

MARTIAL LAW AND LAWYERS: THE CRISIS OF LEGAL EDUCATION IN PAKISTAN AND KEY AREAS OF REFORM

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I. INTRODUCTION

Since its creation in 1947, Pakistan's political and constitutional evolution has been arrested by praetorian rule through several impositions of martial law—the most recent one after a military coup in 1999. The world's seventh nuclear power is a geo-politically significant, but highly unstable state with a weak democratic culture and growing inner fissures caused by political obscurantism, religious radicalism, economic stagnation, institutional decline and growing lawlessness. In this chaotic context, the Pakistani justice system finds itself overburdened and incapacitated, not the least because of the regressing quality and professionalism of those who make up its constituent parts.

Pakistan's justice system and legal community has remained or, as many argue, has been kept underdeveloped primarily because the

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country has been under direct military rule for more than half of its existence.¹ The vital nexus between the quality of legal education and the quality of justice is universally recognized.² A socially relevant, high standard of legal education produces elements of change and champions justice. Quality research inspires and fuels an environment of analysis, debate, critique, and as a result, a culture of tolerance and democracy. Additionally, such education boosts the caliber and professionalism of legal professionals, judicial institutions, and society in general. Lawyers and legally trained individuals form the backbone of a vibrant, informed, and proactive civil society that strives for political, social, and economic justice. Legal reform is critical in transforming the justice system in Pakistan.

This article attempts to evaluate the nature and extent of the problems confronting legal education in Pakistan and proposes various reforms. Given the wide reach and complexity of the topic, the article begins by providing some snapshots of independent evaluations of the state of legal education in the country over the past six decades. It then looks at the specific problems of faculty capacity, lack of innovation in teaching methodologies, outdated examination systems, and poor research output. The focus then shifts to an analysis of curricular shortcomings, and the confusion and inefficiency surrounding regulatory roles. After briefly discussing two promising recent public and private sector reform initiatives, the article culminates with a set of broad recommendations.

II. AN OVERVIEW OF THE EXISTING STATE OF LEGAL EDUCATION

A. A Snapshot from 1960

Compared to developments in other academic areas, the development of legal education in Pakistan has traditionally lagged.³ As early as 1960, an evaluation of the six existing public sector law colleges revealed: "The work of none of the colleges compares favorably with adequate legal education in advanced western nations."⁴ In addition, the evaluation revealed that the state of private law colleges was even worse: "There are also some private, commercial colleges which conduct evening courses and whose standards are generally lower than

¹ See ASIAN DEVELOPMENT BANK, PAKISTAN LEGAL AND JUDICIAL REFORM PROJECT (TA 3015), FINAL REPORT 55-58 (1999).

² *Id.*

³ RALPH BRAIBANTI, CHIEF JUSTICE CORNELIUS OF PAKISTAN 111-13 (1999).

⁴ *Id.* at 111.

those of the six university law colleges.”⁵ The author of this evaluation, Professor Braibanti, had spent significant time in Pakistan during the late 1950s and early 1960s studying the Pakistani legal and administrative system with a special focus on legal jurisprudence and scholarship, as well as the legal profession itself.⁶

The problems identified by Professor Braibanti at that early stage of the country’s history include the following: (i) the best Pakistani students are attracted to other professions such as the civil services rather than the study of law, and those who choose law mostly do it for lack of choice;⁷ (ii) paucity of full-time professors of law on the law faculties with the resulting lack of professional scholarship degrading the quality and standards of instruction;⁸ (iii) little use of the case method in Pakistani law schools;⁹ (iv) unimplemented recommendations of the Law Reform Commissions, which included the following:¹⁰ offering of a three-year LL.B with limited enrollment, uniform degree requirements in law colleges, “abolition of evening classes, revision of the examination system, and the appointment of at least three full-time teachers in each law college”;¹¹ and (v) virtually no published research on legal problems in Pakistan and the poor quality of existing law journals as well as poor library support for research.¹²

B. A Snapshot from 1999

It is instructive to compare the above findings with an evaluation conducted later. Unfortunately, the findings are similar and demonstrate little progress over the years.¹³ The relevant section starts off with an evaluation.

In Pakistan, the past fifty years have seen a decline rather than a strengthening of professional standards and academic excel-

⁵ *Id.*

⁶ *Id.* at xi-xxvii.

⁷ *Id.* at 111.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* The reports of successive Law Commissions (appointed by the Government of Pakistan to review issues of legal education, legal practice, substantive and procedural laws and the system of justice) strongly reinforce this evaluation. In particular, the Law Commission reports of the late 1950’s identify with specificity the issues facing the legal profession and legal education that ring true several decades later.

¹¹ *Id.* at 111-12.

¹² *See id.* at 112-13.

¹³ *See ASIAN DEVELOPMENT BANK, supra note 1, at 55-58.*

lence in legal education. The quality and output of legal education today—whether viewed in professional or academic terms—is very poor. The result of this process is clear: legal education in Pakistan is not producing lawyers, judges, legal scholars, government legal officers, and other law-trained personnel Pakistan needs to meet the legal, economic, governance, social, and cultural challenges of poverty, civil conflict, social stratification, and abuse of rights that Pakistan faces.¹⁴

It goes on to say: “All eight major Law Commission reports since 1958 strongly recommended strengthening the quality of faculty, students, standards, curriculum and facilities in [Pakistan’s] law schools. . . . [V]irtually none of those recommendations were implemented.”¹⁵

The report conducts detailed analysis and identifies the following problem areas:¹⁶ the lack of strong, implementable processes for institutional quality in legal education; significant under-resourcing of legal education; and the lack of transparency, accountability, and faculty control within legal institutions (along with significant politicization of certain institutions). Additional problems include: outdated curricula and teaching; the virtual absence of legal research and a research environment; significant under-staffing of full-time faculty; poor infrastructure, libraries, and faculty resources; inequitable access and outmoded, sometimes corrupt, admissions procedures and examination systems; and poor earlier education and language skills among students.¹⁷

It is apparent from the above that the list of challenges has not decreased since 1960, but has in fact multiplied.¹⁸

III. THE NATURE AND EXISTING CAPACITY OF PUBLIC AND PRIVATE SECTOR LAW COLLEGES AND UNIVERSITIES IN PAKISTAN

While the 1960s showed a domination of legal education by public sector university law colleges, there has been a significant shift. Private law colleges affiliated with a public sector university or offering an external degree now outnumber the public sector universities.¹⁹

¹⁴ *Id.* at 55.

