system tested more on the memory of the student rather than his analytical ability. Also, poorly equipped law libraries made legal research by a teacher aware phenomenon. In its 1958 report, the Law Commission of India painted a bleak picture of the standards of legal education: "The portals of our law teaching institutions manned by part-time teachers open even wider and are accessible to any Graduate of mediocre ability and indifferent merits there is hardly a pretence at teaching this character is followed by law examinations which the Students manage to pass by cramming short summaries published by Enterprising publishers the result, a plethora of LL.B., half-baked lawyers, who do not know even the elements of law and who are let loose upon society, As drones and parasites in different parts of the country.

These remarks were made by the Commission when there were only 43 law Institutes training 20,159 students. Today about 740 Law Schools with an Enrolment of over 2,50,000 are in no better position than in 1958, barring few exceptions. Law Schools became factories, of producing ill-trained law graduates unsuitable to both the profession and society. Realizing these problems, members of the legal community focused their attention on improving legal education in India. Though several efforts were made in this respect, those made particularly by the BCI, UGC, Law Commission of India and the State are worth mentioning.

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64 Ibid.
3.4.1 Efforts made by the Bar Council of India

Even after India became independent, the legal profession in India continued to be governed by the laws passed by the British.

The Constitution of India came into force on 26th January 1950 and all High Courts of Part B States became High Courts under the Constitution. The Supreme Court of India was established under the new Constitution and had jurisdiction over the whole of India. As the Constitution of India created a uniform judicial system, raised in several meetings and conferences stressing the need for an all-India Bar and uniform system of regulating the legal profession66.

i) Efforts to establish All India Bar Council

In this situation and in view of the changed circumstances, a comprehensive bill sponsored by the Government was necessary and to that end in August 1951 the then Minister of Law announced on the floor of the House that the Government of India was considering a proposal to set up a Committee of inquiry to go into the problem in detail. To comply with that promise, the all India Bar Committee was constituted by the Government of India under the chairmanship of Justice S.R. Das. The Committee was asked to examine and report on:-

1. The desirability and feasibility of a completely unified Bar for the whole of India.
2. The continuance or abolition of the dual system of counsel and solicitor(or agent) which obtains in the Supreme Court and in the High Courts at Bombay and Calcutta.

66 In February — March 1950 the Inter University Board at its annual meeting held in Madras passed a resolution emphasizing the desirability of having uniformly high standards for the law examinations in the different Universities of the country in view of the fact, that under the new Constitution a Supreme Court of India had been established and stressing the need for an all India Bar. In May 1950 the Madras Provincial Lawyers Conference held under the Presidency of Shri S. Varadachariar resolved that the Government of India should appoint a Committee for the purpose of evolving a scheme for an all-India Bar and amending the Indian Bar Councils Act to bring it into conformity with the new Constitution. The Bar Council of Madras at its meeting held on 1st October 1950, adopted that resolution. Shri Syed Mohammed Ahmad Kazmi, M.P. who is a member of the present Committee, introduced in Parliament on April 12, 1951, a comprehensive Bill to amend the Bar Councils Act. See, S. Gopakumaran Nair, Chairman, Bar Council of India, History of Bar Council of India, available at http://www.barcouncilofIndia.org/barcouncil/history.php (last visited 20 — 08 — 2014).
3. The continuance or abolition of different classes of legal practitioners, like advocates of the Supreme Court, advocates of the various High Courts, district court pleaders, Mukhtars (entitled to practice in criminal courts only), revenue agents, income tax practitioners, etc.;

4. The desirability and feasibility of establishing a single Bar Council
   a) For the whole of India, or
   b) For each State.

5. The establishment of a separate Bar Council for the Supreme Court;

6. The consolidation and revision of the various enactments (Central as well as State) relating to legal practitioners; and

7. All other connected matters.67

The All India Bar Committee was headed by Hon'ble Shri S. R. Das, Judge, the Supreme Court of India as Chairman.68 The Committee submitted its detailed report on 30th March 1953.

The Committee found that since there was no centralized authority like an All India Bar Council, the qualifications required for enrolment as a lawyer by different High Courts were not uniform. All High Courts required a law degree from a University as a precondition for enrolment as an advocate and each High Court prescribed additional qualifications like practice in district courts or in chambers of a practicing advocate for certain period.

There was no uniformity regarding the period of practice required for a new entrant. This was compounded by different Universities prescribing different periods of study and there was no uniform syllabus. Except Calcutta and Punjab Universities, which prescribed a three-year course, other Universities required only a two-year course for law students.

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68 Other members of the Committee are M. C. Setalvd, Attorney General of India; Dr. BakshiTek Chand, Retired High Court Judge; V. K. T. Chari, Advocate-General of Madras; V. Rajaram Aiyar, Advocate-General of Hyderabad; Syed A. Kazmi, MP, Advocate, Allahabad; C. C. Shah, MP, Solicitor, Bombay; and D. M. Bhandari, MP, Advocate, Rajasthan High Court.
Further, there was no uniformity regarding minimum qualifications for undertaking a law degree. For example, Andhra and Bombay Universities allowed students to pursue law studies after matriculation while other Universities required a bachelor's degree.

Students joining Andhra and Bombay Universities were required to study general subjects for three years and then study law subjects for two years. In All other Universities, a candidate was required to be a graduate in science, arts or commerce to take admission in law course.69

Thus, in Andhra and Bombay a candidate could graduate in law within five years whereas in other Universities it would take six years. In Madras University, after completion of the two-year law course, the candidate was further required to work as an apprentice for a period of one year and also pass further examination held by the Bar Council.70

The Committee also recommended the establishment of State Bar Council for each State and an All India Bar Council at the National Level as the Apex Body for regulating the legal profession.

The important recommendation of the Committee was that the apex body should also supervise the standards of legal education in India. To implement the recommendations of the All India Bar Committee, a comprehensive Advocates Bill was introduced in the Parliament and the same was passed as the Advocates Act, 1961.71

ii) Establishment of Bar Council of India

The Advocates Act, 1961 was passed by the Parliament of India by virtue of powers under List I of the Constitution of India.72 Under this Act, an apex body, namely, the Bar Council of India was constituted at national level.

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70 Ibid
71 See, S. Gopakumaran Nair, Chairman, Bar Council of India, History of Bar Council of India, available at http://www.barcouncilofIndia.org/bar-council/history.php (last visited on 15 — 6 — 14 )
This Act required the BCI to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education.

In furtherance of section 49 of Advocates Act, 1961, the BCI framed Bar Council of India Rules, 1965 wherein chapter- IV exclusively deals with minimum standards of legal education. These rules were amended from time to time to improve the standards of legal education in India. Thus, it is clear under the Advocates Act, 1961, that BCI was empowered to prescribe the minimum qualifications required for a student to get admission to a course leading to a degree in law in any recognized University and to prescribe the standards of legal education to be observed by such Universities.

In 1962, following BCI orders, all Universities imparting legal education changed over from the two-year to the three-year program in law and revised the curriculum as prescribed by the BCI.73

iii) Legal Education Committee

The BCI established Legal Education Committee under Section 10 (2) (b) of the Advocates Act, 1961.74 The present Legal Education Committee consists of 10 members and ironically only one member Prof. N.L. Mitra, who is a former Director of the National Law School of India University, Bangalore, Representing the teaching faculty.75 It also consists of 16 special invitees who are all advocates and has no faculty representative.

74 Section 10 (2) (b): a Legal Education Committee consisting of ten members, of whom five shall be persons elected by the Council from amongst its members and five shall be persons co-opted by the Council who are not members thereof.
75 The present Legal Education Committee was reconstituted on 7 — 5 — 2007. Members of the Committee being A. P. Misra, Former Judge, Supreme Court of India, Chairman, Legal Education Committee, A. K. Patnaik, Chief Justice of MP High Court, Gopakumaran Nair, Chairman, Bar Council of India, Jaganath Patnaik, Sr. Advocate, Member, Bar Council of India, Ashok Kumar Deb Advocate Managing Trustee, Bar Council of India Trust, C. K. Sharma Baruah, Senior Advocate, Member, Bar Council of India, Dr. Gopal Narain Mishra, Advocate, Dr. N. L. Mitra, Shri T. K. Viswanathan, Law Secretary, Ministry of Law, Justice and Company Affairs, Government of India, Moolchand Sharma,
iv) Reforming Legal Education

In early 70's, the BCI decided to adopt a new pattern of legal education in India. In 1975, the BCI recommenced that no student shall be admitted unless he has secured 40% aggregate for Day classes and 50% for the part-time course in the evening in qualifying examination. Admission to the course should be by means of viva-voce test before a Board appointed for the purpose. Medium of instruction should ordinarily be English and it should be included as a subject in the first year. Law Colleges should provide instructions on weekdays for minimum 3 periods of one hour duration. New colleges should obtain permission from the BCI before starting the institution. Further, the BCI directed that all the Law Colleges affiliated to the Universities should, by the end of three years, be independent Law Colleges and should cease to be departments attached to colleges for instruction for grant of law degrees. Due to several objections from the Law Colleges, the BCI removed the rule that the admission to the course should be by means of viva-voce test before a Board.

a) Bar Council of India Trust

In addition to prescribing the standards for legal education, the BCI created The Bar Council of India Trust as a public charitable trust on 27th April, 1974. This trust was created to maintain professional standards and to effect improvements in legal education. In this regard, the Trust intended to establish Law Schools of excellence and to promote legal research. The other objectives were to render legal aid to the poor, publish law reports, text books and case books for students undergoing legal training, offering scholarships to deserving students, and promote welfare of the members of the profession. The Trust is managed by a Board of Trustees. There are five Members in the Board of Trustees who are members of the Bar Council of India. The Chairman, Bar Council of India is ex-officio of the Board of Trustee. The remaining four trustees are elected from amongst the members of the Bar Council of India for a 4 year term. The Trustees elect the Managing Trustee and Associate Managing Trustee. The

Vice Chairman (University Grants Commission) See:http://barcouncilofIndia.org/bar-council/committees-list.php (last visited 16 — 7 — 14)
76 Cir.No: LE 7/1975 Dt. 2nd July 1975.
Managing Trustee is empowered to look after the day to day administration through its Secretary.\textsuperscript{78}

The Bar Council of India Trust organizes various academic workshops for advocates under its continuing education program. The purpose of these workshops is to help in updating knowledge and skills of practicing lawyers, and promoting specialization in professional services. Quite a good number of volumes of reading materials on constitutional litigation, advocacy, labored judication, tort litigation, administrative law and adjudication, environmental laws, etc., have been assembled to support the continuing legal education\textsuperscript{79}.

To promote advocacy skill of the law students, the Trust organizes National Level Moot Court Competition every year. This moot court competition was started in the year 1981. Nearly 35 to 40 Universities participate in the event.\textsuperscript{80} In late 70's the BCI undertook several consultations in nature of national seminar, workshops and debates. Finally a joint meeting was organized with the members of the BCI, Legal Education Committee, selected law teachers, UGC law panel and representatives of the Union Ministries of Education and Law. Subsequently the draft plan of new pattern of legal education was discussed in a seminar conducted at Bombay in August 1977. Several recommendations and suggestions which were made were adopted in subsequent meeting between Legal Education Committee, BCI and Government representatives.

During this period the BCI resolved that Law Colleges or Departments running both, day and evening courses shall be converted into whole-time day course latest by June, 1982. To consider whole time, the working period of the Law Colleges and Departments need to be spread over at least 6 1/2 hours every working day comprising of class room lectures, contact hours with teachers, library work and other curricular and co-curricular work of a similar nature\textsuperscript{81}.

