

Legal Education in Pakistan: The Domination of Practitioners and the “Critically Endangered” Academic

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In any discussion of the general state of legal education in Pakistan, the role of lawyers merits special attention. According to one estimate, Pakistan has 74 law colleges affiliated with 16 universities.¹ Historically underfunded and ignored, state law schools in Pakistan never have developed a favorable environment for a quality local research to flourish. At the same time, private law schools that emerged a few decades ago have largely pursued profit and done little to raise the quality of legal education. Finally, the general society never really has experienced and as a result has not learned to value what legal academics and scholars do. “Law teacher” is the closest attempt by most judges, lawyers and the public at large to describe the phenomenon. While the absence of a legal academy has resulted in negligible improvement of teaching and research standards, it also has impoverished the larger national discourse on law, rights and justice. Few and far between to start with, legal academics in Pakistan—employing the parlance of life sciences—are now a “critically endangered” species that may soon even be “extinct in the wild.” Therefore, chance and increasingly rare sightings in the rarefied atmosphere of a sundry conference may be the only way to observe one—if a complete “extinction” does not occur. This is a brief discussion of how this state of affairs came about.

Conflicting Regulatory Jurisdictions and the Domination of Lawyers

Teaching at Pakistani law schools primarily is undertaken by practicing lawyers, as well as retired lawyers and judges. Lawyers also have assumed prominence in the regulatory oversight of legal education, the accreditation and evaluation of law schools, curricular design, and standard setting.

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1. See Faqir Hussain, *The Judicial System of Pakistan* (2011), available at http://www.supremecourt.gov.pk/web/user_files/File/thejudicialsystemofPakistan.pdf [hereinafter *Judicial System of Pakistan*]. Dr. Hussain is the Registrar of the Supreme Court of Pakistan and this report was presented at the Annual Judicial Conference in Islamabad in 2011.

The Pakistan Bar Council—the national elected organization of Pakistani lawyers—thus occupies a role usually entrusted to autonomous law schools, state regulators and career academics. The Higher Education Commission of Pakistan, the apex regulatory body for university education in the country, also claims this role. This conflict arises because two statutes were introduced at different points in time, empowering both for this function without any serious thought to the suitability and capacity of either for the role nor any attempt to rationalize overlapping jurisdictions. The bar council, while largely neglecting its primary function of regulating the legal profession, always had the ascendant role in this confused milieu. However, jurisdictional uncertainty largely causes neither to play any meaningful role. Even otherwise, neither the bar council nor the education commission has developed and demonstrated much capacity or will to address the continuing decline in legal education as genuine stakeholders.²

Weber and the Pakistani Legal Education System

Many issues are posed by the domination of lawyers in legal education in Pakistan. This has meant, for example, that the bent and emphasis of the nation's legal education primarily has been to impart a craft-like specialization. It may be useful here briefly to examine Max Weber's typology of professional legal training and the various legal modes of thinking. In my view, the prevalent manner of legal training in Pakistan can be seen as similar to, in Weber's terms, an "empirical training in the law as a craft; the apprentices learn from the practitioners more or less in the course of actual legal practice." His alternative type of legal training occurs in "special schools, where the emphasis is placed on legal theory and 'science,' that is, where legal phenomena are given rational and systemic treatment."³ In the Pakistani legal academy—more or less devoid of engaged, full-time research-driven academics—lawyers largely determine academic curricula, set standards and teach. This scenario differs little in effect from Weber's first type, where law is taught by the lawyers and taught as a craft rather than as a science. Exploring Weber's typology further, more similarities of ethos and methodology emerge, situations in which the lawyer has displaced the law professor. For instance, Weber characterizes his first type as denoting a philosophy of legal training purely "empirical" and "practical," and that led to "specialization."⁴ According to Weber:

2. See Osama Siddique, *Martial Laws and Lawyers: The Crisis of Legal Education in Pakistan and Key Areas of Reform*, 5 *Regent J. Int'l L.* 95 (2007) [hereinafter *Martial Laws and Lawyers*]. The article conducts a historical review of various challenges and constraints faced by legal education in Pakistan. See also Richard Blue, Richard Hoffman, Management Systems International & Louis-Alexandre Berg, *Pakistan Rule of Law Assessment—Final Report 27–29* (2008), available at http://pdf.usaid.gov/pdf_docs/PNADO130.pdf [hereinafter *Pakistan Rule of Law Assessment*].
3. See Max Weber, *Max Weber on Law in Economy and Society* 198 (Max Rheinstein, ed., Edward Shils & Max Rheinstein, trans., Harvard Univ. Press 1954) [hereinafter *Max Weber*].
4. See *id.* at 201.