¹⁵ *Id.* at 10.

¹⁶ *See id.* at 55-58.

¹⁷ *Id.*

¹⁸ *See id.* at 56.

¹⁹ *See* Robert Sedgwick, *Private Universities in Pakistan*, WORLD EDUCATION NEWS & REVIEWS Jan/Feb. 2005 <http://www.wes.org/ewenr/05jan/feature.htm>.

This development has taken place in large degree due to the following reasons:

- (i) There has not been a corresponding growth in the capacity of public sector law colleges/universities in comparison to the rapid growth in the country's population. Growing demand has made it more lucrative for entrepreneurs to set up private law colleges.²⁰
- (ii) Legal training is a dynamic and versatile area, offering a professional access to multiple vocational possibilities. Many people, though not committed to a career in the legal profession, have sought to use a legal education to boost their employment opportunities. This is especially true since, prior to 1993, the LL.B was only a two-year program and remains a low intensity/low rigor academic pursuit.²¹
- (iii) Many retired civil servants and other professionals in the public and private sector have taken the LL.B examination privately in order to run a small practice after retirement.²²

A. *The Types of Law Programs in Pakistan*

There are essentially three types of law programs in Pakistan. The first are law programs that follow the curriculum and syllabus prescribed by the Pakistan Bar Council ("PBC").²³ They are either housed in public sector universities or in law colleges affiliated with public sector universities such as the Punjab University or the University of Peshawar.²⁴ All public sector law colleges and the overwhelming majority of private law colleges fall in this category.²⁵ These programs essentially offer the LL.B degree, although three universities in Pakistan, such as the University Law College of the Punjab University, also offer diploma courses and LL.M and Ph.D degrees.²⁶

Second, there are law programs that offer the University of London External LL.B Program following its prescribed curriculum and

²⁰ *Id.*

²¹ *Id.* It has been a two or three-year degree program at various points in time. It also needs to be pointed out that there is enormous turnover in the legal profession; many law graduates drop out of the profession within the first five years.

²² Sedgwick, *supra* note 19.

²³ LLM Guide, Master of Laws Programs Worldwide, <http://www.llm-guide.com/pakistan>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

syllabus.²⁷ Most private law colleges only offer the External LL.B, though some have recently started offering the Pakistani LL.B degree as well.²⁸

Last, there are law programs that offer special composite LL.B degrees that, apart from covering the PBC requirements, also offer additional courses and augment their syllabi.²⁹ These can be regarded as a separate breed altogether.³⁰ Such programs can be found at the International Islamic University and the Lahore University of Management Sciences (“LUMS”).³¹

B. Capacity and Quality – Publicly Available Information and Reality

Any attempt to gauge the number, nature, and quality of legal education institutions in the country immediately reveals the paucity of reliable public data. This dearth of information further explains both the incapacity as well as lackluster performance of the relevant regulatory institutions for legal education, an aspect which will be discussed more closely later in this article.

A 1999 University Grants Commission³² publication (“UGC Report”)³³ gives: (i) a province-wise listing of private and public law colleges; (ii) province-wise faculty and student enrollment numbers; and (iii) names of law colleges in each province with details of faculty numbers, student enrollment and faculty holding Ph.D degrees at these law colleges. Quite apart from the fact that these statistics are unreliable for reasons discussed below, they are dated. This is quite significant because the last six years have seen tremendous growth in private law colleges in the country. The relevant regulatory agencies were unable to provide more recent data.³⁴

²⁷ See Sedgwick, *supra* note 19.

²⁸ *Id.*

²⁹ See The International Islamic University, <http://www.iiu.edu.pk/fsl/llb.htm>; Lahore University of Management Sciences [hereinafter LUMS], http://www.lums.edu.pk/schools%20%26%20Programs/art_school/ba-llb/ba-llb_structure.asp#l.

³⁰ *Id.*

³¹ *Id.*

³² UGC was the federal regulatory agency responsible for higher education in Pakistan before its restructuring and replacement in 2001 by the existing regulator – The Higher Education Commission. The Higher Education Commission Ordinance, § 22 (2002) (repealing the University Grants Commission Act, 1974 (XXIII 1974)), available at http://www.hec.gov.pk/htmls/about_hec/HECOrdinance.pdf.

³³ UNIVERSITY GRANTS COMMISSION, COLLEGES OF PAKISTAN – 1999 (1999).

³⁴ A subsequent report called UNIVERSITY GRANTS COMMISSION, THE HANDBOOK: UNIVERSITIES OF PAKISTAN – 2001 (2001), marginally amends the

The available statistics tell a very enlightening story; or rather, it is a very enlightening story that they do not tell. What they do not tell is the ratio of permanent to non-permanent faculty members at the listed institutions. In actuality, at most Pakistani law colleges most of the teaching is conducted by part-time faculty members—many only new graduates themselves—who also engage in regular legal practice or pursue other full-time vocations.³⁵ Admittedly, some of them are competent teachers, ideally suited to teach procedural and clinical courses. However, there are no established hiring criteria of any stringency or merit when interviewing the faculty for teaching positions. The overwhelming demand for professors drives recruiting so that merit is often compromised. Professors are often hired whose knowledge of the law is barely ahead of their students. Legal teaching positions are relatively easy jobs to obtain.³⁶

The aforementioned data, however, is somewhat skewed because it does not conform with the actual faculty sizes of most law colleges as displayed on their websites and/or printed in their brochures. This data seems to espouse a liberal definition of “permanent faculty” from the one internationally accepted.³⁷ It is common knowledge in Pakistan that many local law colleges employ lawyers, retired judges, and other professionals who are not permanently employed in the teaching profession.

Even a generous interpretation of “permanent faculty” does not account for the very large number of faculty indicated by some law colleges. For instance, according to the UGC Report, in the Punjab, the main public sector university has a faculty size of seventy-one, while the three prominent Lahore-based private law colleges have faculty sizes of fifty-five, thirty-nine, and forty respectively.³⁸ These faculty sizes present a *prima facie* picture of a vibrant research and teaching environment. Unfortunately, cursory investigation reveals that these particular numbers are highly overstated. Similarly, a law college in

information provided by its predecessor, while continuing to suffer from all its shortcomings.

