

## Chapter IV: Legal Education

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# Chapter IV

## LEGAL EDUCATION

### 1. LEGAL EDUCATION IN INDIA: AN OVERVIEW

Legal education occupies a key place in a country like India where there is rule of law. It equips students with necessary skills and capabilities to understand the complex process of enactment, enforcement and interpretation of law with a view to secure equitable justice to all citizens irrespective of their caste, creed, religion or sex. A social consciousness of the significance of law to the people is an attribute of a ripening civilization.<sup>264</sup> As the content and quality of legal education have a direct bearing on the legal profession, a sound and pragmatic legal education policy is a *sine qua non* for prestige and performance of the legal profession. The concern to make legal education more modern and contemporary and to make it socially relevant and humanistic for the teacher and the taught has always guided the discourse on law teaching and research in India.<sup>265</sup>

Legal education in India had its roots in English History. This heritage has had a profound effect on the development of legal education, on the evolution of legal institutions, and on the outlook on law in India.<sup>266</sup> No Indian institution, excepting perhaps the field of literature, bears so close a tie to corresponding English institution, as does the law. The structure of Indian law is erected on the foundations of the English

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<sup>264</sup> Brown, *Lawyers And The Promotion of Justice*, 11 (1938).

<sup>265</sup> 2<sup>nd</sup> UGC workshop on *Legal Education in India* (1980).

<sup>266</sup> *Ibid.*

common law.<sup>267</sup> At present, legal education is governed by two national bodies: the Bar Council of India (BCI) and the University Grants Commission (UGC).

## 2. LEGAL EDUCATION SYSTEM IN INDIA

**Pre-Independence Period:** A journey over the history of legal education in India is a journey over ridge and furrow. For the most part, the value of the systematic study of fundamental principles was recognized.<sup>268</sup>

In 1868, in the province of Punjab, the law classes were started by the *Anjuman-I-Punjab*, which was taken over by the Punjab University in 1870. The duration of the course was 2-years and education was given in two separate classes, one in English and the other in Urdu. Neither any test for admission nor any examination was held, as the college certificate possessed no value for the purpose of admission to the Bar. The Punjab Chief Court held its own examination for pleadership and admission to the Bar. In 1873 rules were framed by the Senate of Punjab University requiring the passing of entrance examination as a condition precedent for admission to the law classes. The following year the Chief Court assigned the task of holding the pleadership examination to the Punjab University College. The course of study, as before, extended to 2- years. Success in the first examination classified the candidate for *mukhtarship* and success in the second examination qualified him for pleadership of the subordinate courts. Pleader of 5-years standing was admitted to the Bar of the Chief Court. From 1885 to 1906 the course of instruction extended to three years. In 1887 passing of the intermediate examination was made requisite for admission to the law classes and graduate examination for admission to the licentiate in law examination. The attendance requirement was also laid down. The candidates were, however, permitted to pursue law and arts studies simultaneously.<sup>269</sup>

It was in 1874 that the foundation for legal education was laid in the former state of Travancore. Vernacular classes in law were held to train the applicants for the posts in the police department. In 1875, a law school was started and judge of the *Sadar*

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<sup>267</sup> Albert J. Hanro, *Legal Education in the United States*, 154-158 (Bankcraft/Whitney Co. 1952).

<sup>268</sup> Harold Greville Hanbury, *The Vinerian Chair and Legal Education*, (Oxford Basil Blackwell, 1958).

court was appointed as professor of law in the law school.

The development of legal education in the 18<sup>th</sup> century in Bengal significantly affected and characterised the growth and development of the system in other parts of the country.<sup>270</sup> Ever since the establishment of the Supreme Court in Calcutta in 1774, the need was felt for training native lawyers. The foundation of the Asiatic Society in January 1774, at the initiative of Sir William Jones, judge of the Supreme Court, was a landmark in the educational and cultural history of India. In 1800, Lord Wellesley founded the college of Fort William for training of young civilians in Calcutta. The Hindu College (later Presidency College), Calcutta, was founded in 1817, to take the law classes. Soon thereafter the university of Calcutta was established on January 24, 1857. In 1841 a barrister of the Supreme Court was appointed to take law classes in the Hindu College. The degree in law was a recognised post-graduate degree. The aim of imparting legal education from the beginning was to prepare practising lawyers and judicial officers for the subordinate courts. During the academic year 1864-65, colleges in Dacca, Berhampore, Patna, Hooghly, and Krishinagar were granted affiliation to start law classes. The Presidency College was allowed affiliation for law classes since 1857. In 1870, the faculty of law revised substantially the courses to be taught for the degree of bachelor of laws and also provided for the award of the degree of doctor of laws by examination. The teachers in most of the affiliated colleges were practising advocates who worked on part-time basis. Notwithstanding the above, the University of Calcutta did aim at achieving the lofty ideal of promoting research in law in a limited manner. In 1885, the Ripon College, (now Surendra Nath College) was granted affiliation by Calcutta University to start Bachelor of Law (B.L) classes. It was at this juncture that the Calcutta University was reorganised under the Indian Universities Act, 1904.<sup>271</sup> In 1909, the University College of Law, Calcutta, had on its rolls 520 students. The teaching faculty at the time comprised one principal, three professors and eight assistant professors. The college imparted instruction for a 3-year course with three university examinations.<sup>272</sup>

The year 1885 is significant in the promotion of legal education and research in

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<sup>269</sup> Paras Diwan, *Legal Education in India-status and problems*, 54-74 (Bar Council of India Trust, 1983).

<sup>270</sup> *14<sup>th</sup> Report of the Law Commission of India*, 520 (1958).

<sup>271</sup> See, *Hundred Years of the University of Calcutta*, 224 (Calcutta, 1957).

<sup>272</sup> *Ibid.*

India. It was in 1885 that Allahabad University was established. The Punjab University had come into being in 1882. The colleges imparting legal education in the North Western Provinces and Punjab ceased to be affiliated with Calcutta University.