[T]his kind of legal training naturally produced a formalistic treatment of the law, bound by precedent and analogies drawn from precedent. Not only was systematic and comprehensive treatment of the whole body of the law prevented by the craft like specialization of the lawyers, but legal practice did not aim at all at a rational system but rather a practically useful scheme of contracts and actions, oriented towards the interests of clients in typically recurrent situations.⁵

Prominent drawbacks of current law teaching in Pakistan include: the clear vocational orientation of most lawyers and judges who teach law; their emphasis on the practical at the cost of the theoretical and the abstract; the absence of research-based interdisciplinary, comparative or critical thinking; the virulent myopia toward the vital inter-linkages among politics, society, policy and the law; and the consequent embrace of given doctrine as gospel.⁶ It is tempting to quote again from Weber who goes on to observe:

[W]herever legal education has been in the hands of practitioners, especially attorneys, who have made admission to practice a guild monopoly, an economic factor, namely, their pecuniary interest, brings to bear a strong influence upon the process not only of stabilizing the official law and of adapting it to changing needs in an exclusively empirical way but also of preventing its rationalization through legislation or legal science.⁷

The lawyers' stranglehold on Pakistan's legal education system promotes and sustains an invasion of law schools by a guild-like, mechanical approach to training in law. One is told how, in the past, leading lawyers of the country—practitioners in the old mold who were generalists, read widely and thought deeply—considered it public service also to teach and were apparently inspiring and thought-provoking teachers. That is no longer the case, as the leading lawyers are far too busy and gainfully employed. With exceptions, those who teach now are those with spare time. In many ways, the stranglehold of lawyers is symptomatic of the same ethos embedded in approaches to justice-sector reform in Pakistan, in which the “legal community”⁸ has played a prominent part. As a result, the existing structure, framework and salient features of the legal-judicial system seldom are questioned in fundamental ways.

In this context, it is poignant to quote from a typical perspective on the nation's legal education by a senior Pakistani lawyer. His remarks epitomize the Pakistani legal fraternity's attitudes toward the idea of a career legal academy:

5. *Id.*

6. See *Martial Laws and Lawyers*, *supra* note 2, at 98-107.

7. See Weber, *supra* note 3, at 202-03.

8. I use this term to describe judges, lawyers, court staff, government policymakers and law officials, as well as local and international policy-reform consultants.

It may however be stated that insistence on a full time faculty is not a rational demand of the university. Most of the subjects taught in the class rooms pertain to laws concerning the claims of the litigants. In this situation a practicing lawyer, with requisite experience at the bar, is a far better choice than a person who has no nexus with the day to day problems being faced by the litigants and issues arising in the court rooms during the trial of the case. Full time staff being underpaid, loses interest and therefore the best alternative is to have not more than [25] percent permanent staff in the faculty.⁹

At least the use of the word “faculty” in the above text is welcome for it is novel—“teacher,” as mentioned earlier, is the word most commonly employed for the legal academy. The words “academics,” “scholars,” and “researchers” mostly are absent from both the lexicon as well as the imagination or denote a career change necessitated by an indifferent time at the bar.

The Sociology of the Legal Profession

Let’s turn to a brief, necessary overview of the legal profession in Pakistan. Despite the paramount importance of lawyers in an adversarial system of adjudication, the Pakistani legal profession is acutely understudied. Meaningful regulation of the legal bars also historically has been neglected. Most Pakistani lawyers and judges now are locally trained and this results in not just frequent resentment toward and distrust of the gradually growing cadres of foreign-trained lawyers and even some judges but also paranoia about any talk of reforms of legal education and the profession. These proposals at times draw legitimate opposition as alien in origin and hence unsuitable in the local context; more often, however, they are rejected out of parochialism, as they seek to amend a system that the incumbents are comfortable with and thrive in—regardless of its various inequities, inefficiencies and other costs for its end-users.¹⁰

