

BACKGROUND PAPER ON THE REVIEW OF LEGAL EDUCATION IN PAKISTAN



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Introduction

Legal education and quality of law graduates have great impacts on the quality of judiciary-Bar and Bench. Not only. Legal education is also substantively relevant for other spheres of national life related to law-making and law-enforcing, governance and administration, corporate legal counseling and alternative dispute resolution. Besides, Lawyers, Judges and Law Graduates engaged in their respective professions requiring expert understanding and application of law have an obligation before the people at large to facilitate their access to justice, not only by way of application of law, but also by promoting mass legal awareness, sensitizing people to sectoral as well as national issues, upholding and propagating, thereby, social values of law. These have great bearing on the rule of law, democracy and socio-economic development of a nation.

Importance of legal education which plays a major role in catering to the above needs, therefore, can hardly be exaggerated. It is important to know what are the law schools in the country, and how are they doing. It is also important to know what is being taught there, and who are teaching as well as who are being taught and how they are being taught. Finally, it is immensely important to know the products of law schools-the law graduates-with what legal knowledge, practical skills and values they pass out of the law schools.

There is a general consensus amongst experts and concerned persons that existing legal education in Pakistan does not sufficiently correspond to the needs of the nation, and hence it needs to be reviewed and reformed. In the last several years, there has been lot of discussions, seminars, workshops and conferences of lawyers, judges, law teachers and students and members of the civil society, who underlined the need for such reform. There have also been institutional participations in these discussions, Government, Pakistan Law Commission, Law Teachers, Law Students, Bar, Law Faculties and Colleges. Lot of constructive resolutions and recommendations has been made. These recommendations contain striking similarities as regards underlining the need for reforms and the contents of proposed reforms. Piles of files have accumulated, but alas, only for dust to settle on them!

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For the first time the August Supreme Court of Pakistan has taken a notice for comprehensive review of legal education. It is believed this would be able to mobilize the best minds of the country, solicit people's interest and opinion, take a fresh view of the problems of legal education, discuss them in detail, rationalize the existing recommendations, look for new recommendations, work them out and formulate a national charter of demands for reforms of legal education, and put it before the government and relevant bodies for implementation. It is also believed, sponsorship by Supreme Court of Pakistan would contribute greatly to its sustainability.

Numerous weaknesses and deficiencies exist in legal education in the country. While measures to improve legal education in Pakistan have been undertaken by the Pakistan Bar Council (PBC) and the Higher Education Commission (HEC), the regulators have not put in supportive resources, structures and corresponding changes for these measures to be truly successful. Furthermore, there remain several loopholes within the current system which results in the lack of effective monitoring and implementation.

Thus, there remains a failure to address the core challenges and weaknesses in legal education. The onus of ensuring legal education and fulfilling the demands of the legal profession rests on all stakeholders in the sector i.e. the Pakistan Bar Council (PBC), Higher Education Commission (HEC), Law Colleges, Legal Professionals, Judiciary and the Legal Fraternity. The Supreme Court of Pakistan called for a Committee or Task Force on reforms in legal education in Pakistan, charged to examine current deficiencies and conditions in legal education. Any such Task Force must be as independent as possible and with as little vested interest as possible. This may be taken as the first step and initiation of revising the system; present recommendations for potential solutions that are effective, practical; will be acceptable to the primary stakeholders; and supervise implementation and execution of the proposed reforms. In particular, this Task Force must deliberate upon what is required within a law degree and the exact minimum standards that a student must attain in order to qualify for entry into the legal profession.

The purpose of legal education is to prepare a law student for service in the legal profession, which branches into a range of areas including litigation, corporate, transactional, criminal, civil, access to justice, and international law. This research evidences that this purpose is not being achieved currently. In short, sweeping reforms are necessary. However, any such reform must be in cognizance of the entire system, recognizing gaps, requiring ownership and effective leadership. Legal education in Pakistan has to be improved to meet the present and future demands of the profession.

The path to improving the quality of legal education in Pakistan will not be easy and will require strong leadership by members of the Task Force and regulators, numerous

resources and reforms as identified herein. Any reforms will require commitment, vision, financial resources, and the will to implement since resistance is inevitable in such matters. In spite of the resistance from the legal fraternity and law colleges, none of these essential components can be nor should be compromised upon.

Legal Education in Pakistan is regulated by the HEC and the PBC

The HEC was established in 2006 as the central body to the Federal Government to facilitate the quality assurance of higher education in the public and private sector, and to provide funding for public universities.²

The PBC, constituted and elected under the Legal Practitioners' and Bar Councils Act of 1973, regulates the legal profession in Pakistan. The PBC's Legal Education Committee is the apex body regulating legal education in Pakistan under the framework set through the PBC Legal Education Rules of 1978, the Affiliation of Law Colleges Rules, and the PBC (Recognition of Universities) Rules of 2015 (the. Until 19 December 2015, legal education in Pakistan was governed by the PBC Rules, the Affiliation Rules, and the PBC Recognition Rules of 2015. The PBC on 19 December 2015 vide SRO 1265(1)/2015 repealed the 1978 Rules, the Recognition Rules and the Affiliation Rules by promulgating the Pakistan Bar Council Legal Education Rules of 2015 (the“2015 Rules”).

The separate jurisdictions of these two bodies, the PBC and the HEC, with respect to regulation of legal education in Pakistan have not been clearly defined, thereby resulting in an overlap of duties and obligations. This conflict arises because both these bodies were formed and given this jurisdiction at different times without any clarity, thought or suitability of either for the role, nor an attempt to rationalize overlapping jurisdiction.³ As a result, for example, Both the HEC and PBC are mandated to formulate and recommend policies and standards on education and no clarity on whose primary responsibility it is or whose decision has precedence. This overlapping regulatory jurisdiction of the HEC and PBC has been identified as one of the reasons for the decline in legal education since it has led to a failure in effective regulation and supervision of legal education in Pakistan.

² The HEC Report for 2002 -2008, page 23, http://www.hec.gov.pk/InFocus/Documents/3075_hec-report-2002-2008-2---1-genesis.pdf

³ “Legal Education in Pakistan: The Domination of Practitioners and the ‘Critically Endangered’ Academic”, Dr. Osama Siddique, Journal of Legal Education, Volume 63, Number 3 (February 2014), South Western Law School

The 18th Amendment to the Constitution of Pakistan 1973 has added further complexity to the regulation of legal education. After passing of the 18th Amendment Higher Education has devolved to the provinces.⁴ However, only the Government of Punjab till date has promulgated legislation⁵ on the matter, furthering the education framework by establishing the Punjab Higher Education Commission. In the other 3 provinces, the provincial governments have yet to promulgate such legislation and thus, legal education continues to be regulated by the Federal Government and not independently by the provinces. In addition, The Council of Common Interest has been given the authority to formulate and regulate policies in relation to standards in institutions for higher education and research,⁶ but has yet to make any concrete discussion or discourse on it as of yet. Consequently, at present three different bodies regulate and have the authority to formulate policies on the standards in legal education, making the matter even more confusing.

At present, 28 Universities in Pakistan have been granted permission by the PBC to award degrees in law.⁷ It is estimated that approximately a further 74 law colleges are affiliated with 16 universities out of the 28 Universities who have been granted permissions.⁸

Legal education in Pakistan is imparted under three (3) different types of legal education programs:

1. A three (3) year LLB Program (Pursuant to the 2015 Rules, the three (3) year LLB Program will be discontinued after December 2018);
2. A five (5) year LLB Program; and
3. The University of London external LLB degree.

The three (3) year LLB Program is a post graduate degree, which until the promulgation of the 2015 Rules was governed by the 1978 Rules. Under the 2015 Rules, the 3 year LLB Program will be discontinued after three years⁹ i.e. by the end of 2018. In its place,

⁴ The 18th Amendment Act, 2010 passed in the National Assembly on 18 April 2011.

⁵ <http://punjablaws.gov.pk/laws/2584.html> The Punjab Higher Education Commission Act of 2014.

⁶ Inserted in Part II of the Fourth Schedule of the Constitution of Pakistan.

⁷ First Schedule of the PBC Legal Education Rules of 2015.

⁸ “Legal Education in Pakistan: The Domination of Practitioners and the “Critically Endangered” Academic; Osama Siddiqui; Journal of Legal Education, Volume 63, Number 3 (February 2014); page 499.

⁹ Rule 4(ii) of the PBC Legal Education Rules of 2015.

the PBC has laid down the framework for the 5 year LLB Program, and also provides for the regulation of legal education in Pakistan by foreign universities imparting international/external/distance learning Programs.¹⁰

Under the three (3) year program, merit¹¹ is the prescribed requirement for admission in this program under the 1978 Rules and the 2015 Rules. However, the Rules do not define “merit” and the PBC has not provided any guidelines or criteria for merit. There is no requirement to pass an entrance exam for admission and only a handful of law colleges offering the 3 year LLB program, like the Indus College of Law, have an entrance exam for admission. Law students are required to study approximately thirty-three (33) different subjects, which have been fixed by the PBC,¹² during the three years of the Program. No study materials or minimum standards have been prescribed under the 1978 Rules.