\textsuperscript{78} See Bar Council of India Trust available at http://barcouncilofindia.org/bar-council-trust/constitution.php (last visited 16-6-14)
\textsuperscript{79} Ibid
\textsuperscript{80} Ibid.
\textsuperscript{81} LE(Cir)NO. 4/1979 Dt. 6th August 1979
The library shall remain open for at least 8 hours on every working day. The strength of part-time teachers shall not be more than 25% of the total strength of the teachers. BCI also suggested that multiple copies of the prescribed books be made available in the library and the seating arrangement in the library shall be provided for at least 15% of the students at a time in the reading hall.

Further, the circular also mentioned that the teacher student ratio is at least 1:20. The maximum strength of students in each class (LL.B I, II, III) shall not exceed 350, and 80 in any section of each such class.\(^{82}\)

**b) Introducing Five years integrated LL.B. Course**

After a prolonged deliberations finally, the BCI issued instruction in March 1979 to all Universities and Colleges imparting legal education, to adopt the new pattern of five year integrated course and three years time was given to change over.

Nearly after 5 years of deliberations with the Universities, State Bar Councils and the Legal Education Committee, the BCI recommended changing the 3 years LL.B. program to 5 years and accordingly it recommended the following changes.\(^ {83}\)

A degree in law obtained from any University in the territory of India shall not be recognized for the purposes of enrolment as an advocate from June 1\(^{st}\) 1982 unless the prescribed conditions are fulfilled. The following are the important measures:

1. At the time of joining the course the person concerned must pass an Examination in 10+2 course of schooling recognized by Central or State Government or possess such academic qualifications which are considered equivalent to 10+2 course.
2. The course of study for obtaining law degree shall be minimum 5 years out of which first two years shall be devoted to study of pre-law courses and the last 6 months of the fifth year shall include regular course of practical training.
3. Law College shall be located at a place where there is a District Court or a Circuit District Court.

\(^{82}\) LE(Cir)NO. 4/1979 Dt. 6\(^{th}\) August 1979.

4. Professional law education shall only be through whole time day colleges or University departments from the academic year 1982-83. To consider as whole time, the working period of the Law Colleges and Departments shall extend to at least 5 1/2 hours continuously on every working day comprising of classroom teaching which shall include at least periods of one hour each and the remaining one hour of the working day devoted for other works such as library, tutorials, curricular Yr and co-curricular activities in the campus.

5. The strength of part-time teachers may be increased from 25% to 50% of total strength of teachers.

6. The medium of instruction shall ordinarily be English. However, where the instruction and answering the exams are in a language other than English, the candidate may be enrolled as an advocate only after passing a written test on 'Proficiency in English' to be conducted by a State Bar Council. But such test is not required if the candidate has passed such a test as a part of his course of instruction in law.

7. No student shall be admitted to LL.B course unless he/she secured minimum 45% marks in aggregate in the qualifying examination. However, a relaxation of marks up to 5% in the qualifying examination may be given for the students of Schedule Castes and Schedule Tribes.

8. The teacher student ratio was increased to 1: 40. The maximum strength of students in each class (LL.B I, II, III, IV, V) shall not exceed 320, and 80 in any section of each such class.  

9. In the field of curriculum, the BCI recommended seven compulsory pre law courses for the first two years, and for the remaining 3 years, 12 compulsory papers and minimum 6 optional subjects from 23 subjects Sociology - 1 paper, Legal Language including Legal Writing - 1 paper, History of Courts – 1 paper, Legislatures and Legal Profession in India - 1 paper. Mentioned in the circular. Practical Training was included as one of the compulsory subject.

10. For the practical training, the BCI recommended six months of instruction which shall include court visits, documents, rules of courts, exercise in drafting.

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84 In other words no College or University Department of Law shall have on its rolls total student strength of over 1600 students in all 5 years put together.
85 1. General English - 2 papers, 2. Political Science - 1 paper, Economic - 1 paper, History - 1 paper,
pleading; work at Lawyer’s Chamber and attendance at Professional Ethics lectures. The student shall be required to pass an examination in this course to be conducted by the University concerned.

11. New colleges approved by BCI would commence professional legal education according to the above rules from the academic year 1982-83. However, already existing colleges may be allowed to run the existing three-year LL.B. course for a period not more than two academic years. Such colleges seeking extension of time for the change over from three years course to five years must declare their intention to switch over by the academic year 1984-85 and send a report within a year from 1-06-1982 to the BCI.

12. Further students who have joined the first year in any graduate course in 1982-83 or earlier would be eligible to pursue legal education under the old rules and such student could be admitted in 3 years course till the beginning of the academic year 1985-86.

13. Therefore after the academic year 1985-86, three year degree course would be discontinued.

14. Further the new rules are intended only for giving professional legal education to those students who desire to become advocates only. Hence, students who do not want to enter the profession of advocates can pursue their legal education under the old rules in 1982 many Universities expressed their inability to change over and asked for more time. Accordingly the BCI obliged the request and extended the time for another two years.86

Further, the BCI after receiving several requests from the colleges passed a resolution that it had no objection for granting an intermediate B.A. degree after completion of first 3 years of 5 years course though such a degree would not entitle the person to practice.87

Due to pressure from the Law Colleges and the State Bar Councils, the BCI further amended these Rules. Under the new amendment, the BCI divided 5 years

course into two parts. Part- I would be a two year course program of pre-law study and Part- II would be a three year program of professional training in law.\textsuperscript{88}

Accordingly lateral entry to Part- II of the five year law. Course was permitted to the students who had a three year degree or a post - Graduate degree.

In addition to these efforts, the BCI requested the BCI Trust to undertake the preparation of text books on all pre-law subjects. BCI Trust duly agreed to:

Prepare standard text books at cheap prices on the newly introduced subjects. The Trust also agreed to consider the request of organizing teacher training courses in collaboration with the Universities in teaching law related social science subjects. The BCI even agreed to pursue the matter of grant in aid to Law Colleges with the respective state governments. It made scheme of transition in such a way that the infrastructural requirements need to be met by the Universities for the integrated course was phased over a period of 4 to 5 years in order to not to burden the Universities.\textsuperscript{89}

BCI Trust made efforts to set up a model deemed University and in the year 1987 National Law School of India University was established in Bangalore.

In spite of all these efforts, many Universities failed to adopt the new pattern of legal education as envisaged by the BCI. The BCI succumbed to the pressures from the institutions offering legal education and failed to phase out the three-year program. Thus, it was forced to give further extension of 3 years course due to pressures from the Colleges and State Bar Councils. Accordingly, further extension was given and 3 year course after graduation could continue up to 1986-87 but from 1987-88 all Universities were required to offer the five year law course.\textsuperscript{90}

In spite of extending time for converting the existing 3 year degree course to 5 years integrated course many colleges and Universities found it difficult to change over. Due to pressure from the Colleges and State Bar Councils, the three year degree course continued even after 1987. As a result five year integrated course continued as a

\textsuperscript{88} LE(Cir.no.3/1985) Dated. 01 — 08 — 1985.
\textsuperscript{90} LE(Cir.no.3/1985) Dated. 01 — 08 — 1985.
parallel course to three-year course and many institutions offer both the courses simultaneously. Only change that was brought by the BCI is that many Colleges which offered three year degree course also started offering five year integrated course.

This created a new opportunity to the Colleges to combine three year degree course with five year integrated course. Many Colleges offered only pre-law subjects for first two years for five year integrated course and third year onwards they introduced law subjects. The lateral entry rule by BCI which permits graduate students to join five year integrated course in third year defeated the whole purpose of introducing five year integrated course. In fact, many colleges having both courses developed a new trend of joining five year integrated course students with three year degree students. Law Colleges designed the subjects in such a way that 3rd, 4th and 5th year subjects of five year integrated course were same as 1st, 2nd, and 3rd year of three year degree course. As the attendance was not made compulsory in private institutions, combining five year integrated course from 3rd year with 1st Year of 3 year degree course proved economically beneficial.

This trend seriously undermines the purpose of introducing five year integrated course. Involvement of the Bar with the legal education received a setback when the BCI issued a circular in 1986 clarifying the right of practicing advocates to take up law teaching under Section 49A of the Advocates Act. The BCI resolved that only practicing Advocates can take up law teaching but a full time law teacher could not be enrolled as an advocate. Further, the BCI imposed a striation on practicing advocates not to engage in teaching more than three hours in a day. Any advocate employed in any educational institution for teaching law is deemed to be a part-time teacher.

C) One Year Apprenticeship Rule

In 1994, the Bar Council of India introduced the one-year training rule after graduation as per recommendations of the Ahmadi Committee. The Committee has recommended that every law graduate undergo one year of training under a senior

\[91\] LE (Cir. No.2/1986).
\[92\] Resolution NO.4/1986 (LE).
\[93\] LE (Cir. No.2/1986).
lawyer with a minimum of 10 years experience at the District Court or High Court. Students were to work for three months in a trial civil court, three months in a Magistrate's Court, and at least six months in a District Court. To enter the Bar, the students would need to obtain a certificate from the senior lawyer, in whose office they worked, describing that they were fit to enter the Bar.

These conditions were to be made mandatory. After fulfilling these conditions, students were required to appear for an examination for entry to the Bar; without these formalities a law student would not be eligible to sit for the Bar Council examination. The Committee also recommended that students should secure at least 50 or 60 per cent marks at the Bar Council examination to become eligible to practice at Bar. After reviewing these recommendations, the BCI introduced a one-year training rule\(^94\) while it discarded the suggestion of entrance examination.

However, the BCI received a setback when this rule was challenged in the Supreme Court. In \textit{V. Sudheer v. Bar Council of India}\(^95\), the Supreme Court struck down the rule as \textit{ultra vires} to the Advocates Act and held that the Bar Council of India is not competent to pass such a rule. Such a rule can be introduced only by the legislature. While declaring the training rule as \textit{ultra vires}, the Supreme Court recognized the crying need for improving the standards of the legal profession. It recognized the value of equipping lawyers with adequate professional skills and expertise, and held that "a right thing must be done in the right manner."\(^96\)

The apex court shared the anxiety of BCI for developing suitable methods for improving the standards of legal education and legal profession. It Suggested that these recommendations should been put into practice using appropriate methods.\(^97\)

\(^94\) Bar Council of India Training Rules, 1995-Rule 2 to 15.
\(^95\) 1999 (3) SCC 176
\(^96\) \textit{Ibid}
\(^97\) It was felt by the Bar Council of India itself before the Committee that for providing pre-enrolment training to prospective advocates, relevant amendments to the Act were required to be effected. Therefore, the Court strongly recommended appropriate amendments to be made in the Act in this connection. The amendments can be effected only by Parliament. Till the Parliament steps in to make suitable statutory required amendments to the Act for providing pre-enrolment training to prospective advocates seeking enrolment under the Act, the Bar Council of India by way of an interim measure can also consider the feasibility of making suitable rules providing for in-practice training to be made available to enrolled advocates.
d) Uniform syllabus

*Realizing* this problem, a three day All India Consultative meeting of BCI, Universities, UGC and State Governments was held at Bangalore in the month of October 1996. The members who attended the meeting unanimously agreed that there shall be a uniform syllabus for both three-year and five-year law courses throughout India. As a result the members identified 24 compulsory subjects and 6 optional subjects which the concerned University according to the local needs and 4 practical papers.98 These recommendations were considered by the Legal Education Committee at its meeting on 2nd November, 1996.