Hundreds of bar councils and associations exist at the *tehsil* (administrative division), district, provincial and national levels. According to some estimates, there are 89,624 lawyers now enrolled to practice in different Pakistani courts. Of these, 43,964 are licensed to practice only in the district courts.¹¹

9. Syed Afzal Haider, *Legal Education* 10, unpublished paper, available at <http://www.supremecourt.gov.pk/ijc/Articles/6/2.pdf>. It is no coincidence that this undated article is available on the website of the Supreme Court of Pakistan. The ideological affinity and everyday nexus of a senior Supreme Court lawyer with his arena of daily activity has a direct bearing here with the exalted access accorded to his views on legal education.
10. For a description and discussion of the law degrees and programs in Pakistan, see *Marital Laws and Lawyers*, *supra* note 2. Those who train in the law abroad have traditionally headed almost exclusively to the island that once ruled this part of the world. Now the trend is changing in favor of U.S. law schools as well as law schools in many other commonwealth countries.
11. Of these, 4,118 are Supreme Court advocates, 30,000 are in the High Court in Punjab, 6,840 are in the High Court in Sindh, 3,171 are in the High Court in Khyber-Pakhtunkhwa, and 1,531 are in the High Court in Baluchistan. There are 22,000; 9,214; 10,606; and 2,144 advocates in the subordinate courts in the four provinces in the same order as above. *See*

The actual number of active, practicing lawyers is estimated to be lower, as many law graduates never practice or give it up soon after fulfilling the barely challenging requirements to earn a law degree. However, even if we take these numbers to denote active practicing lawyers, it would be instructive to determine per capita access to lawyers in diverse regions of the country. Using the most conservative population statistics, for every 10,000 Pakistanis there are six lawyers (who are enrolled to practice in all Pakistani courts) and three district court lawyers. Further, the following are the number of enrolled district lawyers for every 10,000 residents in the different provinces: Punjab (2.5 lawyers); Sindh (2.75 lawyers); Khyber-Pakhtunkhwa (5 lawyers); and Baluchistan (2.5 lawyers). These low overall numbers do not reflect that within the provinces, actual access depends on proximity to towns and cities, and that many rural Pakistanis live in remote areas and, hence, face more challenges in access. In comparison, the following are the number of available lawyers per 10,000 residents of different countries: United States (37 lawyers); Brazil (30.5 lawyers); New Zealand (25.5 lawyers); Spain (25 lawyers); United Kingdom (25 lawyers); Italy (20.5 lawyers); Germany (17 lawyers); and France (7 lawyers).¹²

Historically, the legal bars in Pakistan have been highly politicized, as well as politically divided. Other than inadequate emphasis on professional regulation, this also is due to the active role played by South Asian lawyers in the years leading up to independence. Many of the most prominent leaders of the independence struggle such as Muhammad Ali Jinnah, Mohandas K. Gandhi, Allama Muhammad Iqbal and Jawaharlal Nehru, were lawyers. Further, Pakistani lawyers and lawyers-turned-politicians have been prominent in pro-democracy movements against military dictatorships, closely allied with political parties, and active in national politics. It is also key to note that aspirants, while maintaining close alliances with political

Judicial System of Pakistan, *supra* note 1. A lesser overall figure of 81,209 lawyers is reported in the Supreme Court of Pakistan, Information on the Administration of Justice, in Annual Report, April 2010–December 2011, available at http://www.supremecourt.gov.pk/Annual_rpt_apogmar10/13.pdf. The population figures for calculating these numbers come from Pakistan Bureau of Statistics, Pakistan Demographic Survey 2007, available at http://www.pbs.gov.pk/sites/default/files/population_statistics/publications/pds2007/complete_report.pdf [hereinafter Pakistan Demographic Survey 2007]. It should be noted that there is no legal professional distinction in Pakistan between solicitors and barristers, as in the U.K., or specialized legal bars, as in the U.S. Lawyers often are both solicitors and litigators, unless someone chooses to engage in purely advisory work or litigation. Further, Pakistani lawyers often practice in all areas of law except for those who develop a specialization and a market reputation in a particular field.