³⁵ See, e.g., Hamdard University, <http://www.hamdard.edu/lawfaculty.html>.

³⁶ See Higher Education Commission, Affiliation Criteria/Guidelines for Universities/Institutions of Higher Education, [http://www.hec.gov.pk/new/Quality Assurance/Quality_Assurance/University_Accreditation/Establishment_New_University/HEC9_CRITERIA_FOR_AFFILIATION.htm](http://www.hec.gov.pk/new/Quality_Assurance/Quality_Assurance/University_Accreditation/Establishment_New_University/HEC9_CRITERIA_FOR_AFFILIATION.htm).

³⁷ See Cambridge Dictionary, available at <http://dictionary.cambridge.org/define.asp?key=31620&dict=CALD> (defining the term full-time [faculty] as “(of work or education) done for the whole of a working week”).

³⁸ UGC, *supra* note 33, at Annexure A.

Sindh reports a bizarre faculty size of 281.³⁹ Alternatively, a relatively small college in the North-West Frontier Province (“NWFP”) reports a faculty of twenty-six, while the oldest and leading public sector law college in the same province lists a faculty size of only eight.⁴⁰

Since the publicly available data was unreliable, I conducted a detailed examination of college websites/brochures and interviewed graduating students. A representative sample of public and private law colleges was selected with a view toward quantitative as well as qualitative information about the state of legal education. The specific areas of inquiry were: number of permanent faculty members vis-à-vis adjunct faculty members; academic profile of the permanent faculty; availability of post-graduate programs in Law; research policy and output; and innovations in curricula/syllabi and teaching methodology.

The sample consisted of five leading public sector and five prominent private sector universities/law colleges in the provinces of Punjab, Sindh, NWFP, Baluchistan and the Federal Capital Islamabad.⁴¹ The following were the key findings:

- (i) Almost all of these universities or colleges had far fewer faculty identified in their brochures/websites than ascribed to them in the UGC Report;
- (ii) Very few of those in the listed faculty were Professors or Associate Professors and most were relatively young and inexperienced. Furthermore, amongst the listed faculty names, distinction was rarely made between permanent and adjunct faculty;

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ These were the University Law College, University of the Punjab, Lahore, <http://www.pulc.edu.pk/>; Quaid-e-Azam Law College, Lahore, <http://www.qlc.edu.pk/>; Punjab Law College, Lahore, <http://www.plc.edu.pk/>; Pakistan College of Law, Lahore, <http://www.plc.edu.pk/>; Faculty of Law, University of Central Punjab, Lahore, <http://www.ucp.edu.pk/law/index.aspx>; University Gilani Law College, Bahauddin Zakariya University, Multan, <http://www.bzu.edu.pk/Law/>; Hamdard Law School, Hamdard University, Karachi, <http://www.hamdard.edu.pk/law.html>; Department of Law, Dadabhoy Institute of Higher Education, Karachi, <http://www.dadabhoy.edu.pk/departments/law/default.asp>; Faculty of Shariah and Law, International Islamic University, Islamabad, <http://www.iiu.edu.pk/fsl/>; and Faculty of Law, University of Peshawar, Peshawar, <http://www.upesh.edu/depts/law/law.html>. The information was obtained from the websites and brochures of these institutions during May 2005 and may have undergone some changes by the time this article is published.

- (iii) Very few faculty members had any post-LL.B training in law or foreign qualifications, and a very small minority listed any research publications to their names;
- (iv) The few universities that had launched masters and doctoral programs in law had graduated only a handful of students, and in some cases there were no graduates at all, though the programs had been around for over five years; and
- (v) There was very seldom any mention of a research policy, any innovations in teaching methodology, or any special programs.⁴² The feedback from interviewed students confirmed this evaluation.

By and large, the public sector universities are fairly rigid and antiquated in their approach to teaching law, with little innovation in curriculum and pedagogy. They have very limited quality permanent faculty; there is little or no research output and an absence of any research policy and ethos. The private sector colleges are relatively more dynamic, and, while suffering from more or less the same limitations that are faced by the public sector law colleges, at least some display areas of improvement and initiative. However, faculty constraints and lack of a research focus still remain important issues. While certain institutions can be readily identified as more promising than others, the need for improvements still applies to each sector.

Strategic support should be implemented with an effort to build on any strengths that these schools currently have in order to graduate them to the next qualitative level. Unfortunately, some of the schools should undergo urgent scrutiny by our regulatory institutions in order to gauge how much worse the actual situation on the ground is than what is already quite unimpressive on paper. Such institutions would require radical improvements or should be closed.

Having examined the nature, capacity, and constraints of existing law colleges, it would now be pertinent to examine the curricula of law that are employed by these institutions, as well as the prevalent examination systems currently in use.

⁴² It is important to point out, however, that the Punjab University Law College is currently undertaking an extensive review, under the supervision of a committee constituted by the Governor of the Punjab, of its existing constraints and weaknesses in order to introduce reforms in curriculum, teaching methodology, and examination systems. The author of this article is participating in this review effort. See LUMS, Partnerships and Collaborations, http://www.lums.edu.pk/Schools%20&%20Programs/art_school/ba-llb/partner_collaboration.asp.

IV. THE CRISIS OF LEGAL CURRICULUM, CURRICULAR REFORM, AND THE NEED TO RESTRUCTURE THE EXAMINATION SYSTEM

A. *Limitations of an Outdated Curriculum and Recent Reform Efforts*

The prevalent law curriculum in Pakistan is prescribed by the PBC.⁴³ It is a combination of various and far too many statutes lumped together constituting thematically incoherent subject areas with scant recognition of the modern developments in various areas of law and their underlying teaching philosophy.