The Legal Education Committee made certain changes in the said curriculum recommended by the Consultative Meeting.99 These recommendations were placed before BCI and in its meeting on 16th and 17th November, 1996 it approved the curriculum prepared by Legal Education Committee with certain modification. Finally, the BCI recommended 21 compulsory papers three optional papers to be chosen among the list of 15, and four mandatory practical papers.100 It is interesting to note that Consultative Meeting at Bangalore recommended 24 compulsory papers, 6 optional and 4 Practical Papers; altogether 34 subjects in total. It is interesting to note that Consultative Meeting at Bangalore recommended 24 compulsory papers, 6 optional and 4 Practical Papers; altogether 34 subjects in total. However, the BCI recommended only 21 compulsory papers, 3 optional and 4 practical papers in total 28 subjects. Thus 3 compulsory papers identified by the Bangalore meeting namely; Women and Law, Intellectual Property and Law, Poverty and Development were removed from the compulsory papers and kept in optional papers. Papers on Human rights and International Law were clubbed as one paper, whereas the paper on Law and Medicine was completely removed from the lists of both compulsory and optional subjects.101 Further, the UGC was informed of the prospects of additional financial need of Law Colleges which proposed to offer new pattern of five-year integrated course.

99 Id at 289.
100 Ibid.
101 Ibid.
In 1997, the Bar Council of India issued a circular directing all Universities and Law Colleges to revise their three-year and five-year law curriculum and directed them to incorporate Four Practical Papers.\textsuperscript{102}

Law Schools have been required to introduce these papers since the 1998-99 academic years. It was decided that all together in three year course 21 compulsory papers, 3 optional and 4 practical papers need to be offered. In five year integrated course these subjects would be offered during last three years. This was viewed as a big step towards introducing Clinical Legal Education formally into the curriculum.

e) BCI New Curriculum

Though new curriculum was introduced from 1998, the system of pre-law subjects in first two years and law subjects in other three years continued. The rule of lateral entry also continued without any change. Introducing B.Sc., B.Com by Jodhpur and Gujarat National Law School necessitated rethinking of Pre-law, Law and lateral entry rules.

Accordingly in 2008 the BCI issued revised rules on "Standards of Legal Education and Recognition of Degrees in Law" for admission as advocates (herein after Rules).\textsuperscript{103} These Rules recognize only two law courses namely, three-year Unitary Degree course\textsuperscript{104} and a Double Degree Integrated Course.\textsuperscript{105} The fundamental change brought by these Rules is that the five-year integrated course could be offered in any stream provided that the total period for completion of double degree cannot be less than one year of the total time.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{102} Bar Council of India Circular No: 4/1997.
\item \textsuperscript{103} BCI letter BCI: D:1518:2008(LE/RULES-PART-IV) dated: 24/12/2008.
\item \textsuperscript{104} Rule 4 (a) A Three-year Unitary Degree Course: A three-year course in law undertaken after obtaining a first degree from a University or any other qualification considered equivalent qualification by the Bar Council of India. Provided that admission to such a course of study for a degree in law is obtained from a University whose degree in law is recognized by the Bar Council of India for the purpose of enrolment.
\item \textsuperscript{105} "Integrated Degree course in law" means double degree course comprising the bachelor degree in any branch of knowledge prosecuted simultaneously with the Degree course in law in such an integrated manner as may be designed by the University concerned for a continuous period of not less than five years. Also see Rule 4 (b).
\end{itemize}
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Required for regularly completing the two courses one after the other in regular and immediate succession. With regard to eligibility for admission, the Rules prescribe 30 years as a maximum age for admission into three year degree course in law. However, in case of Schedule Caste, Schedule Tribe, and Other Backward Class the maximum age prescribed is 35 years.

For integrated double degree program the maximum age is 20, whereas for Schedule Caste, Schedule Tribe, and other Backward Class it is 22 years. The other change brought by the Rules is that it bars the applicants who obtain +2 or graduation thorough Open University without having any basic qualification for pursuing +2 or graduation.

It also further bars pursuing two degree programs at the same time except short term certificate courses and any course offered by Centre for Distant Learning of any University.

The Rules insist on adopting semester system and each semester shall have not less than 15 weeks for unitary degree course and minimum 18 weeks for double degree course. Every week should have a minimum of 30 class hours including tutorials, moot room exercise and seminars where in at least 24 Lecture hours per week.

Specialized and/or honors law courses requires minimum 36 class-hours per week including seminar, moot court and tutorial classes and 30 minimum lecture hours per week.

The Rules provide an option to the colleges to opt trimester instead of semester. In such a case each of the trimesters shall have not less than 12 weeks.

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106 For example Double degree integrated course such as BA., LL.B. can be completed within (3+3 —1) i.e. 5 years. But if one intends to do B. Tech., LL.B. it can be done in (4+3-1) i.e., 6 years. But at any case a double degree integrated program cannot be less than five years. For example in a University one can have a two years' graduation in any social science leading to BA degree, in that case also the composite double degree integrated course leading to BA, LL.B. would be of five - years duration because double degree integrated course cannot be of less than five years' duration. See explanation 1 & 2 to Rule 4 (b).

107 Id. at Schedules III, Entry 8.

108 Id. at Rule 5.

109 Id. at Rule 6.

110 Id at Rule 10.
The Rules also prescribe that the size of the classroom shall not be more than 60 students. In on residential institutions the classes may be conducted between 8 a.m. to 7 p.m. however this may not apply to the residential institutions. One more important change brought by the Rules is prohibition of lateral entry and exit. According to this rule a graduate cannot take admission in a five year program at 3rd year. Similarly, it prohibits awarding intermediary degree to any student undertaking fiver-year integrated double degree course after completing three years.

With regard to academic standards, the Rules specify that English shall be the medium of instruction for both courses. If any University allows full or in part instructions other than English or allows the students to write examination in any language other than English, English should be offered as a compulsory paper. Students of double degree program are expected to learn at least one Foreign Language. As far as number of subjects are concerned, Schedule II of the draft rules prescribes that students of three-years unitary course or under the integrated double degree course required to take not less than 28 papers (subjects) in all including 4 Clinical papers and 6 optional papers and also of any additional papers.


Id. Schedule III entry 5A.

Id. Schedule III entry 5.

"Lateral Entry" is an admission given to graduate applicants at the beginning of third year in an Integrated Five Year Course.

"Lateral Exit" means opting out at the end of three year after successfully completing the courses up to the third year, from an Integrated Five year course on being awarded a Bachelor degree.

Rule 13 Prohibition Against Lateral Entry and Exit: There shall be no intermediary degree awarded to any student in an integrated double degree course and there shall be no lateral entry during any year within the integrated course. The only entry point in an integrated double course is in the first year and only exit point for awarding an integrated degree is at the successful completion of the 5th year i.e. on the completion of entire double degree course.

Id. Schedule II Entry 1.


The four practical papers are 1. Drafting, Pleading and Conveyance; 2. Professional Ethics & Professional Accounting system; 3. Alternate Dispute Resolution; and 4. Moot court exercise and Internship.
prescribed by the University from time to time. In case of double degree program in addition to these law papers students need to opt one major subject and two minor subjects or such number of compulsory. Subjects as prescribed by the University concerned and English. There shall be 6 papers in major and three papers each in minor and in languages. \(^{121}\)

The syllabus for non-law subjects in double degree program must be comparable to the syllabus prescribed by leading Universities in India in three year bachelor degree program in BA, B. Sc, B.Com, BBA etc. Such syllabus must satisfy the standard prescribed by the UGC/AICTE and any other respective authority for any stream of education. For specialized or Honors course, a student has to take not less than 36 papers in all including 18 compulsory, 4 Clinical course, 6 optional papers and 8 papers in specialized/Honors course in any Group indicated in Schedule II. \(^{122}\)

However if eight papers are taken from multiple groups, Honors can be given in general law without specialization. \(^{123}\) Changes in Mandatory Clinical Component though the practical paper on Legal Aid has been replaced by ADR, each Law College is under an obligation to establish and run a Legal Aid Clinic under the new Rules. \(^{124}\)

This Clinic shall be supervised by the senior faculty member with final year students with the help of Legal Aid Authorities, pro bono, Lawyers and NGOs. However, the Rules are silent about the academic credit for the legal aid work. In addition to legal aid work, every student shall complete minimum of 12 weeks internship for the Three Year Course and 20 weeks in case of Five Year Course. This internship could be undertaken with any NGO, Trial and Appellate Advocates, Judiciary, Legal Regulatory Authorities, Legislatures and Parliament, other Legal Functionaries, Market Institutions, Law Firms, Companies, Local Self Government and other such bodies as

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\(^{121}\) Id. Schedule II point 6

\(^{122}\) For list of subjects and groups see Schedule II

\(^{123}\) For Example, “A” takes eight honors papers selected as follows: two from Constitutional Law, three from Business Law, one from International Law and two from International Trade Law, his Honors shall be in Law. “B” takes eight papers from Constitutional Law group; his honors shall be mentioned in Constitutional Law.

\(^{124}\) Bar council of India Rules on legal Education, 2008, Point 11 Schedule III.
the University shall stipulate, provided where law is practiced either in action or in dispute resolution or in management.

However, the internship in any year cannot be more than Four Weeks continuously. Students must undertake internship at least once with Trial and Appellate Advocate in their entire academic period. During the period of internship, the students are expected to maintain a diary and the same may be evaluated by the Guide in Internship and also by a Core Faculty of the staff. Marks for internship shall be assessed in final semester and allotted in the Clinical Course IV.125

The Rules impose an obligation on State Bar Councils to prepare district wise list of senior lawyers having at least 10 years practice and who are willing to take the students for internship during the vacation period. The BCI shall publish this list in the web-site and also make the list available with the institutions.126

The Rules authorize Bar Council of India to establish a Directorate of Education. The Directorate of Education would undertake organizing, running, conducting, holding, and administering,127

(a) Continuing Legal education,
(b) Teachers training,
(c) Advanced specialized professional courses,
(d) Education program for Indian students seeking registration after obtaining Law Degree from a Foreign University,
(e) Research on professional Legal Education and Standardization,
(f) Seminar and workshop,
(g) Legal Research,
(h) Any other assignment that may be assigned to it by the Legal Education Committee and the Bar Council of India. The Directorate of Legal Education shall function under the guidance of Director of Legal Education appointed by BCI on the advice of Legal, Education Committee.128 BCI also has the power to appoint one or more Legal

125 Bar council of India Rules on legal Education, 2008, Schedule III entry 25
126 Id. Schedule III entry 26
127 Id. Rule 34.
128 Id at Rule 35
Educations Officer on the recommendations of Director of Legal Education and inconsultation with the Chairman of the Legal Education Committee. However, The Rules are silent about the functions and powers of the Legal Education Officer.129 These new rules have raised several issues as they lack clarity. Though the efforts of the BCI in revamping the curriculum is laudable and particularly the idea of introducing specialization is worth appreciation, it appears that the entire drafting of these Rules is hasty and without application of mind on finer points and details. The BCI needs to clarify the meaning of the terms subjects and 'papers' as their usage is not uniform throughout the Rules. Further, the introduction of the Double Degree Program calls for development of full-fledged curriculum of liberal arts, science and management. This necessitated the establishment of Curriculum Development Committee.

f) Draft Report of Curriculum Development Committee 2010

The first Curriculum Development Committee (CDC) of the Bar Council of India was constituted for the purpose of facilitating Universities and Institutions to formulate the course design in various courses in Law, Social Sciences, English Language, Science, Management and Commerce courses for both Unitary (three Years) and Double Degree Integrated (not less than Five Years) Courses.