12. See Osama Siddique, Pakistan's Experience with Formal Law: An Alien Justice 27 (Cambridge Univ. Press 2013). It should be noted that these international figures seem to reflect the total number of enrolled lawyers, while the provincial figures provided by me for Pakistan are only for district court lawyers. However, since district court lawyers constitute the bulk of Pakistani lawyers and the difference between the Pakistani and the international figures is so vast, even the addition of Pakistani appellate court lawyers to the total numbers used for calculating these figures will not make much of a difference, as can be seen from the Pakistani national figures for all lawyers and district court lawyers. Pakistani population statistics have been taken from Pakistan Demographic Survey 2007, *supra* note 11.

parties, have pursued successful routes to prestigious appointments to the appellate courts that include: election to offices in legal bars; appointments to government positions in the Attorney General's or the provincial Advocate Generals' offices (which invariably are politically motivated). These rich career incentives as well as the active street-mobilization potential of lawyers, convert bar council elections into mini-battles between various political-ideological factions. Further, election to bar offices is coveted not only for the political leverage they provide but also for the public perception of clout, which, in turn, boosts clientele for those elected.

With bar councils acting as political party strongholds or platforms for personal career advancement, professional entrance standards and the ethical regulation of the legal fraternity have been weak. International donor-driven interventions for bar reforms have been regarded with great mistrust and strongly resisted, due both to an acute paranoia stemming from Pakistan's experience with periodic attempts by military governments to use "reform" as a mechanism to "tame" lawyers, as well as various vested interests within the lawyer community. Consequently, there are no credible bar examinations;¹³ no continuing legal education and professional development programs;¹⁴ and lackluster internal disciplinary mechanisms.¹⁵ The constantly increasing supply of largely ill-trained law graduates, at the same time, exerts tremendous pressure to keep the standards for entering the legal bars low. Paradoxically, while per capita availability of lawyers is low, the low entrance standards expose the profession to overpopulation by lawyers lacking rudimentary skills and competence. Their growing numbers reinforce the inertia and resistance to raising standards. In many countries, the primary motives to maintain bar

13. For instance, recently introduced bar examinations in Punjab fall well short of testing the candidates' proficiency in legal concepts and substantive procedural laws. They exclusively focus on testing rote knowledge of some mechanical rules. Further, the pass rate of these exams is almost 100 percent, an indictment of their rigor. The situation is similar in other provinces. These bar exams also are of recent provenance, introduced as late as 2005 in Punjab. Prior to that, unregulated clerkships for a period of time sufficed for obtaining the license to practice in the district courts. Induction into the High Court and Supreme Court bars historically has required an interview and more scrutiny of eligibility. But over the years, lawyers of widely variable quality have managed to gain membership, not least because of frequent changes in the ex officio judges and bar representatives entrusted with admissions scrutiny. Standards and motivations vary greatly among these individuals.
14. Several endeavors in 2005-06 failed to start such programs in conjunction with the Canadian Bar Association due to lack of support by local legal bars. However, a major new European Union funded program focusing, inter alia, on certain aspects of bar reform and the provision of legal aid is expected to launch in the province of Punjab in early 2014.
15. The ineffectiveness of these internal disciplinary mechanisms is a source of constant public criticism. More recently, their laxness was exposed in incidents involving lawyers beating journalists, police and even district court judges. Despite intense media scrutiny and public outrage, the offenders were let off with light punishments by investigating bar disciplinary committees. See e.g., Amir Riaz, Lawyers again rough up journalists, *The Nation*, Aug. 07, 2009, available at <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/07-Aug-2009/Lawyers-again-rough-up-journalists>. Such inglorious incidents are on the rise in the district courts.

entry standards include professional pride and a consequent commitment to high professional and ethical standards, as well as a desire to restrict the legal fee pie to a select few. But in Pakistan, the aforementioned political constituency-building imperatives largely have prevailed.¹⁶ They have eroded the space, culture and motivation for meaningful dialogue within the bars to assess their performance and the overall quality and direction of the legal profession.¹⁷