One of the major changes in the 2015 Rules is the substitution of the 3 year LLB Program with the 5 year LLB Program, the purpose of which is to steer students into acquiring more comprehensive legal education. This will, in effect, cause a phasing out of the 3 year LLB degree and put in place only the 5 year LLB program, which has been designed and approved with the intent to improve legal education in Pakistan. Moreover, the PBC by virtue of the 2015 Rules will be regulating the LLB program.

The five (5) year LLB Program is an academic and professional¹³ undergraduate degree¹⁴ which follows the Curriculum of Law for 5 Year LLB Program (the “Curriculum”) approved by the HEC at the Federal level and endorsed by the PBC.¹⁵ The Curriculum, which was framed in June 2011, is based on the curriculum drafted for the National Law University project which was adopted by law colleges in Punjab University, LUMS, BZ

¹⁰ Rules 36-40 of the PBC Legal Education Rules of 2015.

¹¹ Rule 3(b) of the PBC Legal Education Rules of 1978.

¹² Rule 6 of the PBC Legal Education Rules of 1978.

¹³ Curriculum of Law for 5 year LLB Program; page 9
<http://www.hec.gov.pk/insidehec/divisions/aeca/curriculumrevision/documents/law-2010.pdf>

¹⁴ The admission requirement as per Rule 4(i) of the PBC Legal Education Rules 2015, is that a person has passed their higher secondary education exam i.e. intermediate exam.

¹⁵ Curriculum of Law for 5 year LLB Program
<http://www.hec.gov.pk/insidehec/divisions/aeca/curriculumrevision/documents/law-2010.pdf>

University, AWKU Mardan, Hamdard University and Bahria University.¹⁶ Though feedback was obtained from legal academics and faculty members from all provinces in Pakistan, the provincial HEC centers do not appear to have proactively contributed to the Curriculum.

The Curriculum stipulates the scheme of studies for the 5 year LLB Program where law student study eight (08) courses (24 credit hours) of general and foundation during their first two years, and for the most part, study the prescribed law courses in the final three years. Law students thereunder are required to take 10 compulsory courses (28 credit hours) and 38 discipline specific major courses (114 credit hours), including research and an internship.¹⁷ Law students of the 5 year LLB Program are required to complete 10-12 weeks of internship after the end of the 4th year and submit a research project and write a dissertation during their 9th semester in this Program. The Curriculum also provides recommended textbooks and other reading materials, the course contents have been prescribed therein, and suggests the learning outcome of the 5 year LLB Program.¹⁸

The learning objectives finalized for the 5 year LLB Program include inculcation in students of a broad understanding of the social, political and economic contexts within which legal systems operate, imparting onto students' knowledge and understanding of legal principles and developing the intellectual and practical skills necessary for employment in the legal and other professions.¹⁹

Since promulgation of the 2015 Rules, in addition to the Curriculum, the 5 year LLB Program, is subject to compliance with the requirements laid down in the 2015 Rules. Students who pass the higher secondary education are eligible for admission into the 5 years LLB Program and “merit”²⁰ is the prescribed requirement for admission in this program under the 2015 Rules. However, no measure for merit has been laid down by the PBC or the HEC in the 2015 Rules. There continues to be no requirement under the legal education framework to pass an entrance exam for admission into a law college. Hence,

¹⁶Curriculum of Law for 5 year LLB Program; page 9
<http://www.hec.gov.pk/insidehec/divisions/aeca/curriculumrevision/documents/law-2010.pdf>

¹⁷ Curriculum of Law for 5 year LLB Program; page 15
<http://www.hec.gov.pk/insidehec/divisions/aeca/curriculumrevision/documents/law-2010.pdf>

¹⁸ Curriculum of Law for 5 year LLB Program; page 11
<http://www.hec.gov.pk/insidehec/divisions/aeca/curriculumrevision/documents/law-2010.pdf>

¹⁹ Curriculum of Law for 5 year LLB Program; page 11.
<http://www.hec.gov.pk/insidehec/divisions/aeca/curriculumrevision/documents/law-2010.pdf>

²⁰ Rule 3(b) of the PBC Legal Education Rules of 1978.

there is no means to assess the applicant students' potential to successfully acquire knowledge and lawyering skills, and law colleges will continue to impart legal education to students with different capacities, including those who may lack the requisite intelligence, language skills, IQ, analytical skills or aptitude necessary for law school.

The University of London external LLB Program (the "UOL"), which is an undergraduate degree, is offered by independent teaching institutions throughout the country, which are recognized by the University of London. Course material is made available for registered students for self-directed study and the teaching institutions support these students by conducting lectures on different subjects of the degree. The study materials are made available to students that are designed to guide them through the syllabus for each module and direct their reading of the prescribed textbooks, study packs and online library resources.

Since the promulgation of the 2015 Rules, the institutions in Pakistan teaching the UOL now have to obtain a no objection certification from the PBC by or before 19 May 2016 and are subject to compliance with the 2015 Rules. In the event of non-compliance with the 2015 Rules, an institution providing the UOL Program shall be recommended by the PBC to be de-affiliated/de-recognised by the concerned foreign university and the PBC shall refrain from issuing license to practice law to graduates of such institutions.

The PBC as the regulator of legal education in recent years has undertaken various initiatives to identify and address the weaknesses in and improve legal education in Pakistan. In light of the decline in legal education, the PBC sought the support and direction of the Supreme Court of Pakistan in the enforcement of the Affiliation Rules in *Pakistan Bar Council v Federal Government of Pakistan (PLD 2007 SC 394)*.

The reasons identified for this decline by the PBC included the increased number of law colleges, lack of adequate facilities, absence of qualified faculty and absence of regulatory authority to ensure a certain qualitative standard.

The Supreme Court in this case also identified the following reasons for the decline in legal education (i) mushroom growth of substandard law colleges lacking in infrastructural facilities and quality legal education; (ii) absence of eligibility criteria for admission; (iii) poor quality of faculty teaching law who lack the time, commitment and at times requisite qualification to teach law; (iv) inadequate resources, facilities and infrastructure of law colleges; (v) preference given to commercial considerations of legal education by law colleges instead of preference to academics; (vi) lip service given to the courses taught in law colleges and absence of in-depth study and/or analysis of the

subjects; (vii) lack of attention given to moral issues and professional ethics; and (viii) sub-standard administration of examinations by law colleges.²¹

Members of the national Task Force formed by Supreme Court of Pakistan of which I was also a member were open in engaging in dialogue with different stakeholders on improving and reforming legal education. Promulgation of the 2015 Rules and subsequent efforts to establish inspection committees to monitor law colleges is a welcome and necessary step towards such reform. The LEC currently is deliberating upon proposing additional measures to further improve and support the 2015 Rules, which inter-alia include strengthening inspection teams to monitor and evaluate the compliance of 2015 Rules by law colleges, eligibility criteria for enrolment as an advocate by graduates of UOL LLB, increasing the minimum number of enrolled law students in law colleges, and mandating law colleges to submit the attendance record of law students on monthly basis.²²

Despite the PBC's steps towards reforming legal education, research undertaken for this paper reveals that the efforts and measures undertaken by members of the LEC do not indicate substantial improvement in the skills, knowledge and capacity of law graduates entering the legal profession, and are not effective in curbing mushroom growth of law colleges which continue to impart education without improving their resources, capacity and quality of legal education.

The three regulators, Council of Common Interest, Higher Education Commission and Pakistan Bar Council have neither demonstrated nor developed capacity to effectively address the decline in legal education.²³ Any efforts to introduce measures to improve legal education, such as development of the Curriculum, are usually undertaken as collaboration between the PBC and the HEC.

An examination of the governing framework of legal education shows that regulators, when taking measures to regulate legal education tend to prescribe minimum standards and requirements for legal education (but without actually providing details of what these minimum standards and requirements are). What is not focused upon is on proactively improving the quality of legal education.

²¹ *Pakistan Bar Council v Federal Government of Pakistan* (PLD 2007 SC 394); page 399.

²² Mr. Shoaib Shaheen, President Legal Education Committee of the Pakistan Bar Council 2016.

²³ "Legal Education in Pakistan: The Domination of Practitioners and the "Critically Endangered" Academic; Osama Siddiqui; *Journal of Legal Education*, Volume 63, Number 3 (February 2014); page 500

There is little thought put into the actual education and training that meet the requirements of the legal profession itself. For example, English is the medium of teaching under the 2015 Rules, as all the laws and legal language in the country is English. However, poor spoken and written English language skills of not only law students, but also of legal professionals and the judiciary demonstrates failure in meaningful regulation of legal education and there is no requirement for support provided for students who are not fluent in English. Absence of any policy or minimum standards for inclusion of legal clinics as a valuable legal teaching tool and mushroom growth of private law colleges are additional examples of failure in effective regulating and supervising legal education.