This Committee consisted of Shri. N. L. Mitra, member of the Legal Education Committee of BCI as its Convener; and Mr. J.R. Beniwal, Vice Chairman of the Bar Council of India; Professor Ranbir Singh, VC of NLU, Delhi; Dr. Balraj Chauhan, VC, RMLNLU, Lucknow; Dr. Gurjeet Singh, VC, RGNLU, Patiala; M.K. Balachandran, Director, Amity Law School, Delhi; Vijayakumar, UNHCR Chair Professor, NLS, Bangalore; and Professor Amar Singh, Former Dean of H.P. University and presently Professor, NLU, Delhi as its other members.130

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129 Bar council of India Rules on legal Education, 2008, Rule 36
130 Report of the Curriculum Development Committee (CDC), I, Bar Council of India, 6 (BCI, New Delhi 2010). Available www.barcouncilofIndia.org (last visited 18-3-14)
The Committee has emphasized the faculty autonomy in designing and conducting the courses in the University. It expects the faculty of the Law Colleges to ensure that: 131

a. The course design is up-dated each time and the study-material is kept dynamic;
b. appropriate methodology of teaching-learning based on the object and objectives (variables) of the study is developed; and
c. the standard achieved by the learners without unduly pressurizing only the memory level but emphasizing the skill of application of law and detailing the fact analysis with lawyers analytical precision, is properly evaluated.

CDC opined that the integrated law course with the first degree subjects is highly technical and therefore there is a need for harmonization of the curriculum. Further, the faculty of the institutions needs to make a serious effort to customize the course and develop the strategy of teaching-learning based on the local needs and resources available. It deals with preliminary course design, especially in courses to be allocated in the first year of studies in both the Unitary and Double Degree integrated courses. With regard to other courses CDC would formulate the same in future. It also encourages development of study materials and Case-books based on the course design. CDC emphasizes that this report is only to be considered as suggestive benchmark at the minimum level.

Therefore, Universities are free to improve upon and prescribe higher standards. CDC has categorized the role of legal education as value education and professional education. It states that emphasis of the Universities is more on legal education as a value education; and the second role as a professional education is the look out of the BCI for standardization with the help of Universities. It has also identified several unresolved contradictions that are required to be resolved by BCI. One of such important contradiction is introducing the Bar Exam for enrolment of advocates.

131 Report of the Curriculum Development Committee (CDC), I, Bar Council of India, 6 (BCI, New Delhi 2010). Available www.barcouncilofIndia.org (last visited 18-3-14)
Further it has also pointed out the problem of paucity of qualified faculty and stressed on the need for the so called National Law Schools to emphasize on Faculty Improvement Program.\textsuperscript{132}

It highlights the difference in the role played by the Law Colleges and Law Universities in the following words; One has to clearly understand now the role-difference between a Law School/College and a Law University. A Law School/College is run to impart professional legal education' for skill-learning through the prescribed courses and instructions as laid down by the Bar Council. The School/College has to strictly adhere to the standards to make the students competent to be a legal professional. On the other hand, a Law University has wider responsibility to carry on its higher educational experiments with both low-end and high-end integration of knowledge in addition to its usual School/College functions. Law Universities are also required to develop human resources for the Law Schools/Colleges and carry on higher studies and research in legal courses.\textsuperscript{133}

It suggests that transforming legal education into justice education requires a very high degree of integration between education relating to matters of fact and matters of law\textsuperscript{134}. Establishing National Law Schools would possibly fulfill the first commitment. Therefore the next experiment has to start now with this background the CDC has attempted to "formulate the various courses of studies to facilitate high professional skills, building up of human resource with proper integration of knowledge to match the growing world standard."\textsuperscript{135}

Novelty of CDC Report is that it provides a structural design for legal education and it is only suggestive and not mandatory. The Report provides different structural design; for urban as well as rural Universities. It also suggests minimum infrastructure

\textsuperscript{132} There are [910] Law Schools in the whole country including [more than 300] University Schools. Including Deemed University Schools and 13 National Law Universities. These institutions are expected to bring out [about 100,000] law graduates every year of whom about 35 to 40% join the legal profession. Universities 'pass-out' nearly 300-400 Masters and about 15-20 doctorates annually, in a country with more than 1 2 million lawyers, country-wise the second largest law profession of the world. There are now about 15,000 applicants to take up legal studies seriously just after stage and about 75,000 graduates in any subject wanting to register for legal education after graduation.

\textsuperscript{133} CDC Report supra note 130 at 10.

\textsuperscript{134} Matters of fact' education comes from science, social science, engineering, technology, medicine etc.. On the other hand, 'matters of law' education comes from value education in each branches of Knowledge and consequently development of system of procedure and proof. See supra note 130 at 11.

\textsuperscript{135} Ibid.
requirements and they differ, depending on which category the institution fits in to. These categories are based on three variables of geographical location, annual intake of students, and the courses offered.

**Geographical Location**

(i) Local institution,
(ii) State level, and,
(iii) National level institution.

**Annual intake**

(i) Annual intake of one section,
(ii) Two sections,
(iii) Three sections, and,
(iv) Four sections.

**Course offered:**

(i) Running only Unitary Law Course,
(ii) Only integrated Double Degree Law Course, or
(iii) Running both the Programs.

The logic behind such classification, CDC says is that only few from 3 years Graduate Course join legal profession and most of them join in litigation practice. Whereas the CDC has found that the majority from five year integrated Course, join legal profession but very few of them join in litigation practice. Further, it states that the students passing out of rural Universities join trial court litigation and therefore they require different skills altogether, compared to those who practice in High Court or Supreme Court.

**Accordingly the CDC has suggested that:**

a) A rural University based on District towns with limited resource may sponsor a Law School suitable for starting a Course which is less investment oriented and call for more skills suitable for trial court litigation and also develop entrepreneurial skills for developing Non-Governmental Organization to help
dispensation of justice at the grass root level. These Institutions may also focus on the aim of the making of subordinate Court judges.

b) The big City based Law Schools with comparatively bigger capacity of investment may run Law Schools with Honors courses to motivate students to practice in variety of fields such as Tribunals and also in the High Courts with specialized knowledge in various branches of law.

c) Big Universities and National Law Schools, one of which would be located ultimately in each of the States, have to invest on a larger scale in teaching and learning to prepare in respect of legal skills for all specialized branches of law and develop excellence in legal education.

The Report then suggests that each institution needs to assess the available resources to play its role. They need to plan their academic programs based upon the role they play. CDC has framed structural requirements based on four types of Law courses that the country may develop. They are:

I. Low cost-oriented Three Years LL.B. Course with one/two/three section per year.

II. Medium cost oriented Three Years LL.B. Course with Honours/Specialization and with one/two/three sections per year.

III. High cost oriented Five Years integrated double degree Course with intake in one/two/three streams.

IV. Highest cost intensive Five Years integrated Course in One/Two/Three/streams with Honours/Specialization, and with or without facility of dipos or `tripos' (Double or triple honours) facilities.

The first model is ideal for a rural University and the idea is to produce trial court lawyers and the judges of subordinate judiciary. The medium of instruction could be the State's vernacular language. It is ironical that new Bar Council of India Rules have made English as a mandatory medium in Law Colleges. Though the CDC suggests that English program shall be compulsory where full time faculty in English is required, there could be practical problems when it comes to translating all relevant legal documents and cases laws in the vernacular language.
The second model is suitable for the urban Law Colleges and the CDC suggests that these colleges may offer honors education with specializations in any field such as Civil and Criminal Law, Commercial law, Taxation law, Family law, Consumer law and Human Right law & Practices. The medium of instruction in these colleges has to be English. The third model is the 5 years integrated double degree Program and it is particularly suitable for big educational institutions in cities and metros. Colleges having different streams of undergraduate courses could afford to introduce these courses.

The fourth model is suitable for National Law Universities, University Departments and big autonomous Institutions. The purpose of these institutions is to play a role in the growth of the profession on specialization and also concentrate on intensive academic program and research. The CDC prescribes different infrastructural requirements for all the four models. These differences are also found in number of course to be offered and number of weeks of instruction per semester. The CDC also made an attempt to set the guiding principles in preparing the course content. In fact it has provided quite a few models of curriculum in both; law and other subjects.

Though the Draft Report of the CDC is laudable, it raises several concerns such as using vernacular language in rural areas, officially grading the colleges on the basis of resources and geographical situations, etc.

These measures if accepted, may result in further increasing the gap between the so called National Law Schools and other Law Colleges, thereby creating further hurdle to the students from other colleges an having access to better opportunities in the field of legal education. The close look at the efforts made by BCI makes one feel that initial efforts were mostly directed towards institutionalizing legal education in India. Subsequently the attention of BCI was drawn to the curriculum. A considerable amount of time was spent on course structure, infrastructural facilities and work load. In spite of giving a limited power to the BCI by the Advocates Act, it has tried to control and regulate all kinds of legal education.
3.4.2 Efforts made by the University Grants Commission

The present system of higher education in India dates back to Mount Stuart Elphinstone's minutes of 1823. It stressed the need for establishing schools for teaching English and the European sciences. Subsequently several,\textsuperscript{136} Table MIMI and IV provides details of requirements for model 1,2,3 and 4 respectively.

Recommendations were made regarding reforming education in India, and in 1857 three Universities namely University of Calcutta, University of Bombay and University of Madras were set up. This was followed by the University of Allahabad in 1887.\textsuperscript{137}

In the year 1925, the Inter-University Board (later known as the Association of Indian Universities) was established for the purpose of promoting University activities, and sharing information and cooperation in the field of education, culture, sports and allied areas. For the first time, formulation of a National system of education in India was mooted by the Central Advisory Board of Education on Post War Educational Development in India in 1944. This report was also known as the Sargeant Report. It recommended the formation of a University Grants Committee.

Accordingly, the University Grants Committee was established in 1945. In the beginning, the Committee was empowered to supervise the work of the three Central Universities of Aligarh, Banaras, and Delhi. In 1947, the Committee was entrusted with the responsibility of overseeing all the Universities existing in India.\textsuperscript{138}

Due to socio-political changes which occurred in India as a result of independence, the University Education Commission was set up in 1948. Dr. S. Radhakrishnan was appointed as Chairman of the Commission to report on Indian University education and suggest improvements and extensions that might be desirable to suit the present and future needs and aspirations of the country.

\textsuperscript{137} See http://www.ugc.ac.in/about/genesis.html (last visited 16 - 6 -14)
\textsuperscript{138} Ibid.
The major recommendation made by the Committee was to reconstitute University Grants Committee on similar lines of the University Grants Commission of the United Kingdom with a full-time Chairman and other members to be appointed from amongst educationists of repute.

In 1952, the Union Government decided that all cases regarding allocation of grants-in-aid from public funds to both Central and other Universities and other educational Institutions of higher learning might be referred to the University Grants Commission. As a result, the University Grants Commission (UGC) was formally inaugurated by late Shri Maulana Abul Kalam Azad, the then Minister of Education on 28 December 1953.\textsuperscript{139}

However, the University Grants Commission (here in after UGC) was established as a statutory body in November 1956 under an Act of Parliament, the University Grants Commission Act, 1956. The UGC has the unique distinction of being the only grant-giving agency in the country which has been vested with two responsibilities; that of providing funds and that of co-ordination, determination and maintenance of standards in institutions of higher education.

The UGCs mandate includes:\textsuperscript{140}

- Promoting and coordinating University education.
- Determining and maintaining standards of teaching, examination and research in Universities.
- Framing regulations on minimum standards of education.
- Monitoring developments in the field of collegiate and University education;
- Disbursing grants to the Universities and colleges.
- Serving as a vital link between the Union and state governments and institutions of higher learning.
- Advising the Central and State governments on the measures necessary for improvement of University education.