The first law college of the state was Raja Lakshmi Law College, started in 1939 by some prominent lawyers. This Institution then imparted legal education to candidates passing the intermediate examination. The LL.B. course was of 3 years duration for those passing intermediate and 2 years' duration for graduates. The Government of Mysore established the second law college, Government Law College, at Bangalore, in 1948. In the wake of independence of the country, new colleges began to spring up in different parts of the state.<sup>273</sup>

During his tenure as Vice-Chancellor of the Delhi University, a distinguished jurist and educational pioneer Sir Maurice Gwyer started 3- year Honours degree course in law in the university leading to the degree of Bachelor of Civil Law 1923. This 3-year B.C.L. degree course operated in the law faculty of the Delhi University since 1947 alongside with a 2-year L.L.B. degree course. With the ushering in of the new 3-year L.L.B. degree course, admissions to the B.C.L. course were automatically stopped.<sup>274</sup> In 1966 when LL.B. became a 3-year course, the Faculty of law introduced the semester system, dividing 3-years of LL.B course into 6 bi-annual semesters.<sup>275</sup>

In the light of the above facts, it is clear that there was no uniform pattern of legal education in the country. During the aforesaid period, the main purpose of university legal education was not to teach law as a science or as a branch of learning, but merely to impart knowledge of certain principles and provisions of law. Part-time institutions were regarded during those days sufficient for this purpose. Most of the students who attended morning and evening classes conducted by the institutions were in employment somewhere or pursued some other post graduate study, whereas teachers in law were generally practicing lawyers who had to attend their professional business during the office hours.<sup>276</sup> During those days most of the lawyers were educated abroad, particularly in England. Preparation, for the profession for the most part, was through

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<sup>273</sup> N.R.Madhava Menon: *Legal Education In India*, (Bar Council of India Trust, 1983).

<sup>274</sup> Prof. M.Ramswamy: *A Paper On The Re-Organization Of Legal Education In The University Of Delhi* 14 (1963)

<sup>275</sup> Tahir Mahmood, "Delhi University Law Faculty-Seven Decades", *Delhi Law Review*,3 (1994).

<sup>276</sup> *Ibid.*

apprenticeship in the offices of members of the Bar.<sup>277</sup> Law books were extremely scarce. In a 2-year degree course offered during that time, there was hardly any time at the student's disposal to mentally digest what was placed before him with the result that the student indulged in unprofitable cramming<sup>278</sup>, without learning the intricacies of law.

**State of legal education during 1947-1960:** There was tremendous growth of law colleges in this period. However, this was not based on any rational planning or on the availability of even the minimum resources. Law schools were opened indiscriminately without enough resources. This resulted in law colleges without any infrastructure, viz., building or libraries, full time teachers or facilities for professional training, or even the final sanction from the university concerned.<sup>279</sup>

**State of legal education during 1961 – 1978:** A major development of this period was the coming into operation of the Advocates Act, 1961. The Act constituted the Bar Council of India (BCI) which was conferred the power to prescribe standards of legal education and recognize law degrees for enrolment of persons as advocates.<sup>280</sup> In pursuance of its statutory obligation to prescribe, maintain and improve standards of legal education, the BCI did attempt to bring about the desired changes in the curriculum, pedagogy and in the organization and functioning of law colleges. Consequently, some uniformity and structural changes were brought about throughout the country in early 1960s.<sup>281</sup> No non-collegiate degree holder in law had ever been enrolled as an advocate since 6 September 1975. Under Rule 1 of the BCI Rules, 1962, after March 12, 1967 the degree of law was not to be recognised unless the course of study in law has been by regular attendance at the requisite number of lectures, tutorials and moot courts in a college recognised by a University. It is amply clear that considerable emphasis has now been laid on the regular attendance at the law classes.<sup>282</sup> Duration of the law course was now made of three years as compared to the earlier 2-year programme and attempts were made though partially successful to integrate practical training schemes in legal education.<sup>283</sup> By and large it received the support and

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<sup>277</sup> Albert J. Harno, *The formative period of American Legal Education*, 19 (1953).

<sup>278</sup> *Supra* note 9.

<sup>279</sup> *Report of the Committee on Reforms in Legal Education in 1980s*, 16 All India Teachers Association, (DU Law Faculty, 1979)

<sup>280</sup> Tripathi, *Directory of Law Colleges in India*, 9 (ILI, 1971).

<sup>281</sup> *Supra* note 16.

<sup>282</sup> *Bar Council of India v. Aparna Basu Mallick* 1994 (2) SCC 108.

<sup>283</sup> *Supra* note 15.

cooperation from universities and state governments in this endeavour. The problem of indiscipline created as a result of overcrowding in the law schools forced the universities to make a realistic appraisal of the policy of unrestricted admissions.<sup>284</sup>

**State of legal education during last two decades:** After 1979, the BCI took control over legal education in India. The Ministry of Education, Government of India for the first time in 1980, constituted a working group to examine the status of legal education in the country and to suggest measures for improvement of the structure and quality of legal education.<sup>285</sup> The major change introduced by the BCI was 5 year integrated course in the year 1983. This 5-year course after intermediate (10+2) was started in some of the universities after establishment of the national law school at Bangalore. The Bar Council is since then committed to the successful implementation of this scheme and is mobilising the co-operation of universities and state governments in this regard.<sup>286</sup>

#### **Control of the BCI and UGC over law colleges:**

**1. The Bar Council of India (BCI):** The position of the BCI *vis-a-vis* legal education is of great significance. In this respect, the BCI is required to promote legal education and to lay down standards of such education and to recognize universities whose degree in law shall be a qualification for enrollment as an advocate and for that purpose visit and inspect universities.<sup>287</sup> The BCI formulates rules as to permissible student intake, teacher student ratio, number of part time teachers and full time teachers, curriculum of the law course, etc. Those who do not comply with the rules of the BCI stand at risk of disapproval of affiliation.<sup>288</sup> However, it is almost impossible for the Council to take action if the erring college is either Government College or University Department due to extraneous reason in the form political pressure, etc.<sup>289</sup> A law college is required to furnish all the information to the Inspection Committee of the BCI as and when required, and co-operate with it in every possible manner in the conduct of

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<sup>284</sup> D.N.Saraf, *Some problems of legal education in India*, 2<sup>nd</sup> Regional UGC Workshop on Legal Education, 42 (1976).