Legal professionals,²⁴ when pressed to comment on the quality of law graduates that they hired from the three types of law programs, were of the view that the quality of law colleges and law student on the whole is unsatisfactory. They noted that law graduates do not possess basic lawyering skills, and they as employers have to invest substantial resources in developing the lawyering skills of graduates from local law colleges. Generally, graduates of the 3 year LLB and the 5-year program are familiar with Pakistani law but do not have a strong grasp of legal principles. Graduates of the UOL program have a strong grasp over legal principles but are unfamiliar with Pakistani law and Pakistani legal system. On the whole, there is a gap in inculcating logical, rational thought and analysis in the students.

The reasons that legal professionals identified for the decline in legal education included: (i) inadequate regulation, monitoring and evaluation of the subjects taught in law colleges; (ii) insufficient financial resources and inadequate physical infrastructure; (iii) out dated legal curricula; (iv) faculty members who, for the most part, are neither qualified nor committed nor trained to impart quality education; (v) lack of online resources and legal database; (vi) lack of qualitative assessment strategies and resources to test law students; (vii) dearth of interdisciplinary knowledge; (viii) absence or scarcity of courses that develop essential lawyering skills; and (ix) failure to teach and develop logical, rational thought and analysis, analytical, communication and interpersonal skills of law students.

The core competencies that employers today look at when hiring lawyers include clarity of thought process, appreciation of law in practical terms (i.e. ability to use the law to address real life cases/problems), ability to view commercial arrangements from a legal perspective, strong writing, presentation and comprehension skills, analytical skills,

²⁴ Legal professionals include litigators, corporate lawyers, in house general counsels, partners in leading law firms and proprietors.

logical reasoning, attention to detail, competency in English, good understanding of common law legal concepts, understanding of core laws in Pakistan, research skills, interpersonal and communication skills, strong work ethic, and sound judgment. In their experience, graduates from local law programs generally lacked these core competencies and indicated that law colleges must develop these core competencies in law students before they graduate.

One of the unexpected findings of the survey conducted with the legal professionals was that in their experience as employers, the most qualified law graduates are those who have graduated from the Shaikh Ahmad Hassan School of Law, Lahore University of Management Sciences - a private, non-profit university established in 1985, which has developed a successful legal curriculum for a five- year B.A.-LL.B. degree and has been producing law graduates who today are favourite hires with employers in Pakistan. Law graduates from LUMS, according to employers, are familiar with Pakistani laws, have a good understanding of legal principles, possess research and writing skills, have acquired analytical skills necessary for a career in law and possess leadership skills.

Research carried out indicates that a numbers of reasons are identifiable for the poor quality of legal education in Pakistan. These factors/reasons have been succinctly identified and discussed by Dr. Osama Siddiqui and are reiterated in his words:

“unclear regulatory arrangements and overlapping regulatory jurisdictions and absence of genuine institutional stakeholders; low bars of entry to law schools and the paucity of new and dynamic law schools; outdated legal curricula; inadequate teaching pedagogy; A dearth of full-time, research- focused academics with consequent reliance by law colleges on part-time faculties; lack of financial and other career incentives for the legal academy; inadequate infrastructure and facilities; unsatisfactory law school governance; a near absence of a research culture and legal textbooks and treatises; and less-than-appreciative social and cultural attitudes toward a career in the academy; The central role of the legal bars in the governance of legal education and failure to focus on ensuring continuing legal education, regular and stringent bar examinations and modern exam curricula”.

Siddiqui, in examining Max Weber's typology of professional legal education, also identifies the teaching methodologies and one of the reasons for the poor quality of legal education. He describes the teaching methodology in Pakistani law colleges as being premised on imparting ‘craft like specialization’²⁵ and not the alternative type of legal

²⁵ “Legal Education in Pakistan: The Domination of Practitioners and the “Critically Endangered” Academic; Osama Siddiqui; Journal of Legal Education, Volume 63, Number 3 (February 2014);

teaching "where the emphasis is placed on legal theory and 'science,' where legal phenomena are given rational and systemic treatment"²⁶. As a result, young lawyers acquire lawyering skills, even basic skills like analysis and critical thinking after they commence their legal career and not in Law College.

In addition, the legal curricula in the three types of legal education in Pakistan do not provide substantial development of professional skills of law students and lags behind in utilization of teaching methodologies that are an essential part of legal education in developed countries. Examples of different types of teaching methodologies include the case study methodology, introduced in the US in the late 19th century²⁷ or clinical education, introduced in the US in mid-20th century²⁸.

Although some law colleges in Pakistan do use case studies and provide certain non-credit courses for development of practical lawyering skills, these are not sufficient to meet the requirements of employers and the profession.

As a result, law graduates do not possess requisite communication, analytical and lawyering skills to draft basic pleadings and opinions. Nor do they have the skills to think and analyse critically, logically and rationally. Employers have to invest substantial resources to develop these skills in new recruits, and their professional and ethical obligations do not allow them to impart the necessary training to young lawyers. Thus, law graduates develop their 'skills' either by learning on the job (and therefore dependent on their employer's standards and not based on any correct teaching or standard) and those with financial resources go abroad for further legal education (thereby learning skills not localized for Pakistan) in order to become 'successful lawyers'.

In light of the unanimous praise for students graduating from LUMS, an assessment of the LUMS law program was carried out to identify the factors that make LUMS graduates favorites amongst employers in the legal profession.

The key reforms implemented by LUMS include entrance exams for law school applicants, development of a full-time research faculty, improved pedagogical and examination approaches, and an institutional structure for legal education in line with international best practices. LUMS has developed a comprehensive curriculum that is

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²⁶ "Legal Education in Pakistan: The Domination of Practitioners and the "Critically Endangered" Academic; Osama Siddiqui; Journal of Legal Education, Volume 63, Number 3 (February 2014); page 509.

²⁷ Russell L. Weaver, Langdell's Legacy: Living with the Case Method, 36 Vill. L. Rev. 517 (1991).

²⁸ <http://www.legalnews.com/ingham/1001290>

continuously updated. There are four eligibility criteria for admission in LUMS- academic excellence, SAT Reasoning Test (SAT) is mandatory for all applicants, personal achievements of applicants are given due consideration, and performance in admission interviews.

Faculty members teaching at LUMS are required to have a strong grasp and understanding of the subjects being taught and possess strong teaching skills. They are encouraged to employ varied teaching and evaluation methodologies that include lectures, interactive assignments and discussions, case studies, research papers and presentations. Those aspiring to become law teachers have to undergo extensive training and LUMS encourages them to complete a teaching fellowship at leading global institutions. Senior faculty members are expected to have outstanding research record and teaching credentials. Students are taught how to apply applicable laws and rules to new fact patterns; case analysis i.e. how to dissect a case, breaking it down into discrete components (facts, issue, precedent, rule, application), honing their ability to distinguish between relevant and irrelevant facts; educating students on ethical and professional responsibility issues in cases; teaching students practical tips on how cases are actually litigated in the real world; teaching students litigation-oriented skills training through courtroom and transaction-oriented skills training through contract drafting exercises and mock negotiations; teaching litigation-oriented drafting exercises (pleadings, motions, jury instructions, etc.), tracing the historical development of the rules in their courses.

Moreover, students are encouraged to engage in extra-curricular activities and LUMS, being a multi-disciplinary university, allows students to participate in a diverse range of activities and to expand their knowledge and horizons beyond the law college. For the purposes of this paper, the ABA Rule of Law Initiative's Legal Education Reform Index (LERI) has been used as an assessment tool for identifying the weaknesses in legal education in Pakistan and will be relied upon to identify meaningful reforms in Pakistan's legal education.²⁹

LERI is based on 22 factors drawing upon the criteria and principles outlined in some of the fundamental international instruments related to higher legal education. It has been broken down into six different categories:

- 1) Licensing, Accreditation and Evaluation;
- 2) Admission Policies and Requirements;

³⁹For a consolidated understanding of the standards, current Pakistan situation and gaps, these have been placed in a table attached at ANNEX A

- 3) Curriculum and Teaching Methodology;
- 4) Student evaluation, awarding of degrees, and recognition of qualification;
- 5) Faculty qualification and conditions of employment; and
- 6) Institutional holdings and capacities.

The assessment of Pakistan's legal education as per the complete list of the LERI factors under these categories is as follows below.

Factor 1: Regulation of legal education by a duly authorized entity: Legal education is provided by institutions duly authorized by the state body, professional association or other entity responsible for regulating legal education.