In 2003, the Higher Education Commission (“HEC”) conducted an exercise to review and revise the antiquated LL.B curriculum⁴⁴ in Pakistan. This review culminated in a revised proposed curriculum in mid-2004.⁴⁵ This proposed curriculum included the introduction of law as an elective subject at the B.A level⁴⁶ and the proposal for a five-year consolidated law degree program.⁴⁷

The following are the salient positive features of these proposals:

(i) Introduction of a compulsory course titled “Constitutional History of Pakistan,” which is highly pertinent given the constitutional issues and dilemmas historically as well as currently faced by Pakistan;⁴⁸

(ii) Shifting of certain courses between years to ensure that they are introduced to the students at the appropriate stage of their legal education;⁴⁹

(iii) Revision of the course contents of certain courses, such as Islamic Jurisprudence and English Jurisprudence, in order to give them greater thematic consistency, rigor, and coherence;⁵⁰

⁴³ The Legal Practitioners and Bar Council Act, § 13(j) (1973) (Pak.). (This legislation describes the role of the PBC—including that they are to “promote legal education and prescribe standards of such education.”)

⁴⁴ ZULFIQAR ALI, ET AL., HIGHER EDUCATION COMMISSION ISLAMABAD, CURRICULUM OF LAW FOR B.A (ELECTIVE) & LL.B, 9-10 (Revised 2004), *available at* <http://www.hec.gov.pk/htmls/curriculum/2005/law-final.pdf>.

⁴⁵ A National Curriculum Revision Committee was set up in 2004, comprised of the deans of certain public and private sector law colleges, the Secretary of the Pakistan Bar Council, as well as members of the Pakistan Bar Council (Legal Education Committee), some legal practitioners, the Chairman of the Securities & Exchange Commission of Pakistan and representatives from the Curriculum Division of the HEC. For details see HIGHER EDUCATION COMMISSION, *supra* note 36.

⁴⁶ HIGHER EDUCATION COMMISSION, *supra* note 36, at 8.

⁴⁷ *Id.*

⁴⁸ *Id.* at 9.

⁴⁹ *See id.* at 9-10.

(iv) The reallocation of certain components of some courses to other courses for greater thematic consistency;⁵¹

(v) The shifting of certain papers from the compulsory list to the optional list;⁵²

(vi) The introduction of eight new subjects as optional subjects to both give students greater choice as well as possibility of specialization and to ensure that certain hitherto ignored curricula of legal importance are offered;⁵³ and

(vii) The addition of some useful recommended local and foreign texts in the lists of recommended readings.⁵⁴

These reform efforts are commendable as they bring some order to the existing LL.B curriculum, which still suffers from several resilient issues.⁵⁵ The first of these is that students are unable to develop depth in any particular topic area. In the pre-reform era, students were required to study twenty diverse subjects, which were primarily loose collections of multiple, and at times not thematically consistent, statutes. For example, six different statutes pertaining to labour and tax law were being taught under the course title of “Labour and Taxation.” In the post-reform era this number has actually gone up to twenty-one subjects.⁵⁶

The second issue is the dictation of the nature and titles of subjects by a stifling view of the law as a collection of dissimilar statutes, rather than focusing on broad thematic areas with sub-themes, inter-relationships and interdisciplinary linkages, as well as points of distinct departure. In the pre-reform era, as many as fifty statutes overwhelmed the curriculum. In effect, the essential purpose of legal training in law schools, i.e. to develop a critical, analytical, and comparative approach, is overwhelmed by an attempt to ensure that as many statutes as possible are covered during the course of an LL.B degree.

For instance, in the current LL.B curriculum, there is a subject titled Minor Acts⁵⁷ (the post-reform shifting of this subject to the op-

⁵⁰ *Id.* at 9.

⁵¹ *See id.* at 9-10.

⁵² *Id.* at 10.

⁵³ *Id.* These are: Intellectual Property Laws, Environmental Laws, Banking Laws, Labour Laws, Taxation Laws, Land Laws, Minor Acts, and Human Rights. *Id.* It is proposed that students be given the choice to pick two subjects of their choice, from a possible eight choices. *Id.*

⁵⁴ *Id.* at 34.

⁵⁵ *See generally id.* at 9-10.

⁵⁶ *Id.* at 32.

⁵⁷ *Id.* at 33.

tional subjects list is a commendable one) that lumps together the Stamp Act, 1899, the Suits Valuation Act, 1887, and the Court Fees Act, 1870 with the Arbitration Act, 1940, and Urban Rent Laws. This is a highly instructive example of the existing approach to legal education in Pakistan. First of all, no leading law program includes the first three of the aforementioned courses in its curriculum, as they involve neither intellectual rigor nor substantive coverage of any important area of law. Second, they are lumped with arbitration and rent laws, which are fundamentally different areas. Thus, thematic consistency and an integrated pedagogy are lacking. Though the HEC-led reform initiative has been able to chip away on such limitations, the edifice remains fully intact.

Third, this statute-based approach to the law is evident in the prescribed syllabi, which closely resemble the structure of a statute rather than an academic conceptual framework. For example, the prescribed subject of "Labour and Taxation Laws" consists of: (a) Labour Laws: (i) Workmen Compensation Act, 1923; (ii) West Pakistan Standing Orders, 1968; and (iii) Industrial Relations Ordinance, 1969, as well as (b) Taxation Laws that essentially cover the Income Tax Ordinance, 1979. Naturally, the nature of instruction follows in that vein, presenting the statutes as supreme, self-evident truth and thereby neglecting doctrine and the many conceptual and philosophical underpinnings of statutory laws. There is limited, if any, focus on theoretical discourse; the social, political, economic and cultural impact of laws; the conflicting policy imperatives; critical, comparative reviews; and interdisciplinary aspects of the subject. While an argument could be made that the PBC is simply trying to ensure that these statutory laws are comprehensively covered, the question arises as to the existence of adequate mechanisms to ensure that a mere review of these statutes is not passed off as adequate legal training in these important areas of law.

Next, given the socio-political context of Pakistan and its historical context and experience, it is remarkable that courses such as constitutional history⁵⁸ and human rights law are not prescribed as compulsory courses.⁵⁹ Finally, there is complete absence of any clinical dimension to enable students to learn the basics of advocacy, legal drafting and research, or negotiations.

While the HEC's curriculum reform process has been able to redress some of these pivotal issues, the reform is piece-meal and insuf-

⁵⁸ *Id.* at 18. This has been addressed in the latest reform process and a compulsory course on constitutional history of Pakistan has been added. *Id.* at 9.