<sup>285</sup> *Supra* note 18.

<sup>286</sup> Ram Chandra Jha, in the seminar and workshop on *Practice in trial courts and writ jurisdiction under Indian Constitution*, held in Calicut on 27- 12- 1998.

<sup>287</sup> The Advocates Act, 1961, sec 7.

<sup>288</sup> Bar Council of India Rules, 1998, sec A, Rule 18- 21, inserted by way of amendment that came into effect from 26-7-1987.

<sup>289</sup> Source: Bar Council of India, New Delhi (2000).

inspection<sup>290</sup>. The Inspection team before recommending approval of affiliation to a new law college has to make a specific recommendation as to why such a law college is required at the same place/area in view of the total number of existing law colleges there.<sup>291</sup> If the Legal Education Committee is satisfied that the standards of legal education and/or the rules for affiliation or continuance of affiliation provided for by the BCI are not complied with and that the courses of study, teaching and/or examination are not such as to secure to persons undergoing legal education, the knowledge and training requisite for the competent practice of law, the Legal Education Committee may recommend to the BCI or dis-continuance of affiliation as the case may be.<sup>292</sup> The directives issued from the BCI from time to time have to be necessarily followed by the law colleges.<sup>293</sup> Whenever approval of affiliation is granted to a law college, the college is required to deposit the prescribed fee in the shape of guarantee to fulfill all the norms of the BCI. The Council can forfeit the same if its norms are not complied with.<sup>294</sup>

**2. The University Grants Commission (UGC):** In order to maintain and raise standards of legal education the UGC in consultation with the universities or other bodies concerned, takes all such steps as it may think fit for the promotion and co-ordination of university education and for the determination and maintenance of standards of teaching, examination and research in universities.<sup>295</sup> To this end it shall allocate and disburse, grants to universities established or incorporated by or under a Central Act for the maintenance and development of such universities or for any other general or specified purpose; it may allocate and disburse, out of the fund of the Commission, such grants to ther universities as it may deem necessary for the development of such universities or for any general or specified purpose; it may allocate and disburse out of the fund of the Commission, such grants to institutions deemed to be universities in pursuance of a declaration made by the Central Government; recommend to any university the measures necessary for the improvement of university education and advise the university upon the action to be taken for the purpose of implementing

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<sup>290</sup> *Supra* note 25, sec A, Rule 18( c).

<sup>291</sup> *Id*, Rule 18 (d).

<sup>292</sup> *Id*, sec A, Rule 18(g).

<sup>293</sup> *Id*, Rule 21.

<sup>294</sup> *Id*, Rule 23.

<sup>295</sup> University Grants Commission Act, 1956, sec 12.

such recommendation; etc.<sup>296</sup> As far as legal education, the UGC is concerned with the terms and conditions of the appointment of teachers as well as providing necessary fund support for infrastructure, and maintaining uniformity of standards of education. The role of the BCI is limited only to LL.B. and its rule making power is confined only to professional legal education, the liberal legal education is left to be managed by the UGC which is also responsible for the LL.M. curriculum and teaching. While LL.M. is the basic qualification for law teaching, LL.B. degree is required for enrolment as an advocate.<sup>297</sup>

**Consequences of failure to comply with the UGC norms:** If any university fails within a reasonable time to comply with any recommendation made by the Commission or contravenes the provisions of any rule made, the Commission, after taking into consideration the cause, if any, shown by the university may withhold from the university the grants proposed to be made out of the fund of the Commission.<sup>298</sup>

**The structure of law schools imparting legal education:** LL.B is taught by either University faculties and colleges affiliated to universities. Whereas LL.M teaching is exclusive domain of universities.

**Library:** Library resources play an important role in the sustenance of legal education. The library is the laboratory of the law school. But most of the libraries are not well equipped to cater the needs of the students. Besides the problem of access, most of them are underdeveloped.<sup>299</sup>

**The financial status of law schools:** At present, law schools, both university and government are supported primarily, or wholly, by the government grants, which are always inadequate; private colleges are run either by private educational societies or by other private bodies. Prior to 1977, in some states, private colleges were also covered by the grant-in-aid code and the state government used to assist by providing 80% finance (e.g. Karnataka). However, in 1977 the government's assistance was withdrawn. Now the entire financial burden is borne by the management alone.<sup>300</sup> Tuition fees to be charged from the students are determined by the university authorities in consultation

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<sup>296</sup> *Ibid.*

<sup>297</sup> S.K.Verma, "Legal Education, Research and Social Change", *Indian Journal of Public Administration*, vol. XLV(3) 518-525 (Indian Institute of Public Administration, July-September 1999).

<sup>298</sup> *Supra* note 32, sec 14.

<sup>299</sup> *Supra* note, 39.

<sup>300</sup> *Supra* note 10.

with state government.

**Physical facility:** To enhance the quality of legal education in the country, the BCI in 1986, framed rules regarding building and other facilities that a law school must have.<sup>301</sup> Now many of the universities and law colleges in India are making efforts to adhere to these guidelines prescribed by the BCI.

**Qualifications, appointment, position of law teachers:**

**1. Qualification:** The norms prescribed by the U.G.C for becoming a full-time lecturer in law are; a person must be a post-graduate in law and have qualified the examination conducted by the UGC.<sup>302</sup> Where the holders of a Master's degree in law are not available, persons with teaching experience for a minimum period of 5-years in law for 3-year course in law and persons with teaching experience for a minimum period of 10-years in law for 5-year course in law can be considered for full time faculty. And for part time faculty, if persons holding a Master's degree in law are not available, persons with a minimum practice of 10-years in law for 3-year course and persons with a minimum practice of 5-years in law for 5-year course can be considered.<sup>303</sup>

**2. Appointment:** The teachers in the university department of law are appointed by duly constituted selection committees. Full time teachers in government degree colleges are appointed through Public Service Commission.