Legal education in Pakistan is regulated by the HEC and the PBC. Educational institutes imparting legal education in Pakistan are recognized by the HEC as well as the PBC and monitored by the PBC.

As noted above, the overlapping jurisdiction, lack of clarity and lack of ownership of both institutions has resulted in a number of the gaps identified in this report.

Factor 2: Standards for licensing and accreditation: The standards for licensing and accrediting institutions providing legal education are clearly defined by the responsible state body, professional association or other entity duly authorized to regulate providers of legal education.

The recognition of these law colleges until 19 December 2015 was governed by the Affiliation Rules. The Affiliation Rules were promulgated in 1998 to curb the mushroom growth of private law colleges and to put in place strict control and check on colleges imparting legal education so as to improve the standard and quality of legal education. The only requirement for law colleges is to adhere to the standards laid down by the PBC in consultation with the University Grants Commission (now replaced by the HEC), the Universities that each law college is affiliated with and the Provincial Bar Councils³⁰. However, minimum standards have been formally laid down by the regulators, and fall short of adequately measure the quality of legal education.

³⁰ Rules 29 of the Affiliation Rules.

The Affiliation Rules have been incorporated into the 2015 Rules with slight modification. Although the 2015 Rules lay down the minimum criteria for the physical infrastructure/facilities of law colleges³¹ and administration of law college. These requirements are not meaningful criteria for establishment, running, management, monitoring or evaluation of law colleges. For example, the only requirement for the governing body of the law college is that it must include a sitting or retired judge of any of the High Courts in Pakistan and does not prescribe any duties or obligations upon the governing body of the law college.

Law colleges are required to ensure quality education according to the standards laid down by the PBC. However, no accreditation criteria for law colleges have been prescribed by the PBC. Thus, law colleges abide by and comply with standards established by each individual law college themselves.

Moreover, there are no minimum requirements for the qualification for full time and part time law teachers or their responsibilities as law teachers, even though minimum requirements for faculty members were laid down in the Affiliation Rules. The lack of a basic framework with core competencies and standards to ensure quality and equality of education results in a challenge to create meaningful positive change to law colleges in Pakistan. In the absence of a framework laying down minimum standards and requirements for faculty members, law colleges are under no regulatory obligation to do so and thereby are free to run the colleges with teachers that are unable to perform adequately and remain unmonitored.

Factor 3: Licensing and accreditation procedure: Initial licensing and accreditation of institutes providing legal education includes an external evaluation process based on established rigorous, transparent, uniform and internationally accepted quality assurance standards. To ensure continued compliance with these standards, license and accredited institutions providing legal education are also subject to a periodic, rigorous and transparent external evaluation process.

With the exception of institutions imparting the UOL, the licensing and accreditation of law colleges, even in the 2015 Rules, is not based on any rigorous, transparent, uniform and internationally accepted quality assurance standards. In fact, one cannot ascertain the quality and impact of the standards that law colleges have in place and whether they adhere to any internationally accepted quality assurance standards.

The registration of law colleges already registered with and authorized by the PBC to impart legal education continues to be in effect after promulgation of the 2015 Rules.

³¹ Rule 25 of the PBC Legal Education Rules of 2015.

They are required to adhere to the requirements laid down in the 2015 Rules but no interim time period or procedure has been laid down in the 2015 Rules or otherwise for these Institutions to ensure their compliance with the 2015 Rules. Institutions imparting the UOL have to meet the standard laid down by the University of London and the PBC.

Rule 26 of the Affiliation Rules and Rules 14 of the 2015 Rules empower the PBC to inspect law colleges; and Rule 31 of the 2015 Rules authorize the University, under which a law college is established to inspect their law college. However, in the absence of any standards for legal education to be measured against, inspection of law colleges, if any is ever conducted, is open to abuse by the inspection committee and does not act as an effective mechanism for law colleges to impart quality education to its students.

Factor 4: Disciplinary and enforcement actions: When institutions providing legal education fail to comply with established quality assurance standards, disciplinary or enforcement actions are administered fairly, consistently and transparently, with an appeals process.

Law colleges in order to obtain affiliation as law colleges have to submit an underwriting to the PBC that it will comply with the requirements of the 2015 Rules. In the event law colleges fail to meet the standards laid down for legal education in Pakistan, the PBC has the power to de-affiliate such law college or impose a fine up to Pakistani Rupees five hundred thousand.⁴³ Institutions teaching the UOL Program may be subject to de-affiliation after a complaint by the PBC and their students will not be eligible to obtain license from the PBC to become advocates.

As mentioned above, the 2015 Rules prescribe the formation of inspection teams to ensure compliance with the rules by law colleges, and provide law colleges with the opportunity to be heard. However, the 2015 Rules are silent on the powers of the inspection team as well as on the procedures and standards that will be adopted by them for carrying out the inspection. This leaves room for abuse by the inspection teams, and any disciplinary or enforcement action that may be taken by the PBC and/or the inspections may be arbitrary and/or ineffective.

Moreover, the leniency by the PBC in carrying out inspections and the monetary penalties prescribed are not sufficient to deter law colleges from providing sub- standard legal education. Furthermore, the power to take away the license of a law college is not exercised frequently and in the absence of any standards, is subject to misuse by the inspection committee.

Factor 5: Admission examination and/or other entrance standards:

Admission to institutions providing legal education is based upon passing a fair, rigorous and transparent entrance examination or a comparable set of uniform admission standards that are designed to ensure that the student body has the academic potential to complete the course of study and effectively practice law.

The 1978 Rules and the 2015 Rules provide minimum standards for admission in law program. Rule 3(b) of the 1978 Rules. Rule 4(ii) of the 2015 Rules provides that admission will be based on merit, and the only bar for admission, is conviction of an offense involving moral turpitude and dismissal from the service of government for corruption or misconduct.

The regulatory bodies do not provide for any entrance examination or admission standards to ensure that the admitted students have the potential to complete the course.

The regulatory bodies do not provide for any entrance examination or admission standards to ensure that admitted students have the potential to complete the law program. This shortcoming has not been addressed in the 2015 Rules. The only requirement laid down in the 2015 Rules is on the UOL Programs to ensure that they will have an admission requirement; however, such admission requirements are the discretion of the institutions providing the UOL Program.

Factor 6: Non-discriminatory admission: Admission to institutions providing legal education is not denied for reasons of race, gender, sexual orientation, colour, religion, political or other opinion, ethnic or social origin, membership of a national minority, property, birth, language or physical disability.

There are no measures in place to ensure that admission is non-discriminatory and thus no response mechanisms if it is indeed discriminatory.

Factor 7: Special admission measures: Special admission measures to increase representation of disadvantaged members of society or otherwise underrepresented groups are appropriately employed, where applicable, to further a desirable goal of society or an institution providing legal education.

Rule 4(iv) of the 2015 Rules requires that five (5%) percent of seats in law colleges are reserved for the children of advocates. There are no other quotas or measures laid out by the PBC for law colleges or law programs specifically. However, public universities are required by the Government to ensure overall entry of students into the university on quota and reserve admissions for such students who fall within identified categories requiring admission on the basis of quota.

Factor 8: Comprehensive curricula: Institutions providing legal education have curricula that are comprehensive and incorporate recent developments in national, comparative and international law in order to provide students with the requisite knowledge and skills too effectively and responsibly practice law.

Currently, the curricula for the 3 year LLB program is generally set by each faculty member teaching a subject³² and is for the most part outdated and modern teaching tools³³ are not incorporated. Law teachers in Pakistan usually teach by giving students lectures which usually are not interactive and therefore do not incorporate any modern teaching styles or focus on development of practical skills.³⁴

The HEC has approved curricula for the 5 year LLB program in the Curriculum; however, it has not been revised since it was approved over five (5) years ago. This curriculum for the 5 year LLB program does include courses for improving practical lawyering skills of law students, such as courses with case studies and research components to them. However, there are no requirements to have in place dedicated tech resources to support and compliment the courses taught, or any criteria for the minimum skills that should be provided to the law students, or a methodology or requirement to ensure their monitoring and evaluation by the PBC.

The teaching methodologies and curricula of law colleges have not been addressed in the 2015 Rules, nor have these rules made any reference to the Curriculum.

The 2015 Rules also do not require law colleges to revise and modernize their curricula. Thus, there is no mandatory requirement incentive, nor any deterrent in the 2015 Rules for the law colleges to modernize their curricula and teaching methodologies on a regular basis. The minimum standards for graduation are also not identified.

The curricula of the UOL program are developed as per the requirements of University of London.

Factor 9: Instruction in ethics and core professional values: Law students receive adequate instruction in the core values and ethics of the profession, including relevant codes of conduct.

³² Findings from the questionnaires completed by administrators of law colleges and legal professionals.