\textsuperscript{139} See http://www.ugc.ac.in/aboutgenesis.html (last visited 16 - 6 -14).
In order to ensure effective region-wise coverage throughout the country, the UGC has decentralized its operations by setting up six regional centers at Pune, Hyderabad, Kolkata, Bhopal, Guwahati and Bangalore. The head office of the UGC is located at New Delhi.

i) Recommendations of Baxi Committee

The UGC was established to look after the University system and it has no expertise to deal with each branch of higher education. It established a panel on legal education which was presided over by the retired Chief Justice of the Supreme Court of India. The purpose of this panel was to guide and standardize the legal education. Unfortunately, it has done nothing significant in improving standards of legal education in India. 141

However, the UGC did appoint a Curriculum Development Centre in Law at University of Delhi (here in after Baxi Committee) in 1986, to give advice on standardizing curriculum for graduate and post-graduate course with Prof. Upendra Baxi, appointed as its chairman. 142

Legal education is distinct to other streams of education due to its significant contribution to society and national integration. Keeping this in mind CDC observed the reforms in legal education in three phases. In the first phase (roughly 1950-65), the principal theme was to transform legal education from the colonial heritage and to Indianize it; in the second phase (roughly 1965-75) the emphasis was more on sound reorganization of curricula and pedagogy towards improving professionalism; in the third phase (roughly 1976 -88).


142 The CDC consist 11 members. Apart from its Chairman, the other members of the CDC are Prof. Virendra Kumar, Punjab University; Prof, Leelakrishnan, Cochin University; Prof. R.K. Mishra, Banaras Hindu University; Prof. P.KoteswaraRao, S.V. University; Prof. S.P, Sathe, ILS Law College, Prof. D.N. Saraf, Jammu University; Prof. LotikaSarkar, Delhi University; Prof. B.M. Shukla, P.G. Law School, Prof. B. Siraramayya, Delhi University; and Prof. Chhatrapati Singh,
The Indian Law Institute focus was on modernization of law curricula so as to make it increasingly relevant to the problems of society and state in deep throes of transition.\textsuperscript{143}

The CDC recognized that the legal education faces three challenges: "Modernization of syllabi to make them socially relevant, Multi-disciplinary enrichment of law curricula, and corresponding pedagogic modification.\textsuperscript{144}

\textbf{a) Modernization of Curricula}

CDC opines that legal science is a human science and relatively independent from other human and social sciences. Besides offering techniques, Skills and competences, the legal education is also concerned with the basic philosophies, ideologies, critiques and instrumentalities, and addresses the aspect of creation and maintenance of a just society. Thus, the concern with 'justice in society' and 'just society' differentiates legal science from other social and human sciences. When the mission of legal science is to help in building a just society, legal education needs to provide occasions of or articulation of theories of a just society. And these articulations must have a sound basis in historical realities of India and post-colonial social formations. Unfortunately the present curriculum in law is about the research and teaching moving around theories of justice and rights developed in the western world. Therefore, modernization means first-hand indigenous thinking, research and teaching of justice in the Indian context.

As far as modernization is concerned the CDC considers constitutional rehabilitation of legal education as fundamental aspect. CDC advocates legal education, and the research has to draw its contents and directions from the ideology of Indian Renaissance and nationalist movement and subsequently be embodied in the Constitution of India. To make legal education socially relevant, it must draw commitment from the Preamble and Fundamental Duties enshrined in Part- IV A of the Indian Constitution.

\textsuperscript{143} Report Of The Curriculum Development Centre, 2(UGC, New Delhi, 1988).
\textsuperscript{144} \textit{Id} at 9
Thus, the CDC has considered constitutional rehabilitation of legal education as an aspect of modernization. And this could only be done if curriculum and pedagogy prepare the student and the teacher for a conscientious discharge of their fundamental duties. Further, the CDC has identified that modernization also stands for the enhancement, enrichment and escalation of human sensibility of fellow-feeling. CDC emphasized on role of legal education in developing law as a hermeneutical profession. Explaining the role of a lawyer, the CDC says, "A lawyer is not just an advocate for a client, a member of the class of hired knife-thrower. A lawyer also plays diverse roles of a legislator (in drafting contracts, wills, and memoranda of resolution out of court) and even as a defect or judge when he advises; 'This is not a fit case to file or appeal HRD."

Through legal education should encompass development of all these role skills and sensibilities. But it warns that, developing legal education does not mean producing efficient professionals. Though it is important to produce efficient professionals, the underlying model of professionalism is linked with struggles for social justice, the maintenance of the rule of law and of democratic development. From this perspective, the CDC has expressed its concerns about the great social cost in producing half-backed lawyers by indifferent legal education. Some costs are as under:

- Inefficient and wasteful utilization of the time of court, with resultant arrears which no amount of judicial manpower planning can reverse.
- Lack of adequate professionalism in counseling and advocacy.
- Indifferent drafting of law, causing prolix litigation;
- Corruption in courtroom bureaucracies.
- Cynicism and growing disenchantment with legal processes, disrepute of judges, profession and of law.
- Recourse to violence as alternative to law.
- Submission to injustice.

145 Report Of The Curriculum Development Centre, 2(UGC, New Delhi, 1988).at 14
The CDC has attributed the deformation and decline in legal profession (widely constituted as including judging, counseling, advocacy, teaching and research) to the state of legal education, and says that such a state of affairs is simply unconscionable. Such deformation causes a threat to the credibility of democratic institutions and processes in India, to national development and overall to the unity and integrity of India. Human resource development in relation to legal education must signify a comprehensive plan to arrest these tendencies.

Therefore, the CDC believes that legal education should be designed in such away as to promote inherent humanity of the profession. As Gandhiji urged on October 6, 1920 in Young India, "the best legal talent must be available to the poorest at reasonable rates." Thus, the task of human resource development by legal education is to convert the practice of law from a disabling into enabling profession.

b) Multidisciplinary enrichment of Law Curriculum

The CDC considered various alternatives for fundamental transformation of the LL.B. curriculum. As the CDC felt that such a radical transformation is not possible at the national level, it considered a multidisciplinary enrichment of law curriculum. For example, the traditional classification of substantive and procedural subjects results in missing the understanding of close relation between the two.

In the same way, the traditional division between public and private law, civil and criminal law, mercantile and labor law results in specialization only in one area without knowing the other part, even though both branches are interrelated. For example, a teacher in corporate law may not have knowledge of labor law, as if capital and labour are two completely different and unrelated areas. Similarly, a contract law teacher may not have any idea of special contract and transfer of property.

Therefore, the CDC advocated the regrouping of existing and additional subjects and to integrate them.\(^{146}\) The purpose of such integration was to prescribe LL.B. curriculum, which is capable of offering a string of related core courses with specialized optional areas. This kind of integration was designed so as to enable the

\(^{146}\) For groupings of subjects see Report Of The Curriculum Development Centre 17 (UGC, New Delhi, 1988)
teachers and law students to grasp fully the interconnection of various law subjects and provide overall knowledge of law and its implementation.

Accordingly the CDC recommended twelve compulsory courses; one on practical training in law and seventeen optional courses. It felt that out of seventeen optional courses, the institutions offering legal education must offer core optional courses such as Environmental Law; Urbanization and the Law; Law, Science and Technology; Law and Rural Development; Consumer Justice; Law and Poverty.

As far as work load is concerned, the CDC recommended that Law Colleges should have minimum 24 lectures per week as against present 18 lectures.

Thus, in the semester pattern, in every semester instead of three, four subject would be offered. In case of yearly pattern instead of six, eight subjects would be required to be offered.

Further, the CDC proposed an Honors program to encourage fulltime students to more sustained effort at legal learning. For the Honors program, the CDC developed 26 separate optional courses. The proposed Honors program would be a fulltime three-year course. CDC recommended the UGC, to encourage all University departments presently offering only Master's program, to offer LL.B honors program. Further it recommended that the Law Colleges having good infrastructural facilities and full time teachers also may be considered for this Honors program. Student intake to Honors program would necessarily be small; 25 to 30 per annum. The CDC identified 11 Universities and recommended the UGC to assist in instituting the LL.B. Honors program.147

c) Pedagogic Modification

Pedagogic pathologies arise from diverse varieties of underdevelopment of legal education. More number of students enrolment results in poor staff student ratio. The low number of full-time teachers contributes to poor teaching. The lack of any organic nexus between teaching and examination is another contributory factor. The indifferent

147 Andhra University, Aligarh Mulism University, Banaras Hindu University, Delhi University, Jammu University, Jaipur University, Karnataka University, Kurukshetra University, Punjab University, Punjabi University, National Law School of India University.
motivation for legal studies on the part of law students discourages and may also serve as a disincentive for pedagogic innovation.

The CDC has observed that a number of conferences and reports have already addressed about the adoption of new teaching methods such as case method, problem method, but it does not recommend any ideal teaching method for legal education at undergraduate level. The CDC concentrates more on encouraging student’s presence and participation and sustenance of academic motivation on the part of both teacher and the taught. For more meaningful participation of students in the learning process, the CDC proposes an orientation program for law students at the beginning. The purpose of the orientation program is to familiarize the students to Law College and legal environment, as the students join Law College from different streams. The CDC felt that this kind of orientation program would also build a rapport between the teachers and the taught. It advocates that classroom instruction should be preceded by an orientation program aimed at making law students self-reliant and autonomous in the matter of searching of legal and other materials. For the purpose of legal material, the CDC developed classification on the following lines:

1. Statutory Materials
2. Case-law or Report
3. Periodical
4. Aids for searching of legal material — Digest, Indices, Manuals, etc.
5. Law books

The CDC proposes that the orientation program should consist of two parts; "the first five days should be utilized for familiarizing students with the legal materials and the next ten days for an action program when specific problems would be given to students to assess their performance." Further, the CDC recommended the use of instructional materials from mass media, audio-visual techniques of instructions and internal assessment. It recommended that 40% of marks should be assigned for internal

148 A detailed Scheme of Orientation was given in the Appendix of the Report Of The Curriculum Development Centre 48 - 51 (UGC, New Delhi, 1988).
work. It identified several ways in which internal assessment could be undertaken by the Law Colleges.\textsuperscript{149} Regarding practical training, it recommended the use of legal services programs, national social service schemes and moot courts to strengthen the same.

The Baxi Committee tried to improve the Law School syllabi with an inter-disciplinary approach to make them socially relevant. It also supported the Establishment of National Institute of Legal Education to provide teacher training and faculty improvement programs. It also suggested a joint effort by UGC and the BCI in offering faculty improvement programs and preparation of text books and case books. The Committee recommendations are ambitious in nature, substantive in content and have a rich vision for future.\textsuperscript{150} In spite of these efforts, no significant improvement in standards of Law Schools has been achieved. Lack of faculty expertise in new subjects, unavailability of textbooks and lack of flexibility in teaching and assessing in subjects like Poverty and Rural Development made these socially relevant subjects ineffective.

\section*{ii) Report of Special UGC Committee 2001}

In the mid 90's, the BCI revamped the LL.B. program with more academic inputs and practical courses. The BCI identified the papers essential for making a professional lawyer and made them part of the curriculum in Law Schools and Law Colleges that impart professional education. These changes were made mandatory to all Law Schools by circular dated 21st October 1997.

However, the BCI merely laid down only the number and title of papers to be offered and the details were left to be developed by the Universities. The BCI said: “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.