**3. Service conditions:** The university or college receiving grants from UGC is required to follow the UGC guidelines for service conditions. For whole time posts pay scale of the UGC is given. The universities generally have three tier teaching cadre: Professors, Readers, and Lecturers. The probationary period is normally one year. The teaching hours are fixed as per UGC norms.<sup>304</sup> The full-time teachers retire at 60 years in state universities, but 62 in central universities and generally an extension may be granted up to the age of 65. They enjoy the benefit of contributory provident fund/pension and gratuity.<sup>305</sup> Though the trend is towards appointment of full time teaching staff, yet in majority of the institutions part-time teaching staff predominates.<sup>306</sup> However, after 1996, the BCI has made mandatory for every law college has to have a

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<sup>301</sup> See, *Supra* Annexure II.

<sup>302</sup> See, *Supra* note 51.

<sup>303</sup> *Supra* note 25, sec A, Rule 12 and sec B, Rule 8.

<sup>304</sup> Paras Diwan, *Legal Education in India-Status and Problems*, Bar Council of India Trust, 54-74 (1983).

<sup>305</sup> Mukhopadhyaya, *Legal education in India*, The Bar Council of India Trust (1983).

<sup>306</sup> *Supra* note 17.

whole time principal and 4 full time teachers.<sup>307</sup>

**Number of lectures or tutorials allotted to LL.B. degree course:** There is no uniform pattern in the scheme of number of lectures for a subject. This is primary due to the fact that some colleges conduct annual examination, some follow semester system, some are day and full time colleges while others are evening and part time colleges.<sup>308</sup> The BCI prescribes for every law college to have classroom lectures of not less than 20 hours per week,<sup>309</sup> and for each paper lecture classes for at least three hours and one hour of tutorial work per week.<sup>310</sup>

**Requirement for admission:** Prior to 1960 some universities in India such as University of Bombay offered the 2-year and 3-year law course after Intermediate without insisting on basic degree.<sup>311</sup> But after 1967, only a graduate from a recognised university could be admitted to the 3-year law course<sup>312</sup> and after 1983 when two streams of law course were recognized, only student who has passed an examination in 10+2 or 11+1 course of a school recognized by the government authority can seek admission to 5-year law course.<sup>313</sup>

**Curriculum:** After 1960, a uniform curriculum with a limited scope for regional or local variations in respect of optional subjects as per the rules laid down by the Bar Council of India came to be accepted in all universities and law schools<sup>314</sup> but, traditional subjects held their sway in the list of compulsory subjects. In few universities an odd feature has been the combination of two entirely different subjects in the same paper.<sup>315</sup> A few universities like Banaras and Delhi universities have proceeded farthest in terms of curricular innovations. A large number of electives are offered and opportunities for specialization are provided.<sup>316</sup> Delhi university for example, offers a curriculum of 46 subjects, out of which a student has to pass 30 subjects in six

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<sup>307</sup> *Supra* note 25, sec A, Rule 8(2).

<sup>308</sup> See, *infra* statistics.

<sup>309</sup> *Supra* note 25, sec A, Rule 3(2).

<sup>310</sup> *Id*, Rule 10.

<sup>311</sup> *Supra* note 16.

<sup>312</sup> *Supra* note 17.

<sup>313</sup> *Supra* note 25, Rule 2(1)(a).

<sup>314</sup> *Supra* note 16.

<sup>315</sup> *Directory of Law Colleges in India*, 9, Tripathi, ILI (1971). (For example, Administrative Law & Tort (Dibrugarh); Drafting, pleading and Taxation (Guwahati); Administrative and Comparative Law (Agra).

<sup>316</sup> *Supra* note 11.

semesters.<sup>317</sup> The BCI, in exercise of the powers vested under Advocates Act, 1961 and the rules made there under once again revised the curriculum to meet the challenges of the globalisation and to give bent to court centric education in the year 1997.<sup>318</sup> The BCI has now recommended 21 compulsory papers in addition to 4 compulsory practical training papers and 3 optional papers.<sup>319</sup> The Council's curriculum prescriptions do not completely pre-determine the LL.B. curriculum. There are leeways of choice among the optional subjects; any number of subjects can be imported from outside the list. For most of the law colleges the curriculum of LL.B. is inevitably shaped by the Council's prescriptions.<sup>320</sup>

**Medium of instruction in law schools:** The medium of instruction is totally left to the discretion of the universities. However, in most of the universities particularly in northern, southern and western India the medium of instruction is English.

**Method of Teaching:** At present, the teaching method in all the universities is lecture method, though<sup>321</sup> sporadic attempts are made to supplement it by the case method.<sup>322</sup> Some universities provide students with case material that form part of the syllabus for the examination<sup>323</sup>. Students are also required to attend moot courts as well as visit to the courts.<sup>324</sup>

**Part-time and Correspondence Courses in Law:** After the Bar Council's requirement of 3 years' degree course, many universities have instituted following Bachelors degrees in law - a two-year degree and a three-year degree. These two degrees in different universities are respectively known as: B.G.L (Bachelor of General Laws) in Annamalai University, LL.B and LL.B (Hons) in Aligarh; B.G.L and B.L. in Andhra; LL.B. (General) and LL.B.(Special) in Baroda and Punjab; B.G.L. and LL.B. in Bombay and Nagpur; LL.B.(Academic) and LL.B.(Professional) in Meerut and Rajasthan.<sup>325</sup> These degrees hold no value for the purpose of enrolment as advocates.<sup>326</sup> With regard

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<sup>317</sup> *Ibid.*

<sup>318</sup> *Supra* note 34.

<sup>319</sup> *Supra* note 25, Part IV, sec A Rule 9 and sec B Rule 5.

<sup>320</sup> Upendra Baxi, *Working Paper for the UGC Regional Workshop in Law*, 5-6 (1975-76).

<sup>321</sup> Paras Diwan, *Legal Education in India-Status and Problems*, Bar Council of India Trust, 54-74 (1983).

<sup>322</sup> *Supra* note 17.

<sup>323</sup> For example Delhi University.