³³ “Legal Education in Pakistan: The Domination of Practitioners and the “Critically Endangered” Academic; Osama Siddiqui; Journal of Legal Education, Volume 63, Number 3 (February 2014); page 509

³⁴ Findings from the questionnaires completed by administrators of law colleges and legal professionals

‘Elements of Legal Ethics’ is a mandatory course requirement for graduating for the 3 year and 5 year LLB programs.

The 2015 Rules are silent on the issue of how, what and to what level to impart knowledge and importance of legal ethics to law students.

Factor 10: Professional skills instruction: Law students receive adequate instruction in professional skills, including critical thinking, legal research, analysis and writing, advocacy skills and client relations.

The curriculum for the 3 year LLB program and the UOL external degree program formally do not provide for any instruction in development of professional skills, including critical thinking, legal research, analysis and writing, advocacy skills and client relations.

The Curriculum for the 5 year LLB program includes mandatory subjects on skills development, research methods, legal drafting and moot cases/role playing. Law students of the 5 year LLB Program are required to complete 10-12 weeks of internship after the end of the 4th year and submit a research project and write a dissertation during their 9th semester in this Program. However, as mentioned in Factor 8, there is no methodology or requirement for any monitoring and evaluation by the PBC.

However, the 2015 Rules are silent on the standards and quality of such subjects and do not provide any minimum requirements that have to be met by law colleges teaching such subjects on practical skills development. There is also no mention of monitoring and evaluation and its links to graduation and their fitness as a lawyer.

Factor 11: Teaching methodologies: Faculty employ varied teaching methodologies that are appropriately geared at developing professional skills, ethics and respect for the rule of law.

The rules and regulations governing law colleges do not require that faculty employ any such teaching methodologies. Law teachers predominantly teach by lecturing with limited interaction with students.

The 2015 Rules are also silent on adoption of varied and modern teaching methodologies.

Factor 12: Student evaluation and/or examination: Student performance and achievement of stated learning outcomes are assessed by fair, uniform and stringent written examinations or other objective and reliable assessment.

The 2015 Rules do not provide for comprehensive student evaluation or any methodology for objective and reliable assessment of students. The only requirement provided in the 2015 Rules is that minimum percentage required for passing a course is 40% in individual papers and 50% in aggregate.³⁵

Factor 13: Awarding of degrees: Qualifications and degrees awarded reflect that students have successfully completed all requirements and met all standards for the awarding institution.

Since exams are relatively easy and students are allowed to take an exam three times, the degrees do not reflect the quality of law graduates entering the legal profession.

Factor 14: Institutional record-keeping: Institutions providing legal education maintain accurate records that meet national and international quality assurance frameworks and standards in order to facilitate comparability and compatibility of qualifications.

The 2015 Rules require that colleges maintain an attendance record of students and such record be displayed on the law college's website and notice board every month³⁶. The 2015 Rules also require law colleges to maintain college record on their premises, but these rules do not specify what information needs to be recorded and maintained, and is silent on the integrity of college record.

The record of students and their academic achievements do not meet any international quality assurance frameworks. As a result, degrees, except for the UOL external law degree, are seldom accorded recognition by foreign jurisdictions and those that are accorded recognition by foreign institutions are successful only after stringent review by a foreign institute.

Factor 15: Recognition frameworks and networks: Institutions providing legal education participate in national, regional and international quality assurance and

³⁵ Rule 32 of the PBC Legal Education Rules of 2015.

³⁶ Rule 28 of the PBC Legal Education Rules of 2015.

recognition networks, and their participation is facilitated and monitored by the entity in charge of regulating institutions providing legal education.

Legal institutions in Pakistan do not participate in any such networks.

Factor 16: Faculty qualifications: Law faculty possess requisite knowledge and competence in their subjects to provide a quality education to students, as evidenced by degrees held, scholarly publications, practical experience as well as strong teaching skills.

The PBC under the Affiliation Rules required that full time faculty members have at least two full time teachers with academic qualifications and experience as prescribed by the Law colleges; and such teachers deliver at least 25% of the total lectures delivered during the academic year. The part – time teachers teaching LLB should be Barristers at law or hold equivalent qualification with minimum 5 years standing at the Bar. However, the rules do not define or explain the equivalent qualification of a Barrister at law. Furthermore, these minimum requirements for teachers are not strictly enforced by law colleges, nor are violations of the same noticed by the regulators, nor is there any mechanism to ensure law teachers teach the course objectively. Absence of such mechanisms do not deter teachers from imparting their biases in their teaching methods thereby perpetuating such biases which results in the students either being discriminated against, and/or bullied by their peers or teachers.

However, no provisions for hiring and qualification of law teachers have been prescribed in the 2015 Rules. As a result, at the moment there are few minimum requirements for faculty members teaching at law colleges.

Factor 17: Hiring, promotion and tenure: Faculty hiring, promotion and granting of tenure, or its equivalent, are based on rigorous, fair, uniform and transparent criteria and procedures, with a process for seeking appeal or review of adverse decisions.

The legal framework governing legal education in Pakistan does not provide any criteria or procedures for hiring, promotion and granting of tenure, or its equivalent nor is there a process for seeking appeal or review of adverse decisions.

Factor 18: Faculty compensation: Compensation for law faculty is set at an appropriate level to provide a reasonable standard of living in order to attract and retain qualified, dedicated and ethical faculty who are able to devote their time to teaching, research and public service.

There are no set requirements for salary packages for law teachers. As most teachers are part time or contract, there is little focus on minimum payments with any scales with regards to experience etc.

Law colleges offer inadequate salary packages to law teachers, and more or less are devoid of engaged, full-time research-driven academics.

Factor 19: Academic freedom and freedom of association for law faculty:

Institutions providing legal education and individual law faculty members enjoy academic freedom, are encouraged to engage in research, are not punished for holding positions relating to academic debate, research or public service, and have the right to freedom of association.

As there has been little investment on law faculty as noted above, there has accordingly been little discussion accorded to any academic freedom or encouragement of research etc. Simply put, it has not been a concern, requirement or of interest to most law institutions.

Factor 20: Access to legal materials: Students and faculty have adequate access to the full range of laws and legal materials (national and international) relevant to curriculum subjects and the eventual practice of law, with materials available in all official state languages where appropriate.

The 2015 Rules provide for book banks and law libraries in all law colleges.³⁷ The minimum requirement to provide students is not less than 500 standard law books, including statutes and the lending facility should be to at least 20 percent of the total number of law students on the law college's roll of admission.

Factor 21: Physical facilities and technological capacities: Institutions providing legal education possess adequate physical facilities and technological capacities to meet the needs of their current program of legal education and anticipated growth.

The 1978 Rules and the 2015 Rules provide for a minimum standard for physical facilities and amenities in law colleges.³⁸ Currently, the only technological requirement under the 2015 Rules is access to online journals and internet,³⁹ and provision of at least

³⁷ Rule 8 of the PBC Legal Education Rules 2015.

³⁸ Rule 25 of the PBC Legal Education Rules 2015.

³⁹ Rule 8(iv) of the PBC Legal Education Rules 2015.

50 computers with internet connection in computer labs and at least one computer for every 5 students in the law library.⁴⁰

Factor 22: Class size and administrative/support staff: Institutions providing legal education have a reasonable student-to-teacher ratio, appropriate class size and sufficient administrative and support staff to achieve the educational goals of the institution.

Issues and problems of legal education in Pakistan, many of them already identified at different times in the past at different levels and by different bodies and individual experts, may be enumerated as below.

1. Objectives of legal education meaning what national goals we would pursue with the education we receive in the law schools.
2. Policies and standards of legal education which in keeping with the objectives of legal education would set the requirements and conditions of high quality of legal education.
3. Nature of legal education, shedding light on dichotomy of academic and vocational legal education.
4. System of legal education, focusing on different types of law schools which provide legal education in Pakistan and the degrees they award.
5. Curriculum development.
6. Teaching methodology.
7. Clinical legal education which means not merely methodology of teaching, but also service to the community.
8. Students' pre-qualifications for admission to law schools and the procedures for admission.
9. Duration of law courses.
10. Examination and evaluation of the students.
11. Qualification, recruitment and remuneration of teachers.
12. Evaluation and accountability of teachers.
13. Education and training of the teachers.
14. Teaching Materials.
15. Medium of instruction i.e. language.
16. Continuing legal education.
17. The question whether basic legal education should be introduced in secondary and higher secondary levels of our national and provincial education system.

⁴⁰ Rule 8(v) of the PBC Legal Education Rules 2015.

18. Role of certain national bodies like Pakistan Bar Council, Provincial Bar Councils and Higher Education Commissions in legal education.
19. Whether having a national agency on legal education with sufficient monitoring and controlling power would assist in providing quality legal education.

1. Objective of Legal Education

From the introductory part of the present paper we have a general idea of the objectives of legal education. However, in Pakistan these ideas have nowhere been authoritatively defined and laid down. No government agency or any relevant body has mentioned or stated any objectives of legal education and pursued concrete policy to implement them.