⁵⁹ HIGHER EDUCATION COMMISSION, *supra* note 36, at 33.

ficient to date. As a result, the rather antiquated curriculum and syllabus have largely survived. It is not surprising that a modern approach has not been adopted. The participants in the reform process are essentially the traditional stakeholders and custodians of the status quo. No expert external help was sought to bring an alternative, progressive perspective from a developed foreign jurisdiction. An interdisciplinary dimension to legal education is unavailable to students, as is the comparative, critical review dimension of the study of law. Additionally, given the paucity of indigenous textbooks and treatises,⁶⁰ the lists of recommended readings remain uninspiring.

Moving on from the PBC curriculum to the University of London External LL.B syllabus, the advantages to the latter are obvious. The latter approaches the study of law in terms of thematic areas and conceptual modules and is thus more modern and extensive in its coverage.⁶¹ It also provides greater structural flexibility and subject options, enabling greater depth of study.⁶² However, the major shortcoming is that it has absolutely no coverage of the Pakistani legal system and laws, and hence, does not equip a student for practice in Pakistan.⁶³ So, while many conceptual frameworks and jurisprudential themes may be of direct and indirect relevance, the curriculum is essentially foreign.

B. Evaluating the Examination System

It would be pertinent at this stage to briefly evaluate the prevalent examination system in public sector colleges and universities, as well as private sector colleges affiliated with public sector universities, which together form the bulk of existing legal education institutions in the country. Only the few institutions which offer the external LL.B conduct an examination system similar to that provided by the London University. This system is a better test of intellectual ability and academic training and should be implemented at all institutions.

The main issue with the existing examination system is that the sole evaluation mechanism is an annual written examination, usually

⁶⁰ See generally *id.*

⁶¹ See University of London External Programme Bachelor of Laws (LL.B), Structure and Syllabus, available at http://www.londonexternal.ac.uk/prospective_students/undergraduate/panel/law/structure.shtml (last visited Jan. 15, 2007).

⁶² See *id.*

⁶³ See *id.*

organized and held by the parent public sector university.⁶⁴ Thus, various internationally accepted tools of examination, such as class-participation, presentations, mid-term examinations, multiple-choice questions (“MCQ”), quizzes, mock trials, etc., are non-existent. The typical questions under the current examination system only test the broad, uncritical, narrative-style areas of law. As a result, emphasis is placed more on the student’s memorization skills rather than his or her ability to critically analyze. Consequently, those students who write long essay-style responses to exam questions make better grades than those students who write shorter, more precise answers.

Furthermore, this style of examination is naturally very subjective, giving the examiner broad leeway in assigning grades. The examination questions are not only unimaginative, but repetitive over the years. Students who become aware of this repetition can predict fairly accurately the contents of a future examination. This encourages students to be less rigorous and highly narrow in terms of the breadth of their study, and they manage to get by with relatively little study time.

To worsen the situation, the universities pay examiners (mostly lawyers) an inadequate sum to grade examination sheets so that there is no incentive or quality control for their services. This makes it quite likely that students putting in extra effort will not be rewarded accordingly. Furthermore, the fact that examinations are mostly held in inhospitable conditions and under little supervision raises ample opportunities for corruption in the examination system.

As is apparent, the problems with the current examination system are relatively simple to identify and address. A shift to MCQ type examinations, supplemented by short essays on focused areas, will ensure enhanced focus on gauging conceptual clarity and analytical skills. Law is in many ways a discipline that requires precision and an ability for subtle differentiation. The suggested mode of examination can be largely outsourced, as grading would not require a knowledge of law and could be undertaken mechanically, as is the case with all United States entrance examinations such as the LSAT, GMAT, GRE, or SAT. For the essay component of the examination, a higher honorarium would attract better examiners.

An overhaul of the existing examination system into a more rigorous, goal-oriented system will instill fairness and help ensure that students do not opt for legal studies as a soft professional education op-

⁶⁴ See generally The Pakistan Legal Practitioners and Bar Councils Rules, 1976, S.R.O. 476 (1) 76, Section 108(c)(5), available at <http://www.pbbarcouncil.com/act/act02.php>.

tion while at the same time rewarding true merit. Additionally, and equally important, it will have a direct bearing on the manner in which law is taught.

The first part of this paper examined both the nature and existing capacity of the institutions disseminating legal education in Pakistan, the curricula being used by them, and the state of the examination system. However, it is equally important to discuss the nature and capacity of the regulatory regime that is entrusted with the maintenance and improvement of legal education in the country, especially given the problems already identified and discussed.

V. THE EXISTING REGULATORY REGIME FOR LEGAL EDUCATION AND ITS SHORTCOMINGS

A. *The Regulatory Laws and Institutions*

As in most legal jurisdictions, there are essentially two levels of regulation of legal education in Pakistan:⁶⁵

(i) Regulation for upholding and improving quality standards of legal education, which is entrusted to the HEC;⁶⁶ and

(ii) Regulation for purposes of licensing to induct law graduates as legal practitioners, which is entrusted with the PBC.⁶⁷

⁶⁵ The Law and Justice Commission of Pakistan Ordinance of 1979 created the Law and Justice Commission [hereinafter LJC], a federal government institution headed by the Chief Justice of Pakistan and comprised of twelve other members, including the Chief Justices of the superior courts; Attorney General for Pakistan; Secretary Ministry of Law, Justice & Human Rights; Chairperson, National Commission on the Status of Women; and four members, one from each province, appointed by the Federal Government, on the recommendation of the Chairman, from amongst eminent lawyers and persons of repute and integrity from civil society. According to the Ordinance, the purpose of the LJC is the “systemic development and reform of the laws and to provide for matters connected therewith.” One of the stated functions of LJC is laid out under Section 6(4) of the Ordinance: “the Commission shall study the present system of legal education and make recommendations to the Federal Government for improving the standard of legal education.” To date the LJC has not made any headway in this vital area of reform. *See* The Law and Justice Commission of Pakistan Ordinance No. XIV of 1979, *available at* <http://www.ljcp.gov.pk/menu%20items/item-08/ljcp-ordinance.htm> (last visited Jan. 15, 2006).