\textsuperscript{149} E.g. Midterm quiz, preparation on class assignments, participation in class discussions, case comments, book reviews, writing essays, library research on contemporary problems.
\textsuperscript{150} Report Of Curriculum Development Committee 1 (UGC, New Delhi, 2000).
These developments necessitated the law panel to request the UGC to convene workshops for the purpose of updating legal curriculum. In response to the request, the UGC initiated several workshops in different parts of the country in the late nineties with a view to updating the CDC syllabi. Deans of faculties of law and Chairmen of Boards of Studies participated in these workshops. The Bangalore (1996) and Gorakhpur (1997) workshops focused on LL.M. syllabi, while the Jammu (1997) seminar was focused on both LL.M. and LL.B. The Cochin and Kurukshetra meetings (1998) discussed LL.B. (Hons.) program as one to be introduced in select Universities. Finally, the responsibility fell on the Special UGC Committee (herein after Committee), constituted by the UGC in the year 2000, to take up the venture with a view to shedding more light on the frontier areas of law. The committee also completed the updating work already started by the law panel and submitted its report in 2001.151

The Committee report observed that "everything that is printed becomes out of date." This being true, there is no wonder that many a programs of legal education become outdated by the time they are introduced after long gestation period. This makes the constant revision and updating, essential.152

The recommendations made by the Committee were compiled by panels of experts drawn from across the country. The Committee attempted to combine the practical requirements of teaching with providing knowledge. As knowledge is interdisciplinary, the Committee considered this aspect and developed flexible and interactive models for the Universities to extend them further as they would like.153

The major contribution of this Committee is the development of a detailed syllabus for all the subjects suggested by the BCI. The Committee report provides objectives of the course which identifies the purpose of every subject given in the beginning, followed by the detailed syllabus divided into units. At the end of the contents of the syllabus, select bibliography has been given for the study materials.
The Committee made serious efforts to develop the LL.B Honors program conceived by the Baxi Committee. The panel, taking into consideration the commendations of the Cochin and Kurushethra seminars, revised and finalized the LL.B. Honors program. The Committee submitted the proposal to UGC to consider a special program for improving the standards of professional education. The BCI agreed for the Honors program, and the report said that the Honors program may be offered only in select Law Schools and Law Colleges supported by UGC. The Committee identified 24 subjects for the Honors program and the detailed syllabus was dealt in Chapter- IV of its report.

The rationale behind the Honors program can be traced to the zonal meetings of Deans of faculties of Law and Chairpersons of Boards of Studies where the said program was strongly recommended. They observed that, besides being an instrument of revamping legal education; the LL.B (Honors) courses can be viewed as part of a long term policy for maintaining higher standards in the field of legal education in India.

Further, the program could perhaps eliminate mediocrity and is a viable alternative with better student involvement, better facilities and better pedagogy and learning. The active involvement of UGC could substantially reduce the difficulty of dual control by BCI and UGC. UGC with its statutory responsibility of maintaining standards of higher education, its financial assistance would solve the perennial problem of financial requirements for implementation of innovative curricula.

Another aspect is that the major part of curriculum reforms on courses involving social issues may usually fail to attract the financial assistance from private agencies. Therefore the socially relevant educational strategies may be defeated unless they get attention and support from the UGC, government and professional agencies. In this regard the Law Schools and colleges competent to offer the courses shall be identified for the support. Unlike the CDC report, the Committee opined that, the UGC will have to select the Law Schools on certain substantive criteria.\(^{154}\)

\(^{154}\) UGC Model Curriculum, LAW, 13-14 (UGC, New Delhi 2001)
The Committee suggested that while identifying the Law Colleges and University Departments/Schools of Law for UGC assistance to LL.B Honors program, the UGC may take the following things into consideration.

1. Faculty position
2. Diversity of specialization
   a. Faculty
   b. Optional courses
3. Courses offered
   a. Annual
   b. Semester
4. Research projects
5. Teacher student ratio
6. Library facilities
7. Pedagogic method
8. Doctoral degrees awarded
9. Potential for doctoral programs
10. Extension and Legal Aid Programs
11. Publication of Law Journal
12. Student participation in editing law journals
13. Publication of books, articles, reviews and notes
   a. by teachers
   b. by students
14. Alumni Placement

The Committee while dealing with the modalities of holding the Honors Course also suggested that these matters may form part of the Regulation framed by the Universities proposing to start the LL.B. Honors program.155

I. There shall be semesterization of all courses and papers offered for LL.B Honors.

II. The relation between external valuation and internal assessment shall be 60:40.

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155 UGC Model Curriculum, LAW, 13-14 (UGC, New Delhi 2001) at.14-15
III. The students have to be asked to opt for at least six courses out of which either,

1. Implementation of Human Rights, or
2. Public Health Law shall be a seminar course.

The individual Law School is free to offer a seminar course on an emerging area other than the two seminar courses given in the syllabi.

IV. The six courses are to be offered as courses in addition to the minimum number of papers to be studied as per the Bar Council of India Regulations in their circular dated 21.11.1997.

V. The maximum number of student enrolment shall be 30

VI. New pedagogic strategies including problem-cum-case and seminar methods and audio visual techniques including use of internet facilities are to be followed.

VII. There should be constant performance auditing by the UGC, of the institutions helped to start LL.B. Honors program.

VIII. The LL.B. Honors courses should emphasize on self-learning process by the students.

IX. There should be student evaluation of the program

X. Admission should be on the basis of entrance test, preferably at national level.

XI. There should be transparent continuous assessment

XII. There should be a Grievance Committee to look into the problems of Internationalization. The Chairman of UGC in his forward requested the Universities and the Institutions offering legal education to update the curriculum latest by July, 2002 and asked the Universities to confirm that the curriculum was updated latest by July 31.\textsuperscript{156}

The efforts of UGC unlike BCI, concentrate on developing curriculum and working conditions of the teachers and their qualifications. Particularly, the first CDC report by Prof. Baxi advocated for socially relevant legal education and spent considerable time on improving legal pedagogy. The second CDC laid more emphasis on making model curriculum and incorporating legal pedagogy in post graduate course in law. Many Law Colleges have been benefited by such a model curriculum, and the

advantage with the second CDC report is that it contains the objectives of the subject and the books for reference. Due these special efforts, the colleges were encouraged to adopt the transition smoothly.

3.4.3 Efforts of Law Commission of India

Law reforms dates back to over 300 years in India.\textsuperscript{157} In pre-colonial period the process of reform had been ad-hoc and not institutionalized like now. Concept of institutionalizing law reform agency could be traced to colonial period. First attempt to institutionalize the law reform, took place when the first Law Commission was established in 1834 under the Charter Act of 1833 under the Chairmanship of Lord Macaulay.\textsuperscript{158}

The first Commission recommended codification of the Penal Code, the Criminal Procedure Code and a few other matters. Thereafter, the second, third and fourth Law Commissions were constituted in 1853, 1861 and 1879 respectively. During the span of fifty years, the Law Commissions contributed immensely, not only codifying law but also a large variety of legislations on the pattern of the then prevailing English Laws adapted to Indian conditions.\textsuperscript{159}

Post-colonial period dominated by the ideology of Constitution of India with its Fundamental Rights and Directive Principles of State Policy, gave a new direction to law reform. The Constitution of India stipulated the continuation of pre-Constitution Laws.\textsuperscript{160}

Several demands were made in the Parliament and outside for establishing a Central Law Commission for the purpose of recommending and updating the colonial laws to meet the changing needs of the country. Finally, the Government of India established the First Law Commission of free India in 1955 with the then Attorney-General of India, Mr. M. C. Setalvad, as its Chairman. Since then eighteen more Law

\textsuperscript{157} Available http://www.lawcommissionofIndia.nic.in/main.htm#Early_Beginnings: (last visited 18.6. 14)
\textsuperscript{158} Ibid
\textsuperscript{159} The Indian Code of Civil Procedure, the Indian Contract Act, the Indian Evidence Act, and the Transfers of Property Act were the products of the first four Law Commissions.
\textsuperscript{160} See Art.372.
Commissions have been appointed, each with a three-year term and with different terms of reference.\footnote{161}{Report of CDC Report Of Curriculum Development Committee 1 (UGC, New Delhi, 2000). P 150.}

Since its inception in free India, the Law Commissions played a significant role in reforming legal system in India. “The Reports of the Law Commission are considered by the Ministry of Law in consultation with the concerned administrative Ministries and are submitted to Parliament from time to time they are cited in Courts, in academic and public discourses and are acted upon by concerned Government Departments depending on the Government's recommendations. The Law Commission of India has forwarded 201 Reports so far on different subjects.\footnote{162}{Id. at P 150.}

Law Commission of India not only confined its activity of recommending reforms in legal system but also to a considerable extent it recommended restructuring of legal education in India. In these endeavor, two reports of the Commission namely 14\textsuperscript{th} Report of the Law Commission of India in 1958 and the 184\textsuperscript{th} Report of the Law Commission of India in 2002, are worth mentioning.

i) 14\textsuperscript{th} Report of the Law Commission of India

14\textsuperscript{th} Report of the Law Commission of India in 1958 observed that law courses emphasized practice and case law over the science and principles of law and that the absence of scientific study of law and a lack of research publications undermined the importance of the study of law as a branch of learning. Thus part time institutions have been regarded as sufficient for this purpose.\footnote{163}{Report Of 14\textsuperscript{th} Law Commission Of India, 2002 at 520 – 521}

Most of the students who attend these institutions were employed elsewhere and the teachers were generally the practicing advocates. Hence, part time institutions were well suited for both, the teachers and the taught.

The Commission did recognize the importance of professional training and for a balance of both academic and vocational training. The Commission observed that the absence of juristic thought and publications were the result of defective system of legal
education. The Commission minced no words in exposing the deteriorating standards in the legal education in the follow in paragraph:

"There are already a plethora of LL.B's Half-baked lawyers, who do not know even the elements of law and who are let loose upon society as drones and parasites in different parts of the country. As a member of the Union Public Service Commission, I have had occasions to interview several first class graduates of law from different Universities. Several of them did not know what subjects were prescribed either in the first or second LL.B; did not know the names of the books prescribed. This is a shocking thing this is what may truly be described as mass production of law graduates.164

The Commission argued that taking into the consideration of changes that had occurred and are occurring in the political, economic and social life in the society, and the emergence of India as a sovereign democratic nation, legal education requires radical alteration in its objectives, scope and the technique.

Accordingly, it recommended that University training be followed by a professional course concentrating on practical knowledge, but it suggested that the professional course be made compulsory only for those who chose to practice law in the courts.

The Commission after comparing two different approaches of training law students to practice, prevailing in USA and England suggested that in India, law students should achieve mastery in legal theory and legal principles in liberal education in the University and then the students may have a choice of choosing academic or a professional career. Students who choose to enter the profession of practicing before law courts should undergo practical course in law and such practical courses should be impacted by bodies of professional people like Bar Councils.165

Regarding the qualification to enroll in LL.B. course, the Committee felt that admission to LL.B. course should be restricted to persons who have obtained a University degree in arts, science, commerce or other courses. As far as duration of the

164 Report Of 14th Law Commission Of India, 2002 at 523.
165 Id at 526.
course is concerned, even though several committees and commissions suggested three years course, the law commission recommends two years. It justified the two years program on the basis that those who recommended three-year course of legal education seem to proceed on the basis that legal education will be continued to be impacted by part time institutions. But the Commission suggested that legal education must be imparted only by properly equipped institutions that had the resources of offering the same fulltime. Further, the procedural subjects, taxation and local laws and other cognate subjects would not be part of the University curriculum and entirely left to the students who intended to take a professional career and these course should be offered by the professional persons.  

More generally, the Commission's 1958 Report concentrated on institutionalizing and improving the overall standards of legal education. In that regard, the Report also discussed teaching methods and suggested that seminars, discussions, mock trials, and simulation exercises should be introduced in addition to lectures. The Commission also pointed out the Indian University Commission, 1902 observation that, "the greatest evil from which the system of University education in India suffers is that teaching is subordinated to Examination and not Examination to teaching."  