<sup>324</sup> *Ibid.*

<sup>325</sup> *Ibid.*

<sup>326</sup> Charles S. Rhyne, *Law and Judicial Systems of Nations*, 335 (1978).

to part-time/evening law courses, the BCI through a resolution<sup>327</sup> has directed all the law colleges running part-time LL.B. courses to switch over to day session from the academic year 2001-2002.

**LL.M Degree:** The university in conformity with the UGC guidelines frames the LL.M. curriculum.

### **The Role of Judiciary in Setting Standards in Legal Education:**

**Supreme Court on Bar Council's Control on Law Colleges:** In *Bar Council of India v. Aparna Basu Mallick*<sup>328</sup> the apex court held that if the acquisition of a degree in law is essential for being qualified to be admitted on a state roll, it is obvious that the Bar Council of India must have the authority to prescribe the standards of legal education to be observed by universities in the country. Conditions of standard laid down by the Bar Council of India as to attendance in the law classes, lectures, tutorials, moot courts, etc., must be fulfilled before enrolment as an advocate. In this case the Supreme Court of India upheld the validity of provision denying, after March 12, 1967, recognition to degree in law to those not attending lectures, tutorials and moot courts as per the BCI Rules.

**Supreme Court on Equality of Treatment in Admissions:** In *Deepak Sibal v. Punjab University*<sup>329</sup> the Court struck down the rules formulated by the university restricting admission for the evening classes only to the employees of government/semi-government institutions/affiliated colleges, statutory corporations and government companies. The Court held that the objective of starting evening classes was to accommodate in the evening classes employees in general who were unable to attend morning classes because of their employment. In framing the impugned rule of admission the respondents have deviated from this objective. The restriction of admission to certain categories of employees is unreasonable, unjust and does not serve any fair and logical objective.

**Supreme Court on Grant-in-Aid by State to Law Colleges:** In *state of Maharashtra v. Manubhai Pragaji Vashi*<sup>330</sup> the Supreme Court of India termed denial of grant-in-aid by the state of Maharashtra to the recognized private law colleges as was

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<sup>327</sup> Bar Council of India, resolution no. 68/99 dated 5-1-2000.

<sup>328</sup> (1994) 2 SSC 102

<sup>329</sup> (1989) 2 SCC 145

<sup>330</sup> (1995) 5 SCC 730

afforded to other faculties unconstitutional as well as violative of Articles 21 and 39-A of the constitution. It held that Article 21 read with Article 39-A of the constitution mandates or casts a duty on the state to afford grant-in-aid to recognized private law colleges, similar to other faculties, which qualify for the receipt of the grant. The aforesaid duty cast on the state cannot be whittled down in any manner, either by pleading paucity of funds or otherwise. In order to enable the state to afford free legal aid and guarantee speedy trial, a vast number of persons trained in law are essential. This is possible only if adequate number of law colleges with proper infrastructure including expertise law teachers and staff are established to deal with the situation in an appropriate manner. Lack of sufficient colleges called for the establishment of private law colleges. If the state is unable to start college of its own, it is only appropriate that private law colleges, which are duly recognized by the university concerned and the Bar Council of India are afforded reasonable facilities to function effectively and in a meaningful manner. It is in that direction the grants-in-aid by the state will facilitate and ensure the recognized private law colleges to function effectively and in a meaningful manner and turn out sufficient number of well trained or properly equipped law graduates in all branches year after year.

The Supreme Court in *Bar Council of India v. Aparna Basu Mallick*<sup>331</sup> upheld the Bar Councils' authority to prescribe standards of legal education to be observed by the universities in the country.

### 3. BAR EXAMINATION

The compulsory apprenticeship system and the Bar examination prior to the enrolment existed till 1962. However, there is no such provision in the Advocates Act, 1961 or the rules made there under providing for bar examination. In 1995, the BCI introduced pre-enrolment training rules, prescribing 1-year training (apprenticeship) under a senior lawyer having at-least 10 years standing. However, the Supreme Court, through its judgment in *V. Sudeer v. Bar Council of India & Anr.*<sup>332</sup> struck down the rules and, once again put the clock back.

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<sup>331</sup> (1994) 2 SSC 102

<sup>332</sup> JT 1999(2) SC 141.

## 4. STATISTICAL DATA

Available data suggests there are about 491 law schools in the country with a student enrolment exceeding 6 lakhs, which constitutes the highest among all professional faculties.<sup>333</sup>

In 1955-56 there were 7 Law Departments and 36 law colleges under 25 universities in the country with 20,159 students pursuing law on their rolls.<sup>334</sup> In 1962 there were only 31 universities having about 90 institutions either affiliated to, or part of, the university, imparting instructions in law leading to a law degree, in 1970, this rose to 54 universities with about 165 institutions.<sup>335</sup> In 1978 there were about 21,000 students in Indian Law Schools.<sup>336</sup> 25 years after independence, in 1981-82 the statistics had shown impressive growth with 47 law departments, 302 law colleges enrolling over 2,50,000 students.<sup>337</sup> In 1999-2000, statistics have considerably increased, with 491 law colleges, and 6,23,603 students passing out as law graduates in the academic year 1999-2000.<sup>338</sup> For example, the law faculty of Delhi University expanded from about 50 students in 1924 and 300 in 1944 to 500 students in 1965 to well over 3500 students in 1975.<sup>339</sup> The intake for the LL.B. course, at present is 1500. The number of students taking entrance has been arising and has now gone up to 5000.<sup>340</sup>

Though the BCI prescribes to have at least half of the faculty as full time, the reality is just the reverse. For example, in the university of Calcutta law college, in a faculty of 83, only 3 are full time law teachers.<sup>341</sup> Also, Madhya Pradesh, Orissa, Bihar, Meghalaya, West Bengal, Assam, Maharashtra, Gujarat, have an infinitesimally smaller number of full time law teachers compared with the rest of the country.<sup>342</sup> With regard to part time teachers, their salary is very low.<sup>343</sup>

### **Statistics pertaining to law colleges in India:**

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<sup>333</sup> Source: Bar Council of India, New Delhi (2000).