⁶⁶ *See* HIGHER EDUCATION COMMISSION, *supra* note 36.

⁶⁷ *See* The Legal Practitioners & Bar Councils Act, 1973, § 13(b) (as amended up to Sept. 2005), *available at* http://www.pbbarcouncil.com/downloads/barcouncil_act_amended_2005.pdf (last visited Nov. 15, 2006).

However, the situation in Pakistan is not quite as neatly compartmentalized as indicated above. The following is a brief review of the relevant laws and rules applicable to founding a law college, regulations of standards of such colleges, and the enrollment of lawyers as advocates eligible to practice before the Pakistani courts.

The UGC was the earlier regulatory body for universities in Pakistan.⁶⁸ Historically, the first step for a new law college, after it had formulated a detailed academic program, was to get UGC's approval.⁶⁹ The recently promulgated Higher Education Commission Ordinance of 2002 ("HECO") has, however, repealed and replaced the University Grants Commission Act of 1974, and hence the UGC,⁷⁰ with the HEC.⁷¹ The HEC has been entrusted with the responsibility of accrediting institutions of higher learning and the recognition of their degrees. The HEC has also been made responsible to, *inter alia*, "cause evaluation of performance of Institutions"; "prepare, through consultation with the Institutions, plans for the development of higher education and express its opinion on all matters relating thereto"; "prescribe conditions under which Institutions including those that are not part of the State educational system, may be opened and operated"; "set up national or regional evaluation councils or authorize any existing council or similar body to carry out accreditation of Institutions . . ."; "determine the equivalence and recognition of degrees, diplomas and certificates awarded by Institutions within the country and

⁶⁸ University Grants Commission Act, §§ 8-10 (1974) (Pak.).

⁶⁹ *Id.*

⁷⁰ Higher Education Commission Ordinance § 22(1)-(2)(a) (2003) (Pak.).

⁷¹ *Id.* at § 4(1). It is also pertinent here to look at the Federal Supervision of Curricula, Text-Books and Maintenance of Standards of Education Act (1976) (Pak.) that succeeds the Legal Practitioners and Bar Councils Act (1973) (Pak.). The later statute empowers a "Competent Authority" to prepare or cause to be prepared schemes of studies, curricula, manuscripts of text-books and schedules or strategy for their introduction in various classes of an institution in connection with the implementation of the education policy of the Federal Government; approve manuscripts of text-books produced by other agencies before they are specified in various classes of an institution; and direct any person or agency in writing to delete, amend or withdraw any portion, or the whole, of the curriculum, text-book or reference material prescribed for any class of an institution within a period specified in such directive.

Federal Supervision of Curricula Text-Books and Maintenance of Standards of Education Act § 3(2)(a)-(c) (1976) (Pak.). Quite apart from their governing statutes, the UGC and subsequently HEC draw support for their jurisdiction over curriculum and syllabus matters from this law. *Id.*

abroad”; and “guide institutions in designing curricula”⁷² Recognition of the LL.B degree, as well as regulation of LL.B programs, also now falls under the control of the HEC.⁷³

The Legal Practitioners and Bar Councils Act of 1973 (“Act”) is the applicable standard for the regulation of legal education for the purposes of governing legal licensing requirements in Pakistan.⁷⁴ Under the Act, the PBC is the highest regulatory authority for such purposes.⁷⁵ The Act says that an applicant is eligible to practice as an advocate if he has obtained a Bachelor’s Degree in any subject other than Law from a university in Pakistan or from a university outside Pakistan, recognized by the Pakistan Bar Council; and a degree in Law from a like university”.⁷⁶

Under the Act, an important and directly relevant set of rules is the Pakistan Bar Council Legal Education Rules of 1978 (“Rules”).⁷⁷ The Rules state that the duration of a law degree must not be less than three years.⁷⁸ The Rules also define the syllabus required for a law degree. The Rules state that “the syllabus for the LL.B. examination shall include the subjects prescribed and set out in the Schedule hereunder.”⁷⁹ Since the words “shall include” have been used, this Section does not preclude the possibility of a law college or university teaching additional subjects. However, these prescribed subjects have to be taught by a law college or university in order to be recognized by the PBC. Very importantly, the Rules not only authorize the PBC to formulate inspection teams to inspect the quality of legal education in any law college or university, it also authorizes the PBC—in the event of non-compliance—to not recognize the degrees of the college or university for the practice of law.⁸⁰

⁷² Higher Education Commission Ordinance § 10 (2002) (Pak.), *available at* http://www.hec.gov.pk/htmls/about_hec/HECOrdinance.pdf

⁷³ *Id.*

⁷⁴ The Legal Practitioners and Bar Councils Act § 13 (j)-(k) (1973) (Pak.).

⁷⁵ *See id.*

⁷⁶ The Legal Practitioners and Bar Councils Act, § 26(1)(c)(iii).

⁷⁷ Pakistan Bar Council Legal Education Rules § 5(a) (1978) (Pak.) 5(a), *available at* http://www.pbbarcouncil.com/downloads/barcouncil_act_amended_2005.pdf (last visited Nov. 15, 2006).

⁷⁸ *Id.*

⁷⁹ *Id.* at § 5-6.

⁸⁰ *Id.* at § 15.

B. Conflicting Jurisdictions and Capacity Constraints

The positive aspects of this regulatory system is that the relevant laws show that both the HEC and the PBC are entrusted with the power and responsibility for inspecting, evaluating, and conducting quality control of law colleges and universities, reviewing curriculum, and recognizing or declining to recognize degrees. However, there is no clarity as to who is the final authority on such matters in case of conflicting perspectives or overlapping authority. As a matter of fact, both the HEC and the PBC are of the view that they each have the final say on matters such as curriculum and its eventual shape as well as the recognition of law degrees. This, of course, raises the question as to who should be doing what in order to avoid duplication, confusion, and potential conflict.

Internationally, bar councils are involved with the license granting and post-practice dimension of the legal profession.⁸¹ In that sense, the HEC is clearly the logical choice, but there is definitely an element of role confusion in the governing legal regime. Unfortunately, a point on which there is no doubt is that both the PBC and the HEC have very limited resources to meaningfully gauge the quality and standard of existing law programs and to come up with innovative reforms. The paucity and unreliable quality of data made available by both supports this point. Therefore, if these regulators are to play any meaningful role in the future, roles must be defined and a much greater focus and provision of resources are required.