Especially but not exclusively at the district courts, local lawyer-bar alliances also are structured along ethnic and occupational caste lines. For many rural litigants, these can be significant criteria for choosing a lawyer or their only common reference point for contacting and trusting one.¹⁸ In poor areas with low education, lawyers often are the only educated and connected people around, with the less privileged relying on them for favors and advice.¹⁹ Further, the legal profession is still dominated by small family firms. Sons join or follow fathers into the profession and use the inherited office, library, staff and clients. Bigger cities have scores of somewhat larger firms and lately some boutique partnerships. These are set up by young foreign law graduates, are not structured along kinship, and often offer specialized expertise. These are primarily not profit-sharing firms with career routes for new entrants to equity sharing partnerships along the standard U.S. large law firm model but purely cost-sharing arrangements. They operate in the upper echelons of legal practice (mostly corporate and commercial or high end civil, criminal and constitutional work) and absorb a handful of the multitudes of law graduates

16. During 2005-06, the author interviewed prominent officeholders of the Punjab Bar Council and the Lahore High Court Bar Association. They reported that a one-year term for the officeholders meant that successful candidates relied on votes from young law graduates seeking admission to the bar. Further, they regarded the short stint in office as grossly inadequate for developing a longer vision of and stake in meaningful reform. Many also considered declining entry to the profession to any young law graduates as manifestly unjust in a country where many found the pursuit of higher education elusive and expensive. Stringent entry barriers, they said, were tantamount to forcing unemployment on these candidates. There are more reasons for the rapid influx of new lawyers into the profession. For instance, due to the low bar to entry, civil servants also start practicing law after retirement. Further, a demonstrated aptitude for the law is not a necessary prerequisite for entry to the profession, as students who find the going tough in other fields often take up law as a less taxing alternative. They hope that with enough years spent making the rounds of the courts, experience will make up for inadequacies of law school training; this prospect never materializes for many. Their association with the profession is reduced to wearing the standard black uniform of Pakistani lawyers, sitting around the bar rooms, and participating in political agitation.
17. Election canvassing during bar elections at various levels demonstrates the importance of political and even ethnic and caste associations in such elections to the candidates' prospects of success.
18. See Osama Siddique, *Law in Practice—The Lahore District Courts Litigants Survey (2010-2011)* 94-95 (Development Policy Research Centre, Working Paper June 2010), available at http://dprc.lums.edu.pk/components/com_publications/attachments/Law-In-Practice-Lahore-District-Courts-Litigants-Survey.pdf.
19. *Id.*

entering the market every year. As for the vast majority of new law graduates, they essentially join senior lawyers as low-paid apprentices or strike out on their own and often remain brief-less for years. The development of law firms and creation of in-house positions in the public and private sectors have not kept pace. Young lawyers report lessening exposure to training by senior lawyers as the professional market grows ever more saturated.²⁰

Institutional Friction and Abandoned Reform

After surveying the state of the Pakistani legal education system, the sociology of its legal bars and the hegemonic control over their operations by lawyers, let's briefly examine some recent attempts to reform legal education in Pakistan. The most significant opportunity for this was created at the beginning of the last decade as part of a \$350-million (U.S.) soft loan from the Asian Development Bank for justice-sector reform in Pakistan under its "Access to Justice Program." The program acknowledged that the quality of legal education has a direct impact on the capacity to absorb new ideas; the worth of judges, legal practitioners, legal research and policy-making; citizens' legal awareness and empowerment; and the depth and sustainability of academic, policy and democratic discourses. The program accordingly put forward three policy goals for legal education including, the establishment of centers of excellence in legal education; establishment of a window in the "Access to Justice Development Fund" to support innovations in legal education;²¹ and, finally, actual establishment of the proposed centers of excellence.²²

To its credit, instead of beating about the bush, the program categorically embraced the historic neglect of legal education in Pakistan and failure of past reforms owing to multiple factors. These factors included, 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;

20. This description is based on the author's experience conducting research on legal education and bar reforms in Pakistan since 2005, which has involved regular interaction with various legal bars and law colleges/faculties.
21. The access program required the establishment of an "Access to Justice Development Fund" to provide additional funds to the judiciary, as part of its broader policy imperative of increasing overall funding for the Pakistani judiciary and introducing modern budgeting methodology.
22. The first policy action was linked to the release of the first segment of the access program loan. Actual implementation was deferred to the third and last segments, though legal education reform should have been taken up as a priority from the very start. This is both because it is difficult and time-consuming and because of its fundamental importance to overall and sustainable improvement in the justice sector. *See* Syed Ali Murtaza & Osama Siddique, *The Retrospective Report: Mapping and Assessment of Justice Sector Interventions, Donors and Government, 1998-2010* (The Asia Foundation 2010) (on file with the author).