<sup>334</sup> 14<sup>th</sup> Report of Law Commission of India, 155

<sup>335</sup> *Supra* note 17.

<sup>336</sup> Charles S. Rhyne, *Law and Judicial Systems of Nations*, 335 (1978).

<sup>337</sup> *Supra* note 10.

<sup>338</sup> *Supra* note 111.

<sup>339</sup> *Towards A Socially Relevant Legal Education: A Consolidated Report of the UGC's Workshop on Modernization of Legal Education*, 5-40 (UGC, 1979).

<sup>340</sup> *Supra* note 12.

<sup>341</sup> *Ibid.*

<sup>342</sup> See *infra* statistics.

<sup>343</sup> See *infra* statistics.

**Total number of law colleges in India:** 491.(Out of these private bodies run 80% of the colleges.)

**Number of Colleges de-recognized in the country by the BCI during the academic years:**

1997-: New Colleges:- 17, Old Colleges:- 29

1998-: New Colleges:- 48, Old Colleges:- 17

1999-: New Colleges:- 23, Old Colleges:- 12

2000-: New Colleges:- 8, Old Colleges:- 13<sup>344</sup>

**Reasons for cancelling their licenses:** They did not comply with the rules laid down in Part IV of the BCI Rules 1998. They had no basic infrastructure to run law college.<sup>345</sup>

**State wise distribution of Law Colleges:**

**Andhra Pradesh:** 51, out of these 7 are university departments, 1- National Academy of Legal Studies and Research, Hyderabad run by the state government.

**Assam, Meghalaya, Nagaland, Mizoram:** 29, out of which 1 is government law college, 2 university departments, rest are all private law colleges.

**Bihar:** 24. All are government law colleges.<sup>346</sup>

**Delhi:** 5. Out of these 1 is private college and rest 4 are university departments.

**Gujarat:** Total 33.<sup>347</sup>

**Himachal Pradesh:** 2 University departments.

**Jammu & Kashmir:** 3. Out of these 1 is private law college and 2 are university departments.

**Karnataka:** 56. Out of these 2 are university departments. 1 is National Law School run by the BCI. It is the only law college run by Bar Council of India. 1 is Government Law College and rest of all are private law colleges.

**Kerala:** 7. All are government law colleges.

**Madhya Pradesh:** 93. Out of these 4 are university departments. Out of which

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<sup>344</sup> 12 in Bihar alone.

<sup>345</sup> Source: Bar Council of India, New Delhi (2000).

<sup>346</sup> In 2000, 12-law colleges are closed down in Bihar, due to poor infrastructure facilities and absence of all basic requirements necessary to run a legal institution.

85% of them are government law colleges and the remaining are private law colleges.

**Maharashtra and Goa:** 51. Only 1-university department and rest are all private law colleges.

**Orissa:** 26. Only 1-university department.<sup>348</sup>

**Punjab & Haryana:** 8. Out of these 7 are university law departments and only 1 is a private law college.

**Rajasthan:** 23. Out of these 3-university law departments. Amongst rest, maximum are government law colleges.

**Tamil Nadu & Pondicherry:** 7. All are government law colleges.

**Uttar Pradesh:** 46. Out of them 7 are university law departments. Regarding rest no information is available.

**West Bengal:** 10. Out of these, 3 are university law departments, 1 is government law college and, rest are private law colleges.

#### **LL.B. 5 Years Course: New Trend**

Although 70% law colleges in India offer 3-year LL.B course after graduation, in Andhra Pradesh and Karnataka 70% law colleges offer LL.B of 5-year duration after intermediate. As far as Bar Council of India is concerned, it encourages the latter practice. In Madhya Pradesh, 2 University department law colleges offer 5- year law course. In Delhi Amity law school has introduced 5-year course after intermediate.

#### **Number of universities offering legal education in states:**

<b>State</b>	<b>No. of university offering law degree</b>
Andhra Pradesh	8
Assam, Meghalaya, Sikkim, Mizoram, Nagaland, Manipur	7
Bihar	10
Delhi	3
Gujarat	7

<sup>347</sup> No information is available regarding number of private, government colleges or university departments.

<sup>348</sup> No information available regarding rest of the law colleges.

Himachal Pradesh	1
Jammu & Kashmir	2
Karnataka	7
Kerala	5
Madhya Pradesh	9
Maharashtra & Goa	10
Orissa	3
Punjab & Haryana	6
Rajasthan	4
Tamil Nadu and Pondicherry	2
Uttar Pradesh	15
West Bengal	3
Punjab & Haryana	6

#### **Number of students obtaining law degrees in states**

Even though the state of Madhya Pradesh has 93 colleges imparting legal education, it could produce only 40964 lawyers in 1999-2000. While, Maharashtra & Goa with only 51 law colleges, the output per annum is around: 56000 and West Bengal with 10 law colleges produces 42738 advocates.

#### **Law schools at a glance**

The description of the structure, management, faculty, students, fee charged etc., in 5 law schools run by the Universities, 5 government run colleges and 5 privately managed colleges, taken on sample basis is given as under:

**Table 1: LAW SCHOOLS RUN BY THE UNIVERSITIES**

<b>Name of the college</b>	<b>Faculty of Law, University of Jammu.</b>	<b>Dept. of Law, Kurukshetra University, Kurukshetra.</b>	<b>Kumaun University, Almora Campus, Almora, Uttar Pradesh</b>	<b>NALSAR, University, Hyderabad (A.P.)</b>	<b>North Bengal University Law College</b>
<b>Year of functioning</b>	1969	1969	1976	1998	1979
<b>Number of full-time teachers</b>	15	1-Prof.&Dean 3-Prof.,5-Readers, 9-Lecturers, 1-Research Assistant 15- Research Scholors	Readers 2- Lecturers	9	1-Principal 1-Reader and 5-Lecturer
<b>Number of part time teachers</b>	6	1	Readers Lecturers	Visiting Prof.-3	10 (senior advocates from the Bar.)
<b>Number of students Year wise:</b>	180-LL.B-I 139-LL.B-II 102-LL.B-III	Day Centre: 60 Evening Centre : 41 in the LL.B-I of 5-year law course.	100-LL.B-I 53 LL.B-II 75- LL.B-III Girls-35	Ist Yr - 54 IInd Yr - 35 Girls - 39	90-LL.B-I 86-LL.B-II 92-LL.B-III 74-LL.B-IV 55-LL.B-V
<b>Mode of selection</b>	Merit basis.	Merit on the basis of percentage of entrance test.	Entrance test subject to 40 percent marks in qualifying examination.	Entrance Exam. + Admission for 10 foreign nationals.	*****
<b>Structure of the college</b>	University law college.	University law college.	University law college.	University funded by Govt.	University law college.
<b>Teacher-student ratio</b>	1:25	1:31	1:35	1:7	
<b>Reading hours</b>	Winter: 9-3 p.m. Summer: 8-1.30 p.m.	8.30 a.m. to 7 p.m.	.	9 a.m. - 12 midnight	10.30 a.m. – 5 p.m.
<b>Expenses on Library: Building Student welfare:</b>	170755/- 3500(furniture)	37398/-	30000/ 3000	Library- 633996 Building- 16445914	Total expenses in the previous academic

<b>Teaching Administration Other:</b>			20000	Furniture-537915 Welfare-144626	year stands at:140079.
<b>Full time college or part time college or both</b>	Both morning & evening college.	Both day and evening college.		Full time	
<b>income from tuition fees</b>	3,99,950	*****	450000/	Income from Tution fees and also grants from government	454000
<b>Total income from other sources like UGC or State Govt. or University funds</b>	Fees from the students and endowment fund of Rs. 500000 from the university .	6215440/-	All expenses are met by grants given to it by the State Govt. or UGC.	***	UGC and state govt. grants.
<b>Pay scale of full time teachers</b>				***	
<b>Pay scale of part time teachers</b>				***	
<b>Annual examination or semester system that is followed</b>	Semester	Annual	Semester	Semester	Annual examination in November every year.
<b>Number of books in the library</b>	19852	18000	11000.	3200+360 reference books and 1275 Law Journals.	5167
<b>Number of moot courts held in a year</b>		*****		4 Internal and 6 External	12
<b>Steps taken for imparting practical training</b>		*****		Placement with NGOs and other agencies	12 practical training classes are held in a year.
<b>Tuition fee per student annually</b>	950.	1061 per annum.	2690	25000 per annum	
<b>3-year or 5-year course in law offered or both</b>	*****	Only 3-year LL.B course is offered.		Only 5 year law course	Only 5-year LL.B course is offered.

**Table 2: GOVERNMENT LAW COLLEGES\***

<b>Name of the college</b>	<b>Govt. Law College, Trivendrum, Barton Hill.</b>	<b>B.S.R. Govt. Arts College, Alwar, Rajasthan.</b>	<b>Govt. Law College, Madurai, Tamilnadu</b>	<b>Govt. Law College, Kolar</b>	<b>Bundelkhand College, Jhansi, U.P.</b>
<b>Year of functioning</b>	1875	1979-80	1974-75	1996	1961
<b>Number of full-time teachers</b>	20	1-Principal 1-Vice Principal 1-Lecturer & Head 7- senior lecturers 4- lecturers	17	***	4
<b>Number of part time teachers</b>	1	2	9	***	4
<b>Number of students Year wise:</b>	Day: 102-LL.B-I, 92-LL.B-II, 96 - LL.B-III Evening: 102-LL.B-I 73-LL.B-II 79-LL.B-III	540-LL.B-I 150-LL.B-II 120-LL.B-III out of these 113 are SC 87 ST and 86 are Girls.	Ist Yr - 169 II Yr-170 III Yr-158	I Yr-96 II Yr-69 III yr-70 IV Yr-50 V Yr- SC - 28 ST - 14 Girls-68	Regular: 316-LL.B-I 267- LL.B-II 365-LL.B-III Evening: 130-LL.B-I 46- LL.B-II 117-LL.B-III
<b>Mode of selection</b>	Through entrance test & interview conducted by the university of Kerala.	Merit basis, no entrance, no interview	Entrance Test	Entrance Test	Entrance test
<b>Structure of the college</b>	Government law college.	Affiliated to University of Rajasthan.	Govt. Law College affiliated to Tamilnadu Dr. Ambedkar Law University, Chennai	Govt. Law College affiliated to University of Bangalore	Part of Bundelkhand University.
<b>Teacher-student ratio</b>	1:32	1:70	1:70	1:15	1:190

\* These colleges are controlled by the Government.

<b>Reading hours</b>	9.30 a.m. – 8.30 p.m.	10 a.m. – 4 p.m.	10 Hrs.	10 a.m. to 4.30 p.m.	1 to 7 p.m.
<b>Expenses on Library: Building Student welfare: Teaching Administration Other:</b>	700000/- 800000/- (furniture) total: 4462015	12300 600000 3710(fur)	50000	135119	
<b>Full time college or part time college or both</b>	*****		Full time	Full time	Day college as well as evening college under self finance scheme.
<b>income from tuition fees</b>	383912	*****	No tuition Fee	No tuition fees	911093
<b>Total income from other sources like UGC or State Govt. or University funds</b>	Fees from the students is the only source of income.	269659/ from UGC grants. State Govt. and fee from students.	***	***	UGC grants also.
<b>Pay scale of full time teachers</b>	Principal – 7300/-per month, senior lecturers-5000 per month, and lecturers 3500/- per month.		As per the Govt. scales	As per the Govt. Rules	12000-24000.
<b>Pay scale of part time teachers</b>			***	***	Rs. 100 per period or Rs.5000 per month under U.P. Govt. order.
<b>Annual examination or semester system that is followed</b>	Semester	Annual	Annual	Annual	***
<b>Number of books in the library</b>	15208	61190	21033	3184	8201
<b>Number of</b>	64	2	***	***	3

<b>moot courts held in a year</b>					
<b>Steps taken for imparting practical training</b>	15 day court visit for 5-year LL.B course & 7 day court visit for 3-year LL.B course &		Courts visit etc.	***	*****
<b>Tuition fee per student annually</b>	LL.B both 3 & 5- year: 375 per annum & LL.M per annum 567.		Rs.200 towards admission fee and Rs.50 exam fee	Rs.606	Tuition fee:180, university examination fee: 1570 for all 3 years.
<b>3-year or 5-year course in law offered or both</b>	Both.	Only 3-year LL.B course is offered.	3 Year and 5 Year courses	Only 5 Year Course	Only 3-year course is offered.