This article has identified various issues pertaining to the quality and capacity of local law colleges and universities, weaknesses and shortcomings of the law curricula used by these institutions, and role confusion and lack of capacity of the regulatory agencies for legal education. However, in recent years some positive steps have been taken in the right direction. It is important to evaluate these public and private sector initiatives to ascertain how they will remedy the systemic constraints that have impeded legal education reform for many

⁸¹ See, e.g., About the American Bar Association, <http://www.abanet.org/about/> (last visited Jan. 18, 2007) (“the ABA provides . . . programs to assist lawyers and judges in their work”); The Virginia State Bar, <http://www.vsb.org/> (last visited Jan. 18, 2007) (“the Virginia State Bar [is] responsible for the regulation of the legal profession”); The General Council of the Bar (U.K.), The Role of the Bar Council, <http://www.barcouncil.org.uk/document.asp?documentid=3&languageid=1&textid=4341> (last visited Jan. 19, 2007) (the Bar Council seeks to “maintain and enhance professional standards” and “maintain effective complaints and disciplinary procedures”).

years in Pakistan, and whether they have potential for replication on a larger scale.

VI. RECENT PUBLIC AND PRIVATE SECTOR LEGAL EDUCATION REFORM INITIATIVES IN PAKISTAN

A. *The CELE Initiative*

In 2001, the Asian Development Bank (“ADB”) launched the Access to Justice Program (“AJP”) in Pakistan in order to reform various aspects of the justice sector,⁸² including, *inter alia*, judicial and police performance quality enhancement, improvement of their physical infrastructure and facilities, and civil society empowerment through various law reforms and bar reforms.⁸³ AJP is funded by a \$350 million loan from the United States – one of the largest external loan arrangements for reform in the justice sector ever funded in the world.⁸⁴ Since 2003, because of the low standards of legal education in the country being one of the main contributing reasons for low access to justice, a key area of focus for the AJP has been legal education reform. This resulted in a three year, \$5 million proposed project for the creation of Centers of Excellence for Legal Education (“CELE’s”), i.e., highly improved and professionalized legal educational institutions.⁸⁵ Through this project, the AJP plans to adopt existing institutions and provide them with a demonstrable commitment and the basic capacity to embark upon reform. Such promising institutions would be categorized as pilot CELE’s. They would be funded and assisted in order to build their institutional capacity and quality by providing training programs and financial incentives for internal governance reform. This would include the development of permanent faculty, galvanizing legal research, the introduction of innovative teaching methods, improvement of entrance and law school exams, the offering of

⁸² See generally, Access to Justice Program, About Access to Justice Program, http://www.ajp.gov.pk/about_ajp/ (last visited Nov. 6, 2006).

⁸³ See ASIAN DEVELOPMENT BANK, REPORT AND RECOMMENDATION OF THE PRESIDENT TO THE BOARD OF DIRECTORS ON PROPOSED LOANS AND TECHNICAL ASSISTANCE GRANT TO THE ISLAMIC REPUBLIC OF PAKISTAN FOR THE ACCESS TO JUSTICE PROGRAM (Nov. 2001), http://www.adb.org/Documents/RRPS/PAK/irp_32023.pdf.

⁸⁴ Access to Justice Program, *supra* note 82.

⁸⁵ Raza Ahmad, *Justice for All*, ADB REVIEW (May 2005) http://www.asiandevbank.org/Documents/Periodicals/ADB_Review/2005/vol37-2/justice-all.asp (last visited Jan. 20, 2007).

compulsory clinical education, and various other infrastructure/technological developments.⁸⁶

The technical and monetary assistance is to be incremental and performance driven, rewarding commitment and actual progress on part of the pilot CELE's.⁸⁷ Those institutions that, after three years of assistance, meet the stated accreditation requirements and benchmarks for performance evaluation will be eventually accredited as CELE's.⁸⁸ This would be followed by on-going accreditation review to maintain high standards.⁸⁹

The project proposes the creation of a Legal Education Cell ("LEC"), under the HEC, to play the central capacity building as well as performance monitoring role for the CELE initiative.⁹⁰ This would be accomplished through the formulation of appropriate selection processes, providing accreditation criteria for CELE's, and organization and provision of the technical and monetary assistance for reforms. The LEC is to be facilitated and supported by two expert bodies with diverse membership from the multiple stakeholders in the reforms: the Steering Committee and the Technical Committee.⁹¹ While the former is expected to provide overall leadership and policy direction for the legal education reforms and to ensure successful operational procedures, the latter is expected to assist and advise on the selection and accreditation criteria, and on all matters that have to do with the substantive, technical, and specialized aspects of the reform process.⁹²

The key underlying principles of the reform, as stated by AJP, are: (a) provision of equal opportunities to both public and private sector legal educational institutions; (b) equitable regional representation; (c) transparent and merit-based student enrollment coupled with affirmative action scholarship schemes, educational loans, and tuition exemption systems for economically disadvantaged students; (d) active participation of all stakeholders to make the reform process better informed and sustainable; and (e) a transparent, open-competition selec-

⁸⁶ *Id.*

⁸⁷ *See* ASIAN DEVELOPMENT BANK, *supra* n. 83.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *See* ACCESS TO JUSTICE DEVELOPMENT FUND BROCHURE, <http://www.ljcp.gov.pk/ajdf/AJDF%20Brochure.doc> (last visited Jan. 20, 2007).

⁹² *Id.*

tion process for pilot CELE's as well as for their eventual accreditation.⁹³

While the agenda, structure, and strategy of the CELE reform process is highly commendable, especially in a context that lacks standards and benchmarks, it is widely believed to be facing the classic predicament of a project that, after the initial zeal and excitement of visualization, has become stagnant due to poor follow-up and coordination by and between the relevant government departments entrusted with its operations. With multiple government ministries and departments failing to agree on even the initial implementation steps, the project's initiation has now been delayed for well over a year with no immediate activity in sight.