Immediate objectives of legal education in our country would seem to be producing law graduates equipped with knowledge of substantive and procedural laws, capable of taking active parts in the traditional justice delivery system of a state i.e. proceedings of a court. This is judicial method of dispute resolution. There are also alternative ways of dispute resolution where law graduates could play an effective role. If there is a social value of law, and law is considered an instrument of social change, law graduates and lawyers' role in law-making, law-enforcing and law reforms, and also in taking law and justice to the doorsteps of the people, can hardly be undermined. Law has also to deal with the problems posed by modern economy, globalization and information and communication technology (ICT). Spheres of activity of law and lawyers are constantly expanding. Objectives of legal education, therefore, need to be concretely defined with clear perspective and vision.

2. Policies and Standards of Legal Education

To achieve the objectives of legal education, corresponding policies ought to be framed and standards laid down in order that high quality of legal education is ensured. Policies and standards relate to (a) types of law schools that are desirable and necessary to fulfill the objectives of legal education, (b) courses and programs that correspond to those objectives and (c) the process of realization of those courses and programs. Policies and standards of legal education are to a great extent contingent upon the priorities that the government and other relevant bodies would attach to this sector. Unfortunately, government priorities in our country to this sector are discouragingly low.

3. Nature of Legal Education

There is an old debate of legal education being academic or vocational in nature. Law is a practical social science. Its both academic and vocational nature is important. We have so

far failed to combine or blend these aspects of law to create opportunities to provide quality legal education. In the universities and colleges of the common law mother country U.K. academic character of legal education predominates, while there is institutional provision for vocational legal training in the inns of bar before a law graduate can practice in the courts. We are perhaps following U.K. University and college model without subsequently providing for any vocational requirements before calling the law graduates to bar. Present system of internship for six months under a lawyer of ten years standing and Bar entrance test has been proved to be a failure for reasons well known to concerned persons. Bar has not introduced Bar Vocational Courses in an institutional form of imparting practical legal training. Some law faculties of public and private sector universities have introduced some practical law courses in the form of moot court and mock trial, and drafting and conveyancing. They are also commendable, but insufficient. Moreover, these courses are available only in one/two law faculties. Vast majority of law colleges and law faculties have no practical courses.

Either we have to go academic in the first phase of legal education and then vocational in the second phase as in the U.K. and some other common law countries, or we have to make a blend of academic and vocational education in the existing set-up of law schools, as it is done in the U.S.A, before law graduates would be allowed to sit for bar examination. Mandatory vocational training program can also be thought of for the appointment of judges.

4. Institutional System of Legal Education

This is a puzzling issue in the legal education of Pakistan. There is no institutional uniformity in the country. This problem is too well-known to the concerned persons to require any detailed description. To be brief, about sixty or so law colleges in Pakistan offer three-year law courses to award LL.B. degrees. Pre-qualification for admission in the law colleges is graduation in any subject. Academic and administrative control over these colleges is exercised by the Bar Councils and Higher Education Commissions. Some of these are evening-shift colleges with part-time students, and run by part-time teachers. Traditional subjects of law are taught with no practical courses. Again for reasons well-known to concerned persons, quality of education in the law colleges is not upto the mark.

Law faculties of some of the public and private sector universities are an improvement over college legal education. They admit students after for five -year LL.B. (Hons.) and two-year LL.M. courses and award corresponding degrees. Besides traditional subjects of law, they have introduced many new subjects responding to the demands of modern economy, governance and globalization. Most of them have practical, tutorial and

research courses. They are day-time faculties staffed by full-time and par time teachers which are controlled by respective universities.

New emerging law schools under private universities are being patterned on the public university law faculties, and are regulated under their charters.

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

5. Curriculum Development

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

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

6. Teaching Methodology

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

simulation exercise, moot-court and mock-trial needs to become more frequent and mandatory.

Teaching methodology has some relevance to the issue of legal education being academic or vocational in nature. Unless we can make provisions for institutional vocational legal education, more emphasis needs to be given on practice oriented methods of teaching in our law schools. This is to make good for lack of practical skills of law graduates who are taught by traditional method.

7. Clinical Legal Education

North American concept of clinical legal education is directly related to teaching methodology. Clinical legal education is practical legal training through moot-court, mock-trial, participation of the students in ADR and in public legal education i.e. mass legal awareness programs, chamber practice with the lawyers, counseling, participating in the conduct of life cases, short of appearing in the courts. Clinical legal education is learning through doing, or by the experience of acting like a lawyer. Hence this is experiential learning. Clinical legal education merits separate treatment, for it is not merely a methodology of teaching or learning, it is also providing service to the people and, hence, more practical and noble. LUMS law School introduced clinical legal education five years ago, with encouraging success.

Issues 8, 9 and 10 as Enumerated in Introduction

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

Some of these issues have been stated above. It needs to be added that in most cases there is no admission test for law colleges while in the universities one seat is contested by more than hundred candidates, in spite of the fact that minimum qualification for application for admission is second division results in both A levels or FA/FSC and BA/BSC or GPA 5 in O-levels and A-levels combined.

Evaluation and examination in public universities is by class test, tutorial, viva-voce, written examination and in some instances practical examination and submission of research paper. Questions in the written examinations are more of theoretical nature than they are problem oriented. Most of the Law colleges under the Private Public University

conduct only theoretical written examinations. To add to this plight, class-attendance requirement for sitting for the examination is almost never followed in the law colleges.

Issues 11, 12, 13 and 14 as Enumerated in Introduction

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

The concept of preparation of teaching materials by the teachers as practised in developed countries is almost non-existent in Pakistan. Teachers need to devote more time to the preparation of lectures and teaching materials than they do devote to the delivery of lecture itself. Under existing remunerations and emoluments of the teachers in Pakistan, it is difficult to be more demanding of the teachers. Under existing conditions, they look for part-time jobs outside of the universities. It may be noted that even in neighbouring country India, teachers' salaries are more than double the corresponding national pay scale.

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

15. Language

Bilingual hazards in legal education and in legal profession are well-known in Pakistan. Neither the government nor any concerned institution in Pakistan has so far been able to adopt any clear and bold step towards resolving this issue. Bilingual hazards, therefore, continue to linger. Only the private universities have opted for unilingual system making English the sole medium of instruction.

While bilingualism is not unworkable, unilingual system is considered more effective for imparting education.

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

16. Continuing Legal Education

Law is a dynamic and practical subject. It keeps on changing responding to the changing needs of the society. Besides, its depth and vastness can only be realised in the process of its application. Acquiring legal knowledge, therefore, becomes a life-long professional and intellectual pursuit. This underlines the need for continuing legal education for lawyers as well as judges.

Powers, programs and functions of the Federal and Provincial Academies may be broadened to provide compulsory continuing legal education and training to the judges of the subordinate judiciary for a considerable period time.

Pakistan Bar Council and Provincial Bar Councils should introduce continuing legal education for young lawyers and law graduates. It should introduce Bar Vocational Courses as requirements for enrolment in the bar. This is also continuing legal education. However, the question of education and training of young and junior lawyers is still far from being sufficiently addressed. Their training needs to be institutionalised on national scale.

17. Universal Legal Education

The proposal that basic legal education be introduced at Matriculation and Intermediate levels as general science or general social studies are studied at these levels in Pakistan, merits caring attention. It may serve two essential purposes. First, it is expected to enhance national legal awareness which is considered necessary for implementation of

law and facilitating broader access of the people to justice. Second, it would better equip the future law students to undertake the study of law at higher level.

18. Role of Bar Council and Higher Education Commission

Pakistan Bar Council has statutory obligation “to promote legal education and lay down standards of such education in consultation with the Universities in Pakistan”. The Bar Council has been authorised by law to “frame rules to provide for the standards of legal education to be observed by Universities in Pakistan and the inspection of Universities for that purpose”. So far the functions of the Bar Council have remained limited to prescribing some core subjects as part of law school curriculum, and conducting bar enrolment examination. It has the power and potential to play more guiding and supervisory role in improving the quality of legal education in Pakistan. This power and potential may be argued to have remained largely unutilised.

Higher Education Commission (HEC) plays practically no role in the academic control of the public universities. Only recently, it is exercising some academic control over private universities, including curriculum development. However, the way HEC is doing it, for example, depending on the opinion of one expert to accept or to reject syllabus of a law school is already proving unhappy.

19. A National Body for Legal Education

Existence of a national body for legal education may not be any testimony to a sound system of legal education, but having such a body would undoubtedly harness the national efforts to have one – sound and viable. Establishment of a national agency consisting of academics, lawyers, judges and representatives of the government, which would implement reforms of legal education, sustain the reforms, exercise control over quality of legal education as well as continuing legal education, therefore, merits consideration.