It is necessary to establish a Council of Legal Education to monitor legal education. There is a need for unified Bar at the national level, and the All India Bar Council should be empowered to ascertain whether Law Colleges maintain the requisite minimum standards.

**ii) 184th Report of Law Commission of India**

The Law Commission of India, in its 184th report, felt that legal education is fundamental to the very foundation of the judicial system and took up reformation of legal education, *suo moto*.  

The Commission followed up on a number of recommendations of the Ahmadi Report, including its recommendation that the Law Schools should supplement the

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166 Report Of 14th Law Commission Of India, 2002 at 531.
167 Id at 535
168 The Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956
lecture and case method with the problem method, moot courts, mock trials and other modern teaching methods. It also took note of the Rules of the Bar Council of India that direct Law Schools to include practical training, including 4 mandatory practical papers.

The Report also noted the need to train new lawyers in the skills of analysis, language, drafting, and argument and suggested that various studies on training lawyers, including the MacCrate Report\textsuperscript{169} of the American Bar Association, could be consulted. With respect to the problem method of teaching, the Commission found that it is considered more important than either the lecture or case method, and in this regard the Report states that "the Commission considers that Clinical Legal Education may be made a mandatory subject." Drawing on the new Section 89 of the Code of Civil Procedure, which requires that every civil suit go through the ADR process (giving the parties the option to choose among various processes such as arbitration, mediation, conciliation, and settlement through Lok Adalats), the Report noted that the subject of ADR is not familiar to most lawyers. It therefore expressed the view that ADR procedures must become a compulsory subject in all Law Schools and noted as well that "there is urgent need for training lawyers, who are already practicing in the courts, in these ADR procedures."\textsuperscript{170} "To this end, the Report included a separate Chapter on Alternative Dispute Resolution training for both, law students and lawyers. Finally, consistent with the opinion expressed by the Ahmadi Committee and by others, the Law Commission Report suggests the reintroducing of a compulsory Training Program for law graduates and a Bar examination. Key recommendations in the Report therefore include:

i. UGC and BCI to introduce a system of accreditation of Law Colleges. Section 7 (1) (h) should be amended to enable Bar Council of India to promote excellence in legal education for the purpose of accreditation system.\textsuperscript{171}

ii. Reintroduce appointment of adjunct teachers from lawyers and retired Judges on part-time basis.

\textsuperscript{169} For details of MacCrate Report see http://www. MacCrate Report.nicin/main.htm#EarlyBeginnings


\textsuperscript{171} This requires an amendment to Section 7 (1) (h) of Advocates Act, 1961.
iii. It is necessary to impart professional training to the law teachers apart from the existing refresher course conducted by the UGC. Accordingly, the Commission has suggested the establishment of at least four colleges by the UGC or by the Central Government in consultation with BCI, in the four corners of the country.

iv. ADR training must be introduced for law student and lawyers as follows:
   a. for students, ADR system to be made compulsory subject in LL.B. course; and
   b. for lawyers, short-term training, certificate, diploma courses on ADR to be introduced on a massive scale all over the country, for the purpose of section 89 of the Civil Procedure Code.172

V. Training for one-year (Apprenticeship) in the Chamber of a lawyer with at least ten years standing and Bar Examination to be introduced for a law graduate before he enters the legal profession, by amendment of the Act. Power to do so to be vested only in Bar Council of India. Sections 7, 24 and 49 to be amended.

VI. The Bar Council of India must consult a body which effectively represents all the Universities and that such a body should be constituted by the University Grants Commission.173

VII. Membership of Legal Education Committee of the Bar Council of India must represent different classes of person. The Committee shall comprise of 5 members from the Bar Council of India, one retired Judge of the Supreme Court of India, one retired Chief Justice/Judge of a High Court, both to be nominated by the Chief Justice of India and three academicians in law to be nominated by the University Grants Commission and these three should be members of the proposed UGC Committee on Legal Education and all three of them must be in office and one of them must be Director/Vice-Chancellor of a statutory Law

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172 For detailed discussion on ADR See: Para 6.5 and 6.6 of the Report.
173 This requires an amendment to the Advocates Act, 1961 and the University Grants Commission Act, 1956.
University. The retired Judge of the Supreme Court shall be the Chairman of the Committee.174

VIII. The U.G.C. Committee on Legal Education to be constituted by the U.G.C. The Committee to consist of ten members, of whom:
(a) six shall be academicians of the level of Professors, Deans or Principals or of equal rank,
(b) two shall be law teachers of similar ranks who have retired and
(c) two shall be Directors/Vice-Chancellors of statutory Law Universities.175

IX. Standards of legal education shall be laid down by the Bar Council of India in accordance with the recommendations made by the Legal Education Committee of the Bar Council of India after consultation with the State Bar Councils and the Legal Education Committee of the UGC.176

X. The Bar Council of India can lay down minimum standards necessary for Courses for students who will come into legal profession but not in respect of other law courses which do not lead to a professional career. UGC can prescribe higher standards.

XI. Enable the Bar Council of India to lay down procedure and conditions for appointment of adjunct teachers who are to be appointed from among members of the Bar and the retired Judges. This has to be done in consultation with the State Bar Councils and the Legal Education Committee of the Bar Council of India and the Legal Education Committee of the UGC.177

XII. It is recommended that the 'problem method' be introduced in the examination system to an extent of about 75% in each paper, apart from 25% for theory. The students should obtain a separate minimum number of marks for the theory and a separate minimum in the problem part of the examination. This will enable the students to apply their mind seriously to every subject. This will also eliminate malpractices like

174 This requires an amendment to Section (b) of sub section (2) of sec. 10 of Advocate Act, 1961.
175 For constitution of UGC Legal Education Committee, section 5A to be inserted in the UGC Act, 1956.
176 Standards, means various matters referring to curricula etc., as detailed in para 5.24 of the Report
177 This requires an amendment to clause (h) in sec. 7(1) of Advocates Act, 1961.
copying or seeking help of invigilators. Attendance to classes is also bound to improve.  

XIII. It is also recommended that the Clinical Legal Education may be made compulsory in legal education.

XIV. The Central Government should start at least four colleges in the country for providing professional training to law teachers in consultation with the Bar Council of India and the University Grants Commission.

3.4.4 Justice A.M. Ahmadi Committee

The next important step in the evolution of Clinical Legal Education, and a critical step with respect to the mission of teaching skills and values, began at the Conference of Chief Justice of India in 1993, which resolved that the Chief Justice constitute a committee to suggest appropriate steps that should be taken so as to assure that law graduates acquire sufficient experience before they become entitled to practice in the courts. Accordingly, the Chief Justice of India constituted a Committee with Justice A.M. Ahmadi as its Chairman.

The Committee consulted widely about improving the quality of legal education, including a survey involving the Chief Justices of each High Court and discussions with the Bar Council of India. It found that most of the respondents expressed the view that the general standard of Law Colleges in this Committee is known as Committee on Reforms in Legal Education and Regarding Entry into Legal Profession. Justice M. Jagannatha Rao, Chief Justice of Kerala, and Justice BN Kripal, Chief Justice of Gujarat High Court were the other two members of the Committee. The country was deteriorating and that the syllabus should be revised to include practical subjects so that the students could get professional training. The Committee offered suggestions covering two aspects; first at the level of the Law College and second at the stage of entrance into legal profession.

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178 This requires an amendment to clause (h) in sec. 7(1) of Advocates Act, 1961, para 9.21
179 Id para 9.15
At the level of Law Colleges, the Committee suggested that the student’s be admitted only by entrance examination and only students with high percentage should be selected for the admission into Law Colleges. Permission for establishing new Law Colleges could be given only after proper assessment of teaching faculty and other facilities. Committee also stressed the need for training the students in drafting and pleadings and proper assessment of answer scripts of the students in the examinations.

It suggested that, for the purpose of grant of recognition to Law Colleges, a committee may be formed. It must consist of a member nominated by the BCI, and member nominated by Chief Justice of India who shall be a renowned person in the field of legal education. The committee should co-opt other members.

It also recommended that the procedural and practical subjects must be made compulsory and be taught by experienced lawyers. The Committee also suggested making Professional Ethics a compulsory subject, with a minimum of 50% marks. It highlighted that the Bar Council directive for the 5-year course that says "Every University shall endeavor to supplement the lecture method with the case method, tutorials and other modern techniques of imparting legal education" (Schedule I, point 10) must be made compulsory for all courses. The Committee recommended that the participation in moot courts, mock trials, and debates be compulsory, with marks; develop practical training in drafting pleadings and contracts in the last year of the study; make student visits a various levels to the courts compulsory.\(^{181}\)

Regarding the second aspect relating to the entry into the legal profession, the Committee recommended the following:

- Every law graduate to be trained in an apprenticeship of at least 12 to 18 months with a senior lawyer with at least 10 to 15 years standing at a District Court or High Court, after which he/she must appear for a entry examination (Bar Exam).

\(^{181}\) Report of Committee on Reforms in Legal Education and Regarding Entry into Legal Profession, in Legal Education In India In 21st Century: Problems And Perspectives, p. 6. (Koul A.K. ed., All India Law Teachers Congress, Delhi University, Delhi, 1999)
• Students must maintain a diary and attend 3 months in lower civil Court and 3
months in a Magistrates Court, and at least 6 months in a District Court or High
Court.
• This examination should be conducted under the supervision of a Supreme
Court Judge or Chief Justice of any High Court. The State Bar Councils should
arrange lectures on legal profession.
• Marks of the qualifying exam must be at least 60% in order to receive a license
from the State Bar Councils. Further, the Committee suggested the
establishment of premier Law Schools along the lines of National Law School
of India University, Bangalore, to improve legal education. As a result, several
National Law Schools were established all over India. Considering these
recommendations, the BCI introduced a one-year mandatory training while it
discarded the suggestion of entrance examination.

However, the BCI received a setback when this rule was challenged in the
Supreme Court. In V. Sudheer v. Bar Council of India, the Supreme Court struck
down the rule as ultra vires to the Advocates Act and held that the Bar Council of India
is not competent to pass such a rule. Such a rule can be introduced only by the
legislature. Unfortunately, no effort has been made by the Government of India to
implement these recommendations.

3.4.5 Report of National Knowledge Commission

The National Knowledge Commission (herein after NKC) was constituted on 13th
June 2005. It was constituted as advisory body to the Prime Minister of India on
education. The NKC was established to make an intensive study on the following:

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182 Report of Committee on Reforms in Legal Education and Regarding Entry into Legal Profession, in
Legal Education In India In 21st Century: Problems And Perspectives, p. 39. (Koul A.K. ed., All India
Law Teachers Congress, Delhi University, Delhi, 1999
183 The West Bengal National University of Juridical Science, Calcutta; NALSAR University of Law,
Hyderabad; National Law Institute University, Bhopal; National Law University, Jodhpur; Hidayatulla
National Law University, Raipur.
185 1999 (3) SCC 176
186 National Knowledge Commission, Compilation Of /Recommendations On Education, 5 Available
1. To build excellence in the educational system to meet the knowledge challenges of the 21st century and increase India's competitive advantage in fields of knowledge.

2. To promote creation of knowledge in Science & Technology laboratories.

3. To improve the management of institutions engaged in Intellectual Property Rights.

4. To promote knowledge applications in Agriculture and Industry.

5. To promote the use of knowledge capabilities in making government an effective, transparent and accountable service provider to the citizen and promote widespread sharing of knowledge to maximize public benefit. NKC submitted its Report on 6th November 2007. Among other recommendations, it stressed the need to build a national knowledge network to connect all Universities, libraries, laboratories, hospitals and agricultural institutions to share data and resources across the country. It estimated that, to achieve this target they need to connect around 5,000 nodes which cover all major institutions in India. Considering the existing infrastructure, it proposed to do this gigantic task in a phased manner.