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.²³ The program also acknowledged that the legal bars had more or less usurped a central role in the governance of legal education when they ought to have concentrated instead on continuing legal education, and regular and stringent bar examinations and exam curricula. Furthermore, the program was fully mindful that the education commission had neither displayed the will nor the capacity to perform its necessary role in legal education regulation and reform.²⁴

Leaders in the access program vetted potential supervising institutions for the centers of excellence. These included, the Federal Judicial Academy, the main training academy for the country's judges that several provincial academies since have followed and all of which remain largely dysfunctional;²⁵ the Law and Justice Commission of Pakistan, a federal government institution operating under supervision of the Supreme Court with multiple research, advisory and recommendatory functions pertaining to law reform; and the higher education commission. Though all were found to lack the requisite capacity and experience, the commission eventually was selected as it showed the most interest in the initiative and because of its official mandate as the regulatory authority for all higher education institutions. The commission also agreed to invest some of its own funds in this initiative. The Lahore University of Management Sciences (LUMS)—a private, nonprofit university established in 1985—also agreed to lend assistance as a possible role model since it had recently introduced a new and much improved legal curriculum for a five-year B.A.-LL.B. degree. Further, the university had demonstrated an initial commitment to develop a full-time research faculty, improve pedagogical and examination approaches, and create an institutional structure for legal education in line with international best practices.

However, there could not be a greater contrast between the official reporting of successful compliance with the reform goals and the actual failure of reform, as reflected in the access program's hastily aborted forays into the reform of legal education in Pakistan.²⁶ To date, none of the proposed centers of excellence has been established and there seems no likelihood any will

23. See *Martial Laws and Lawyers*, *supra* note 2, at 100–15.

24. See *id.* at 109–15.

25. See Osama Siddique, Report on Training Needs for Judges and Court Staff (USAID 2010) (on file with the author). This report details the sorry state of the one federal and four provincial judicial training academies, based on interviews with district judges and the administrative and academic managers and staff of the judicial academies; a close review of their annual calendars and past course offerings as well as their respective curricula and syllabi; and a qualitative assessment of their respective faculties, teaching and examination methods and other related aspects. See also Osama Siddique, *Pakistan's Experience with Formal Law: An Alien Justice* 398–409 (Cambridge Univ. Press 2013).

26. For a detailed critical discussion of different historical reform approaches in Pakistan and their outcomes, see Osama Siddique, *Pakistan's Experience with Formal Law: An Alien Justice* (Cambridge Univ. Press 2013).

be in the foreseeable future.²⁷ The fund for “innovations in legal education” also remains untapped.²⁸ The failure to create the centers offers a classic demonstration of superficial donor commitment to what actually are difficult “soft” reforms. The program simply backed off when faced with entrenched institutional and personal rivalries, lack of public concern and the absence of a push for educational reform. In brief, the education commission developed serious differences with the Ministry of Law on administrative and operational matters—quite apart from ego battles between key personnel. A change of leadership in the access program’s management unit caused it to fall short in helping resolve conflicts between the education commission and the law ministry. Meanwhile, the bar council stayed aloof from this initiative—and even turned hostile toward the access program because of its earlier, limited and fruitless effort to woo the legal fraternity to its vision of bar reforms. The bar leadership felt that the access program largely ignored them. The education commission also did not develop its institutional capacity to push the centers of excellence initiative. Although contracts to hire external legal education specialists were drafted, no one was ever hired as the stalemate festered between the education commission and the law ministry. After its brief flash of initial exuberance, the access program’s staff fairly soon decided to move on. It subsequently made some attempts to revive the project but the momentum was lost and the sorry state of legal education in the country persists.