The issues and problems of legal education in Pakistan are many. Considerable numbers of them have been raised in the present background paper. Actual facts and conditions in legal education in Pakistan corresponding to various issues have been attempted to be stated in the paper. It is hoped and believed this would help discussions and deliberations amongst the experts and concerned persons, and solicit public opinion to take a critical view of the existing legal education in Pakistan, and suggest reforms.

The 2015 Rules as well as the 1978 Rules require that a section of a class in a law college is not more than 100 students. This is however not strictly enforced by law

colleges and not monitored by the Rules. Furthermore, there are no repercussions for not abiding to this class size.

As noted above, in June 2011, the PBC in collaboration with the HEC and the legal fraternity in June 2011 revised the curriculum for law colleges, which led to formal recognition of and regulation of the 5 year LLB program. The approved curriculum for the 5 year LLB Program updated the curriculum, made recommended readings for courses and made some efforts to include a small focus on skill development, although without adding in requirements for evaluation to ensure good quality.

However, other structural and fundamental reasons for decline in legal education were not addressed therein. Nor have they been addressed in the 2015 Rules. A review of the 2015 Rules indicates that core deficiencies in legal education and its regulation identified earlier in this paper have not been addressed. While these measures have been adopted to improve the quality of legal education, the PBC and the HEC have not put in place other meaningful reforms and resources necessary to address or support these attempts of amendment and are thereby failing to address the core challenges and weaknesses in legal education.

While specific gaps and critiques are provided in the previous section, general, summarized gaps and deficiencies have been given below.

1. No national policy on legal education. With issues of overlapping jurisdictions of regulatory bodies, it is important to have a holistic and overall policy and strategy;
2. Inadequate regulation, monitoring and evaluation of the subjects or courses taught in law colleges, and on quality of teaching;
3. Insufficient financial resources and inadequate physical infrastructure;
4. Out dated legal curricula with no requirements for modernizing and no monitoring;
5. Scarcity of meaningful resources and opportunities that develop essential lawyering skills of law students;
6. Failure to teach and develop analytical, communication and interpersonal skills of law students;
7. Mushroom growth of law colleges with inadequate capacity and limited resources;

8. Failure to curb the preference given to commercial considerations by law colleges;
9. Little attention given to moral and professional ethics; lack of any standards by the regulators for providing qualitative legal education;
10. Insufficient reforms in legal education by the regulators.
11. Poor communication skills; in particular, limited fluency in the English language and no efforts to strengthen language and communication skills;
12. No policy on hiring, promotion, monitoring, evaluation of law faculty members.
13. The overlapping jurisdiction and lack of clear divide between the work of the HEC, PBC and Council of Common Interest.
14. The HEC, despite having the authority by statute, has failed to regularly exercise its powers to put forth policies and standards that build centers of legal excellence. The only time we have seen HEC exercise such powers is in the development of the Curriculum.
15. Due to devolution of higher education to provinces, regulation of legal education will increasingly take place at the provincial level and not the federal level. This would translate into the LEC, the regulator of legal education at the national level, working with provincial bodies and may result in multiple policies and standards for legal education and different curricula.
16. Lack of policies, standards or resources to measure and assess:
 - a. the quality of education and legal curricula being imparted by law colleges: -
 - b. Inadequate resources, facilities and infrastructure of law colleges;
 - c. Sub-standard administration of examinations by law colleges;
 - d. Absence of definition, eligibility and admission criteria by law colleges;
 - e. Minimum standards for qualification and thereafter evaluation of teachers; and
 - f. Law students and thereby the effectiveness of the law programs and the colleges.

- g. No criteria for accreditation of law colleges
17. Lack of repercussions for any lapses from the Rules and other standards etc.;
 18. Dearth of interdisciplinary knowledge;
 19. Lack of guidelines or recommendations for administrators and governing bodies of law colleges.
 20. The absence of definition of powers of the inspection team under the 2015 Rules and lack of any framework for carrying out any inspection.
 21. No strategy and inadequate resources for incorporating or promotion of technology and innovation in legal education.
 22. Lack of strategy for development and roll out of legal clinics, and of guidelines/rules for continuing legal education,
 23. Preference given to commercial considerations of legal education by law colleges instead of preference to academics.
 24. Lip service given to the courses taught in law colleges and absence of in-depth study and/or analysis of the subjects.
 25. Absence of policy/guidance on reaching out to the legal fraternity to provide support to the law colleges in developing professional skills of students.
 26. Insufficient or inadequate extra-curricular activities, and lack of monitoring of any such existing activities, that develop professional lawyering skills such as inter-alia moot courts, legal aid clinics, case studies, exercises on developing critical legal thinking.
 27. No continuing legal education.
 28. Lack of incentives and resources to conduct legal and academic research;
 29. Failure of law colleges to impart requisite professional skills such as critical legal analysis;
 30. Failure of law colleges to develop effective communication skills, in particular English language skills.

31. Resistance from the legal fraternity and law colleges to changes in legal education.

The findings on the state of legal education show that sweeping reforms are the need of the hour. The views of the PBC, observations made by the Supreme Court of Pakistan in *Pakistan Bar Council v Federal Government of Pakistan* (PLD 2007 SC 394)⁴¹ and the findings of this paper indicate that there is a dire need to improve legal education in Pakistan⁴². As provided for in the *Basic Principles on the Role of Lawyers*⁴³, and the observations made by the Supreme Court of Pakistan⁴⁴, the onus of ensuring that legal education fulfils the demands of the legal profession rests on all stakeholders - PBC, law colleges, legal professionals, judiciary and the legal fraternity.

General education, theoretical knowledge of law through case studies and at least two years of practical skills training have been identified as three necessary components of legal education by the Reed Report by the Carnegie Foundation for the Advancement of Teaching.⁴⁵

It is also pertinent to keep in mind that the purpose of legal education is to prepare (a) a law student for service in the legal profession, which branches into a range of areas including litigation, corporate, transactional, criminal, civil, access to justice, and international law; and (b) to inculcate logical, rational thought and analysis into the students.

Legal education in Pakistan falls short on the aforementioned objectives of legal education and fails to meet the present and future demands of the profession. Based on these findings, the PBC, in collaboration with all stakeholders should put forth policies, strategies, and recommendations on the following proposed reforms:

1. The Supreme Court of Pakistan⁴⁶ has directed that measures adopted for improving legal education in Pakistan should be carried out by a committee which

⁴¹ *Pakistan Bar Council v Federal Government of Pakistan* (PLD 007 SC 394); page 400.

⁴² *Pakistan Bar Council v Federal Government of Pakistan* (PLD 007 SC 394); page 400.

⁴³ *Basic Principles on the Role of Lawyers; Principle 8*
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>

⁴⁴ *Pakistan Bar Council v Federal Government of Pakistan* (PLD 007 SC 394); page 400.

⁴⁵ <http://www.legalnews.com/ingham/1001290>

⁴⁶ *Pakistan Bar Council v Federal Government of Pakistan* (PLD 007 SC 394); page 403-404.

is to be headed by a judge of Supreme Court to examine and improve the syllabus prescribed for professional degree in law and suggest suitable proposals in the light of the observations of the Court. Since a number of deficiencies and gaps have been identified in legal education, such a committee should include all stakeholders and should have the mandate to address all issues and challenges pertaining to legal education.

The Council of Common Interest, HEC and the PBC, in particular the LEC, can lead this initiative, in collaboration with the Legal Aid Society, law colleges, legal fraternity and the judiciary so as to pave the path to quality legal education in Pakistan and modernize legal education to ensure law graduates satisfy demands of the legal profession. In this respect, as a starting point, a task force on reforms in legal education in Pakistan should be constituted, as recommended by the Supreme Court of Pakistan (the “Taskforce”).

Such a committee should comprise representatives of all stakeholders i.e. judiciary, legal fraternity, representative of the PBC as well as the HEC, law colleges, leading teachers, legal education specialists and administrators of law colleges. Efforts must be made to ensure the independence and neutrality of the Task Force. Moreover, the Task Force should ensure financial burden of such reforms should be borne by the state and not be shifted to law students or to litigants.

The Task Force should be charged to examine the current deficiencies and conditions in legal education, present recommendations for potential solutions that are effective, practical and have a reasonable chance of broad acceptance, and supervise implementation and execution of the propose reforms.

The terms of reference of the Task Force are crucial and should include deliberation upon and identification of reforms that are required in legal education including developing a national strategy for rolling out, implementing and maintaining reforms in legal education, and thereafter oversee the finalization and execution of the reforms in legal education. In particular, the Task Force should deliberate upon what is required within a law degree and the minimum standard that a student needs to satisfy in order to qualify for entry into the legal profession. Such reform should be comprehensive.

The Task Force may go beyond education in a law college and also set out to improve the quality of learning and education of members of judiciary, as well as continuing legal education.