Recognizing the role of education as a foundation of success in developing countries, the NKC says that few institutes of excellence in professional education though necessary, are not substitutes for providing excellence in education to people at large. Accepting that higher education had made "significant contribution to economic development, social progress and political democracy in independent India" the NKC suggested not only increasing the number of institutions of higher education but focus on improving the quality of education.

The NKC felt that the existing multi-regulatory agencies resulted in confusion and created cumbersome procedure. As these agencies not being properly governed, they over regulate the development and quality of higher education. Therefore, it proposed to establish an Independent Regulatory Authority for Higher Education (IRAHE). According to the NKC, the IRAHE would be the sole agency that would authorize to confer powers on higher educational institutions. Further, the IRAHE would be solely responsible to set and monitor educational standards. To improve the
standards in higher education, the NKC also advocated for establishing 50 National Universities as centers of higher learning and research. It also suggested the bringing of sweeping reforms in examination system by introducing continuous internal assessment and recommended to convert the present system to credit system.

The other area on which considerable stress was laid by the NKC was the Faculty. It stressed the need to make a conscious effort to attract talented faculty and made several suggestion such as providing office space, research support, housing, incentives and rewards for performance. Further, it also addressed the problem of Universities not choosing the best faculty because of “native-son/daughter policies” which results in lowering quality and foster parochialization in Universities, the NKC suggested to encourage crosspollination between Universities. It also recommended evaluation of courses and teachers by students and peer evaluation.

Recognizing that research is essential in the pursuit of academic excellence, NKC proposed to make Universities the hub of quality research. To improve research activities in the educational institutes, the NKC emphasized on need to change in resource-allocation, reward-systems and mindsets. It advocated for substantial grants to be allocated for research. Though these recommendations are general for higher education, they are crosscutting in nature and applicable to any education including legal education.

The NKC also made special recommendation to improve legal education in India. It says "the vision of legal education is to provide justice-orient education essential to the realization of values enshrined in the Constitution of India." To fulfill this vision the legal education needs to aim at preparing legal. Professionals to play different roles such as advocates practicing in courts, academics, legislators, judges, policy makers, public officials, civil society activists as well as legal counsel in the private sector, maintaining the highest standards of professional ethics and a spirit of public service.

187 The NKC suggested that It may be worth introducing a ceiling, say one-half or even one third, on the proportion of faculty members than can be hired from within the University.
Therefore, the challenge for the legal education is to prepare these professionals and equip them to meet the new challenges and dimensions of globalization. The NKC also laid emphasis on the need for original and path breaking legal research to meet these needs of the country and to fulfill the ideals and goals of Indian Constitution. To make concrete recommendations for improving legal education the NKC constituted a Working Group of experts. Based on the recommendations of the Working Group and further consultations with stakeholders, NKC has proposed ten key recommendations given below:

1. Regulatory Reform: A New Standing Committee for Legal Education
2. Prioritize Quality and develop a Rating System
3. Curriculum Development
4. Examination System
5. Measures to attract and retain talented faculty
6. Developing a Research Tradition in Law Schools and Universities
7. Centers for Advanced Legal Studies and Research (CALSAR)
8. Financing of legal education
9. Dimensions of Internationalization
10. Technology for dissemination of Legal Knowledge

1. Regulatory Reform: A New Standing Committee for Legal Education

The NKC recommended, creating Standing Committee for Legal Education (herein after the Committee) realizing the fact that several regulatory agencies controlling legal education are hampering its development. It suggested that the Committee shall be given complete powers to deal with all aspects of legal education. All the institutions imparting legal education and both Central and State Governments shall be bound by the decisions of the Committee.

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188 Working Group of experts, including distinguished members of the Bar, the bench and academia under the Chairmanship of Justice M. Jagannadha Rao. Other members of the working group are Justice Leila Seth, Prof. N. R. Madhava Menon, Mr. P.P. Rao, Prof. B.S. Chimni, Mr. Nishith Desai, Dr. Mohan Gopal.

189 This was suggested by the Work Group as there is no effective consultation between BCI and the faculty. This fact is evident as in the Legal Education Committee of the BCI constituted under Section 10 (2) (b) of the Act, there are 10 members out of whom five are lawyers- Bar Councilors, a retired Judge of the Supreme Court, a High Court Judge, the Law Secretary and the Secretary, University Grant Commission and there is only one faculty member. See Annexure II, National Knowledge Commission.
Reconsideration. A typical Law College has four masters at a minimum; the University to which it is affiliated; the State Government; the University Grants Commission; and the Bar Council of India.\textsuperscript{190} These four agencies have varying mandates, interests and constituencies and do not provide coherent guidance for the improvement of legal education in the country” See 'First National Consultation Conference of Heads of Legal Education Institutions' held on 12.8.2002, serve the needs of trade, commerce and industry. The Committee also opined that looking at the challenges ahead and the efforts of the BCI, the BCI had neither power nor the expertise to make legal education globally and domestically viable.\textsuperscript{191} However BCI would continue to prescribe minimum standards required for practice in the courts.

2. Prioritize Quality and develop a Rating System to improve legal education the NKC suggested, introducing an independent rating system base on a set of agreed criteria to assess the standard of all institutions teaching law. This is necessary in order to have consistent academic quality throughout the country. The criteria need to be developed by the Committee and the rating would be done by some other independent agency. Recognition of educational institutions would be based on the ratings given by the independent agencies.

3. Curriculum Development the NKC made it clear that the curriculum should be made contemporary, and needs to be integrated with other disciplines. Considerable autonomy shall be given to the Colleges to decide the core and optional courses to be offered. The curriculum may be developed by a Committee which includes faculty and

4. The type that prepares law graduates to deal with legal, regulatory and ethical issues in active sectors of domestic and international business and industry, and

\textsuperscript{190} Members of Standing Committee are as follows: One will be a retired judge of the Supreme Court and preferably the retired judge of the Supreme Court who is the Chairman of the Legal Education Committee of the Bar Council of India; Seven members from the legal profession of which the Bar Council of India will nominate five and two will be nominated by the IRAHE; Seven from the faculty; One from the government; Two to be nominated from the industry, trade and commerce; One from civil society; Two from other professions; One from management or other institutions having a legal component; One parliamentarian; and Two students of the final year, one representing the NLSUs and the other representing the other Law Schools (Non-voting representation).

\textsuperscript{191} The Work Group identified six types of personal pursuing legal education for different purposes. They are 1. those who practice law, 2. the type which prepares them to become researchers and teachers, 3. the type which deals exclusively with academic subjects of substantive law, 4. the type which deals with public legal education or para-legal education,
5. The type which professionals in engineering, medicine, management and social work may require. It will be noticed that the Bar Council's role is confined to the first category only Practitioners. The Curriculum Committee may develop model syllabus for all core and optional course after seeking student feedback. Law Colleges are free to use such a syllabus or may depart from the model syllabus. The curriculum also need to offer deeper understanding of professional ethics to the students and concentrate on modernizing Clinical courses, mainstreaming Legal Aid Programs and developing innovative pedagogic methods. Legal education must focus on sensitizing students on issues of social justice. The NKC also suggested that teaching should be interlinked with contemporary issues including international and comparative law perspectives.

6. Examination System New evaluation methods to be developed to test critical reasoning The end semester examination need to be problem-oriented and it should combine theoretical and problem oriented approaches. The overall evaluation shall consist a combination of project papers, project and subject viva, along with a need-semester examination for improving the quality of legal education.

7. Measures to attract and retain Talented Faculty the NKC suggested better incentives, improving remuneration and service Conditions to attract and retain talented faculty. These measures are required as the problem of inadequate remuneration is far more acute in legal education than in other disciplines. To improve the quality there is a need to offer better incentives. Therefore, the faculty may be allowed to practice in courts and offer consultancy. The faculty also should be given an opportunity to involve in shaping of national legal education policy. The NKC further suggested other incentives such as fully paid sabbaticals, adequate House Rent Allowance (HRA), instituting awards to honor reputed teachers and researchers at national and institutional levels, flexibility to appoint law teacher without having an LL.M degree, who has proven academic or professional credentials; faculty exchange programs, and upgrading existing infrastructure.
8. Developing a Research Tradition in Law Schools and Universities. The NKC emphasized on developing research culture to inculcate such a culture, Law Colleges need excellent infrastructure like research friendly library facilities, computerization with interment, availability of e-library, access to latest journals and legal databases. To promote legal research, minimizing the teaching load to faculty members provide sufficient time for research, and granting sabbatical leave to faculty to undertake research are necessary. Further, the NKC also suggested offering several incentives to faculty involved in research.

9. Centers for Advanced Legal Studies and Research, the NKC suggested setting up of four autonomous Centers for Advanced Legal Studies and Research (CALSAR), one in each region. These Centers would serve as think tank for advising the Government on national and international issues. These Centers would also act as linkages between all Law Colleges and offer continuing legal education for the faculty. It is further suggested that each of CALSAR should be provided with an initial investment of around Rs. 50 crore to build an academic complex, conferencing facilities, world-class library and other infrastructure. "These institutes would also need to be provided with an annual budget to the tune of Rs. 5 crore for salaries, fellowships, administrative expenses and related expenses. The initial investment and the annual budgets should be borne by the Central and respective State governments (that would host the CALSAR), but the CALSARs should gradually aim at financial self-sustenance, through innovative financial methods."

10. Financing of Legal Education the NKC recognized the importance of finance in legal education. It suggested that the Law Colleges shall decide the fee to be charged from students, but as a norm the fee charged by the college should meet at least 20 percent of its total expenditure. But this suggestion comes with two conditions: first, students who cannot afford should be offered a fee waiver and scholarships; second, the UGC should not deduct proportionately in grant in aids to the colleges collecting higher fees. The center and states are requested to endow chairs on specialized branches of law. In additions to above roles, CALSARs would facilitate publishing a peer reviewed journal of international
quality; facilitating multidisciplinary approaches to law; institutionalizing arrangements for scholars in residence; organizing workshops and undertaking in-depth research on new and developing areas of law. It also suggested exploring the possibility of public private partnerships. The policy of tax holidays for donations by the corporate sector could also be considered. To give financial strength, the Law Colleges should be given the autonomy to develop their own methods of financing.

11. Dimensions of Internationalization. To meet the challenges of globalized legal education, the NKC highlighted the need to build international collaborations and partnerships with foreign Universities. It also suggested that the feasibility of awarding joint or dual degrees and developing transnational curricula that could be taught jointly by a global faculty either through video conferencing or any other methods may be explored. Law Colleges are also required to create international faculty, international courses and international exchange opportunities among students.

12. Technology for Dissemination of Legal Knowledge In the era of information, the dissemination of legal knowledge is necessary to improve legal education. Recognizing this fact, the NKC advocated for digitalization and networking between institutions like Indian Law Institute, Supreme Court Library, and Indian Society for International Law and all Law Schools, Universities and public institutions in the country. In addition to the networking, there is a need to develop adequate e-infrastructure, legal databases, law journals and excellent libraries in the Law Colleges.

The study of State efforts in improving legal education reveals that many Commissions and Committees have made several recommendations on improving the legal education. Out of these recommendations, those given by NKC are comprehensive, with reasonable emphasis on developing legal pedagogy and transforming legal education into social justice education.

From the above discussion it can be concluded that the purpose of legal education in general is to make men more sober, more refined and more useful to the society and the country in which he lives. The purpose of legal education in ancient
times was to make the people more aware about the norms of the society from which they were regulated to make their lives peaceful and prospers. In the present scenario also the purpose and object of legal education is more or less same but the methods for its implementation is different.