Subsequently, in 2006, the education commission decided to venture on its own and set up a national law university. It initially was to have three campuses, in Islamabad, Karachi and Lahore, and eventually two more campuses, in Peshawar and Quetta.²⁹ Some premises were rented for the campuses, initial staff were hired, policies were developed, some books and furniture were procured and faculty candidates were interviewed. But the

27. The access program initially earmarked \$5 million (U.S.) to create the centers of excellence in legal education. They were to (a) identify the most promising public and private law colleges for further capacity building and technical investment; (b) create an evaluation system for assessing the initial needs of these institutions and address them through strategic, regular investments in faculty building, curricular development, pedagogical and evaluative systems improvement, enhanced research capacity, and improved library and electronic research facilities; and (c) conduct regular qualitative evaluation of these selected institutions and review their performance through an independent accreditation system housed in a suitable Pakistani institution and assisted by international and regional legal education experts. Non-performing institutions then were supposed to be closed after a three-year period of sustained investment and evaluation, while good performers were to be assisted to retain their gains and upgraded accreditation.

28. Between 2004 and 2008, the author was directly involved with the design of the centers of excellence project and its implementation plan as a consultant to the Asian Development Bank. He subsequently also advised the education commission when the idea of setting up the centers was in play. He met multiple times and negotiated with the judicial leadership, the education commission, the Pakistan Bar Council, legal academics, leading lawyers, and various relevant departments, including the Federal Judicial Academy, the law ministry, and the Law and Justice Commission of Pakistan.

29. See Ahmad Ali Khan, *Strengthening Legal Education: Role of Higher Education Commission and Bar Councils* (2012) (on file with the author).

national law school project also foundered due to fractious relations among institutional stakeholders in Pakistan in general and entrenched opposition by bar council members in particular.³⁰

The latest effort to somehow conjure a center of excellence is to upgrade the highly incapacitated federal judicial academy to the status of a National University of Law and Judicial Administration. The education commission has approved its draft charter and a “No Objection Certificate” has been issued. The charter has been sent to the law ministry for its scrutiny. Quite predictably, while no one has said anything about the intellectual and academic dimensions of the project, work on its infrastructure apparently is in full-swing. It appears that at least enhanced infrastructure (though the academy already possesses ample, unused built space) will exist by the middle of 2014.

Conclusions

In the discourse over Pakistan’s decade and a half long efforts at legal education reform, certain key characteristics and developments stand out. First, the process has been dominated by lawyers through the bar council and now increasingly by the judges through the law and justice commission. Neither the lawyers nor the judges, however, possess sufficient expertise or time to comprehensively visualize what quality legal education entails. At times, parochial politics, changing leadership, interests vested in maintaining the status-quo vis-à-vis existing public and private law colleges, and a propensity to allow institutional and personal clashes to grow and fester also have not helped the cause. Second, while the education commission fixated initially on promoting the cause of natural sciences and showed little interest in the social sciences, when it eventually decided to push reform in the latter, particularly in legal education, it neither had the capacity nor the leverage to lead. Further, after the Eighteenth Amendment to the Pakistani Constitution in 2010, the commission now has been more or less defanged as regulatory power in higher education has devolved to the provinces, which, in turn, has ushered in a period of acute uncertainty as to future directions of higher education in Pakistan. Third, projects for wholesale reform in legal education seem to be imagined either as big bang creations of centers of excellence and national law universities, rising magically out of the existing morass, or in accelerated metamorphosis of crumbling, existing institutional edifices like the federal judicial academy.

Though there is token attention to the “human resource” dimension, ultimately there is little deeper appreciation that it is the quality of the people and an academic ethos and supporting culture that builds and define institutions of legal education. Because the bar council, the education commission, the law and justice commission and the judicial academy all lack real, resident and dedicated expertise in legal education, the reforms they have

30. The author volunteered time in the early stages of this project to help develop an institutional structure, curriculum, and governing policies and was a member of the interview panel that interviewed and hired various faculty candidates.

backed are unrealistic. How to identify, attract, nurture, incentivize and retain high quality faculty invariably is least important in their imaginings; instead they focus on procuring furniture, renting premises, acquiring real estate and building infrastructure. This malaise also has migrated to the private sector. Promising institutions like LUMS³¹ display an upstart's fascination for new buildings and facilities rather than substantive educational reform. Solid advocates for quality legal education who are dedicated academics were and remain few and far between; they largely are overlooked and remain un-consulted in the discourse on national reform in legal education. Mere silhouettes against the luminous backdrop of any new and grandiose blueprint for action, they are expected to migrate like indentured laborers to whichever new initiatives catch the fancy of the so-called reformers.