2. A national policy on legal education in Pakistan should be developed to provide guidance and direction on legal education. Such a policy should be comprehensive and encompass legal education not only for law students, but should also provide direction for continuing legal education, judicial training and vocational training. Moreover, the national policy should address the challenges posed by the overlapping jurisdictions of the three regulators and attempt to define clear jurisdictions for each regulator and encourage collaboration between them on matters that require uniform standards at the national level.
3. A revised curriculum that is comprehensive, current, and effective in achieving contemporary demands of the legal professions and requirements set forth by the different stakeholders. The curriculum must be considered the bare minimum education that must be provided to the students. The law colleges may have freedom in the exact manner and design of their courses, as long as this minimum standard is covered.
4. The curriculum should be such that it develops core legal principals and knowledge, skills, competencies and ethics which as identified in this position paper, graduates need for the workplace.

The curriculum should also aim to develop the law students' soft skills such as written, communication and business skills, project management, technology, data analytics, critical thinking and leadership development, and where necessary, language skills⁴⁷.

Moreover, the curricula should allow students to take courses in different disciplines, based on their interest and career goals. A crucial measure to achieve these reforms in the legal curricula would be introductions of flexibility in the syllabus, including decreasing the number of mandatory courses that law graduates have to complete to qualify for graduation.

5. Introduction of curricula which includes professional development courses and activities that develop professional skills. Given the contemporary demands of the legal profession and employers, it is important for law colleges to focus on courses and extra-curricular activities that also develop and strengthen analytical and

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The American Bar Association's Task Force
http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf

problem solving skills. These should include legal clinics, trial advocacy, moot court and mock trial programs⁴⁸.

6. Development and incorporation of technology in legal education. Use of technology in any profession today no longer is a luxury but a necessity. Computers and technology should be used as teaching aids.

Moreover, law colleges should teach students how to use online resources and how to conduct legal research online. The ability to efficaciously access online resources and online legal databases is essential to extract applicable laws and information in the legal profession. Conducting online case law research can provide requisite information within minutes whereas manual case law research may take hours.

7. Introducing entrance/admission tests and other eligibility criteria for admission in law colleges should be made mandatory by regulation. This will ensure that the applicants possess the requisite competencies to excel in the LLB program. It is important that law college administrators retain their authority and independence in the admission of students. Since the 2015 Rules require that legal education be taught in the English language, students fluency in spoken and written English may be assessed and special language classes for those who are not fluent be made mandatory.
8. Evaluation of law students should be modernized. Students should also be evaluated on their ability to think critically, analyze and solve problems. The Task Force should also provide criteria relating to evaluation and the requirements for graduation, linking it with the evaluation of law students with both substantive knowledge, as well as on skills based education provided.
9. Development and introduction of standards for accreditation of law colleges that are at par with best international standards for accreditation of law colleges. The proposed accreditation should include services, outcomes, access to justice initiatives, and value delivered to law students.
10. Introduction of teaching methodologies that develop analytical as well as problem solving skills of law students such as the Socratic method of teaching⁴⁹ and legal

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http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf

clinics. In adoption of the Socratic method of education, law faculty questions students in a manner that requires them to consider how they rationalize and respond about topics.

The goal of the Socratic Method is to help law student process information and engage in deeper understanding of topics, engage students in dialogue and discussion that is collaborative and open-minded as opposed to debate which is often competitive and individualized.⁵⁰

11. Introduction of a mandatory vocational degree on development of professional lawyering skills, which may be taught either during the final year of the LLB program or after successful completion of a degree in law.

The British Professional Teaching Course (the “BPTC”) model in the UK can be looked at for guidance and assistance. Successful completion of such some mandatory requirements of such a course should be one of the criteria for enrollment in the roll of advocates and for obtaining a license to appear as an advocate in the courts of Pakistan.

In order to do so, the eligibility criteria for enrollment as an advocate will have to be revised. A law graduate may complete such a course either before or during their pupillage. The Karachi Bar Association recently conducted courses on civil cases and criminal cases, which can serve as a building block for the vocational degree. In addition, actively participating in a legal clinic can also be incorporated in such a degree.

12. The Task Force may also consider recommending amendments of the minimum standards required for future licensing of the lawyers. These recommendations may include minimum hours of pro bono work; a written and oral re-test of knowledge and skills etc. and a course of continuing education before being granted an advocate license.
13. Setting minimum standards for the quality and building capacity of the faculty in all law colleges. Law colleges should hire and train qualified, committed and competent teachers with expertise in the courses they teach. Law colleges should

⁴⁹ The law professor poses a sequence of questions, leading students to think through legal concepts and problems. The purpose of the Socratic method is to teach students to analyse cases, reason by analogy, think critically about legal arguments, understand the effects of the law and perceive underlying policy.

⁵⁰ <http://www.learnnc.org/lp/pages/4994>

create opportunities for their faculty to carry out legal academic research, with collaborations between faculty and law students being encouraged.

In addition, faculty members need to be given competitive salaries. Pay packages for teachers should be made attractive so as to ensure the best are recruited for the job. Teachers should undergo comprehensive annual reviews and requisite ongoing training should be provided to them.

14. Capacity building of administrators and governing bodies of law colleges, to enable them to efficaciously and effectively manage and run centers of excellences for legal education.
15. Moreover, resources, financial and otherwise, are needed in order to put in place reforms and their purpose/target achieved. Numerous resources are required to bring about meaningful reform in legal education in Pakistan and will have to be identified once actual reforms have been finalized. In the interim, it is imperative that law colleges identify the resources that are required for rolling out reforms in the education sector.
16. Provide substantive career counseling to law students through workshops and programs that encourage networking and provide exceptional professionalism training for students in areas of ethics and leadership.

Lawyers and judges have a vested interest in partnering with law schools, as has been opined by Justice Tassaduq Hussain Jilani in the PBC case, since it is their chance to shape the legal talent pipeline for decades to come.

17. The PBC needs to guide law colleges on the establishment and effective management of multi-disciplinary curriculum. As noted earlier, LUMS provides law students opportunities to interact with students from other disciplines and provides them access to non-law courses with quality, which adds to the overall learning experience of the students.

It is pertinent to note that the overall quality of the institution and its resources contribute towards the excellence of education. Thus, simply offering the 5 year LLB Program courses will not suffice. The PBC needs to take proactive measures and provide guidelines and standards for adherence.

18. The Take Force must work with the PBC, as the regulator of legal profession, to prepare and enforce policies and standards for governance of law colleges; evaluation of students, faculty and law colleges; criteria for admission in law

colleges; teaching methodologies; innovation in legal education; promotion of legal research; development of professional skills of students as well as practitioners in different disciplines of law; and continuing legal education.

19. The overlap of jurisdiction between HEC and PBC must be addressed to ensure the effective working of both and quality input and proper implementation within clear spheres of work.
20. The HEC, federal and provincial (once established by statute), need to play a proactive role in collaboration with the PBC, legal fraternity and judiciary, in improving legal education. In particular, provincial HEC centers in Sindh, KPK and Baluchistan need to be established by statute, as has been done Punjab; and such provincial HEC centers should be empowered and capacities therein developed to ensure that they have the resources, knowledge and skills required to regulate legal education. Reliance and guidance may be sought from the Punjab HEC.⁵¹

The findings of this paper show numerous reasons for the frail state of legal education in Pakistan. The stakeholders unanimously agree that the state of legal education is in decline and have demonstrated the intention to change the status quo. The gaps and deficiencies in legal education in Pakistan have been identified, examined and recommendations suggested hereinabove. Although various efforts and measures have been adopted to improve legal education, such measures have not been successful in changing the overall quality of legal education.

Findings of this research paper evidence that the challenge of reforming legal education in Pakistan has to be undertaken by a collective effort of all stakeholders.

The path to improving the quality of legal education in Pakistan will not be easy and will require strong leadership by members of the Task Force, PBC, HEC and other regulators, numerous resources and reforms as identified herein. Any reforms will require commitment, vision, financial resources, and the will to implement since resistance is inevitable in such matters. In spite of the resistance from the legal fraternity and law colleges, none of these essential components can be nor should be compromised upon.

⁵¹ <http://punjabhec.gov.pk/functions>

Acronyms and Abbreviations

Affiliation Rules- Affiliation of Law Colleges Rules

HEC - Higher Education Commission of Pakistan.

LEC - Legal Education Committee of the Pakistan Bar Council. LERI- ABA Rule of Law Initiative's Legal Education Reform Index.

LUMS - Shaikh Ahmad Hassan School of Law, Lahore University of Management Sciences.

PBC - Pakistan Bar Council.

UOL - University of London External LLB Program.

Recognition Rules - PBC (Recognition of Universities) Rules of 2015.

1978 Rules - Pakistan Bar Council Legal Education Rules of 1978

2015 Rules - Pakistan Bar Council Legal Education Rules of 2015