**Table 3: PRIVATELY MANAGED LAW COLLEGES\***

<b>Name of the college</b>	<b>Surendranath Law College, Calcutta, WB.</b>	<b>Amity Law School, Delhi.</b>	<b>Kerala Law Academy Law College, Thiruvananthapuram, Kerala</b>	<b>Symbiosis Law College, Pune (Maharashtra)</b>	<b>Andhra Christian College of law Andhra Pradesh</b>
<b>Year of functioning</b>	1885	1999	1982	1977	1974
<b>Number of full-time teachers</b>	7	1-Prof.&Director 5-others.	9	6	1-Principal and 5 others
<b>Number of part-time teachers</b>	19	4 – all of them teach non-law subjects.	27	8 Visisting Faculty - 27	5 lecturers
<b>Number of students</b>	I Yr- 320 II Yr- 313 III Yr- 287 IV Yr – 268 V Yr - 252	80 students in the first year out of which SC-4, ST- 1 and Girls –19.	I Yr - 100+100 2 Batches Evening-100 II yr - 266 III Yr - 287 SC/ST - 52 Ladies - 204 5 Year Law Course I Yr- 80 II Yr- 85 III Yr- 90 IV Yr – 80 V Yr - 78 SC/ST-45 Ladies - 306	3 Year Course I Yr - 320 II Yr - 131 III Yr - 101 5 Year Law Course I Yr- 271 II Yr- 249 III Yr- 200 IV Yr – 131 V Yr - 71	217 in LL.B-I 157, LL.B-II 146 in LL.B final
<b>Mode of selection</b>	Order of Merit	Selection was done on the basis of an entrance test conducted by the GGSIP University, eligibility being 50% marks in qualifying examination.	Order of Merit	First come first served basis	Common Entrance Test conducted by the State of A.P.
<b>Structure of the college</b>	Privately Managed Law College affiliated to	Privately Managed Law School affiliated to Guru Govind	Privately Managed Law College affiliated to	Privately Managed Law College Affiliated to	Privately Managed Law College Temporarily

\* They are also affiliated to a University.

	University of Calcutta, W.B.	Singh Indraprastha University	University of Kerala	University of Pune	affiliated to the Nagajuna University.
<b>Teacher-student ratio</b>	1: 40	1:10	1:40	1:32	1:40
<b>Reading hours of the library</b>	6.30 a.m. to 12.00 noon.	9.30 a.m. to 4.30 p.m. on all days except Sunday.	9 a.m. to 1 p.m. 2 p.m. to 8 p.m.	8 a.m. to 8 p.m.	8a.m.- 2 p.m., 5p.m. – 10p.m.
<b>Expenses on Library: Building: furniture Student welfare: Teaching Administration Other:</b>	Library expenses Rs. 62, 000/-	520000(books) 300000(furni) 700000(comput) 200000(phot,fax 250000(internet, A.C.,telephone) 1909000(faculty) 1100000(other) 100000(deposit ed with BCI).	Library - 25588 Building- 989746 Furniture- 36040 Welfare-50000	40, 56, 384	40246/- 17000/- 25300/- 1972654/-
<b>Full time college or part time college or both</b>	Full-time	Full time day school.	Both Full time and Evening Course	Full time Law College	Both Morning classes are held from 9 to 2 p.m. and evening from 5 to 10 p.m.
<b>Income from tuition fees</b>	***	24,60,000	24,55,500	Only tuition fees	20,75,214.
<b>Total income from other sources like UGC or State Govt. or University funds</b>	***	Fees collected forms the only source of income.	***	***	Fees from the student is only source of income.
<b>Pay scale of full time teachers</b>	***		***	***	
<b>Pay scale of part time teachers</b>	***	*****	***	***	Rs.2000 – 2550.
<b>Annual examina-</b>	Annual	Semester system is followed. Odd	Annual	Annual	Annual

<b>tion or semester system that is followed</b>		semester: 17 weeks and even semester 14 weeks.			
<b>Number of books in the library</b>	16000+	10107	11271	12895	7661
<b>Number of moot courts held in a year</b>	12	2	86	3	11
<b>Steps taken for imparting practical training</b>	***	College established recently.	Court visits etc.	Court visits etc.	*****
<b>Tuition fee per student annually</b>	***	Free seats(40): Rs. 12000 per annum. Paid seats(36) Rs. 45000 per annum. NRI seats(4): US \$ 2000 per annum plus 1000 per semester as examination fee.	2100 per annum Exam fee - 115 per annum	***	Rs. 4500 per annum, and Rs. 505 as total examination fees for 3-year LL.B course and Rs. 775 for 5-year LL.B course.
<b>3-year or 5-year course in law offered or both</b>	3 Year	Only 5-year course	Both 3 Year and 5 year Law Course	5-Year & 3-Year courses	Both

**Observations:** The appalling conditions in which legal education is being presently imparted at several places in the country are most worrying factors for the judiciary and the Bar Councils especially for the last one decade. The state of legal education is particularly deplorable, in the affiliated colleges, which in some states have had mushroom growth without adequate provision for teaching staff and library facilities.<sup>349</sup> Most of the colleges are part-time colleges where instructions are provided for 2-3 hours in the morning or in the evening. In some cases college runs in to two shifts – morning and evening. In the last few years the state of legal education in India is slowly improving due to the role being played by the judiciary, the Bar Council and the demand for qualitative lawyers thrown by the society in the wake of globalisation.

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<sup>349</sup> State of Madhya Pradesh, Bihar as evidenced by the *Annual Reports* submitted with the Bar Council of India.