In this context, it is worth noting that there are many similarities between the early and continuing problems, constraints, foibles and attitudes that have inhibited improvements to legal education in India and Pakistan. But India, after some false starts, arguably made a crucial departure by creating the national law schools.³² That experience brought about many telling changes in perspective and emphasis in the discourse on Indian legal education. It triggered a virtuous circle of sorts that continues. There is a related and rich debate on what the national law school experiment has achieved and where it has faltered. It has generated a culture of sustained, high quality local research. It successfully persuaded some of India's best graduates to forego lucrative corporate careers to pursue instead lives in public-minded litigation for worthy causes and in the Indian legal academy. That academy largely continues to offer the unattractive combination of bureaucratic inertia and low salaries.³³ But the national law school endeavor decisively changed Indian legal education, its methods and thinking, in notable and praiseworthy ways.³⁴ From my perspective, a distinct feature that has accorded continuing success and longevity to this experiment is that, in substantial part, the change emerged organically and incrementally from the visions, ideas, travails and tribulations of those who have lived and breathed legal education in India. I clearly speak here of the Indian academics and not of sundry lawyers and judges who like to pontificate about legal education over their afternoon cups of tea after the

31. The university has pioneered a law and policy department (recently elevated to the status of an autonomous school), focused on developing an exciting, five-year, inter-disciplinary B.A-LL.B. curriculum and has put in place a research-driven career faculty.

32. For a concise history of this significant move, see Lovely Dasgupta, *Reforming Indian Legal Education: Linking Research and Teaching*, 59 *J. Legal Educ.* 432 (2010).

33. These failings were openly conceded in detailed conversations with Professor A. Jayagovind, the then-Vice Chancellor of National Law School of India, Bangalore, in Bangalore in 2005, with Professor Ranbir Singh, the then-Vice Chancellor of NALSAR University, Hyderabad, in Shanghai in 2005, and with Professor V. S. Rekhi, former Director, National Law Institute University at Bhopal, in Delhi, in 2007.

34. See N. R. Madhava Menon, *The Transformation of Indian Legal Education: A Blue Paper* (Harvard Law School Program on the Legal Profession 2012), available at http://www.law.harvard.edu/programs/plp/pdf/Menon_Blue_Paper.pdf.

“more important business of the day” is out of the way. This reform occurred because of academic visionaries embedded, operating and striving within the Indian legal education system and thinking deeply about it. These include pioneers like Upendra Baxi and academic leaders like N.R. Madhav Menon with track records of illustrious confrontations with institutional inertia. They have energized other like-minded peers as well as a promising crop of younger scholars, leaving an indelible imprint on the choice of the path taken by Indian legal education to recovery.³⁵ It is crucial that they stepped up when they did to steer Indian legal education out of the wilderness that it had once shared with its neighbor. India has not advanced to where it needs to be. Still, with necessary and meaningful modifications, the Indian reform model is much more relevant for Pakistan than any alien transplant or than the top-down, whimsical prescriptions of local judges and lawyers. It is definitely the former that Pakistan’s already thin and fast disappearing population of legal scholars must scrutinize.

35. It has been argued persuasively that although the early Indian experience with foreign ideas of reform contributed to Indian thinking, it was essentially Indian perspectives and experiences that molded what eventually turned out to be organic, meaningful and sustainable reform. See Jayanth K. Krishnan, Professor Kingsfield Goes to Delhi: American Academics, The Ford Foundation, and The Development of Legal Education in India, 46 *Am. J. Legal His.* 447 (2004). It is also worth pointing out how the deep and incisive writings on the Indian legal system from established international scholars like Marc Galanter and esteemed local commentators like Rajeev Dhavan contributed to the culture of local scholarly debate. In the spring of 2012, I had the great pleasure and privilege of meeting both gentlemen together in Delhi for some highly engaging hours. The discussion was as intellectually electrifying as I am sure it has been for the past many decades.