B. The Law & Policy Program at LUMS ("LUMS Program")

Ever since its inception, over the last twenty-one years, LUMS has established itself as the leading Pakistani university. LUMS contains a permanent highly qualified faculty of over ninety, an autonomous degree granting status, and quality degrees offered in management studies, social sciences and humanities, economics, computer sciences, and mathematics.⁹⁴ LUMS has recently launched an initiative for the provision of quality legal education in the country and the HEC has been highly supportive of this endeavor.⁹⁵ The newly created Law & Policy Department at LUMS is offering a joint five-year B.A/LL.B degree that is, in some significant ways, trying to introduce the Indian National Law School phenomenon approach—started by the pioneering school, the National Law School of India University at Bangalore ("NLSIU")⁹⁶—to teaching law in Pakistan.⁹⁷ While trying to provide an indigenously relevant degree, it is also attempting to learn from the latest international trends in legal education.

⁹³ Ahmad, *supra* note 85.

⁹⁴ Lahore University of Management Sciences, History, <http://www.lums.edu.pk/about/history.asp> (last visited Nov. 6, 2006).

⁹⁵ Lahore University of Management Sciences, Partnerships & Collaboration, http://www.lums.edu.pk/Schools%20&%20Programs/art_school/ba-llb/partner_collaboration.asp (last visited Nov. 6, 2006).

⁹⁶ *Id.*

⁹⁷ In the aforementioned HEC led LL.B curriculum reform (discussed in Section III above), it is evident that the HEC has reaffirmed the merits of an integrated B.A/LL.B degree and has, therefore, proposed a five-year consolidated law degree program.

The following are some of the salient distinguishing features of the newly launched LUMS Program.⁹⁸

1. Curriculum

The LL.B curriculum at LUMS includes the following additional distinguishing attributes: (i) expansion of three core law subjects (i.e., Contracts, Criminal Law, and Jurisprudence) by offering them through full-length courses in each area to ensure extensive coverage; (ii) given Pakistan's historical context and the need to generate political and social awareness, a compulsory course in Pakistan's Constitutional History (now also recommended by the National Curriculum Revision Committee) as well as two mandatory courses in Human Rights Law (dealing with human rights theory and history, human rights institutions, and human rights issues in Pakistan); (iii) for a thematically clearer and rigorous exposure to company and commercial laws, there are two separate courses titled Commercial Law and Corporate Law, instead of lumping the two in one; (iv) new mandatory clinical courses, namely Legal Writing & Research, Advocacy & Negotiations, Pleadings & Conveyancing, and Moot Courts; (v) a mandatory Directed Studies component, in order to enhance the legal writing and research skills of law students; (vi) mandatory courses on tax and labor laws, in correspondence to their increasing importance in growing economies; (vii) a mandatory course on Ethics to teach the ethical aspects of the legal profession; (viii) students are also expected to study five elective subjects in order to develop specializations or to diversify their knowledge/skill sets.⁹⁹

Since the LUMS Program is offering an integrated B.A/LL.B degree, the LL.B is to be preceded by a B.A at LUMS.¹⁰⁰ The B.A has been structured in order to provide incoming LL.B students with im-

⁹⁸ Lahore University of Management Sciences, The Law & Policy Program at LUMS, http://www.lums.edu.pk/schools%20%26%20Programs/art_school/ba-llb/lawandpolicy.asp (last visited Jan. 19, 2007). Students were admitted to the two-year B.A component of the B.A/LL.B degree in 2003 and the LL.B component was launched in autumn 2005. *Id.*

⁹⁹ *See id.* According to the LUMS website elective offerings are to include (a) interdisciplinary courses such as Law and Regulation, Law and Public Policy, Law and Development, and Law and Economics, etc; (b) advanced courses in specialized streams such as corporate laws, constitutional and administrative laws, regulatory laws, human rights laws, etc; and (c) additional specialized courses such as environmental law, intellectual property law, not-for-profit organizations laws, banking laws, etc. *Id.*

¹⁰⁰ *See* Lahore, *supra* note 98.

portant exposure to appropriate integral related and background disciplines such as political science, sociology, philosophy, and economics, as well as some pre-law courses in legal reasoning, and for developing their oral and written communication and computing skills to better equip them for the rigorous LL.B program.¹⁰¹

2. Teaching Methodology and Research

LUMS proposes to adhere to the interdisciplinary approach to the teaching of law discussed in previous sections. Important initiatives in this regard are: (a) preparation of comprehensive course packages to enhance a comparative critical analysis through an examination of Pakistani jurisprudence, as well as that of India, United Kingdom, the United States of America, and other Commonwealth jurisdictions, and a discussion of the policy imperatives as well as outcome of different laws; (b) commitment to building a full-time research-driven faculty to limit reliance on adjuncts and to create not just a teaching program, but an important regional platform for law and policy input, debate, and discussion; (c) a research policy and culture that facilitates and rewards legal research; (d) employment of established innovative teaching techniques for teaching law such as the Case Method and Socratic Method of teaching, class presentations, seminars, visiting lecturers, law moots, simulated negotiations, active class participation and role playing, and field studies, etc., that are already commonly employed in the programs at LUMS; and (e) interdisciplinary teaching and research with the departments of economics, social sciences, and business management.¹⁰²

3. Potential Spin-offs and Synergies

The LUMS initiative is cognizant of and working towards additional, logical extensions as well as spin-offs of a robust and dynamic law program, such as a Law Journal and additional research-based publications; a future LL.M Program; an interdisciplinary public-policy program and other potential specialized graduate and joint degree programs; local and international collaborations; specialized centers and interdisciplinary think tanks for research and policy input; continuing legal education programs for lawyers and non-lawyers;

¹⁰¹ *Id.*

¹⁰² Lahore University of Management Sciences, Vision Statement, http://www.lums.edu.pk/schools%20%26%20Programs/art_school/ba-llb/vision_statement.asp (last visited Nov. 6, 2006).

executive development programs; and an Alternative Dispute Resolution Center.¹⁰³ LUMS has a law library with almost 80,000 law books as well as books in closely related disciplines, and it is a fast growing resource.¹⁰⁴

While many of the above ideas are still only ideas, it was important to mention them to illustrate that LUMS is committed to the institution's vision statement,¹⁰⁵ and there is conceptualization at a higher and more dynamic level now than ever before. Such a vision will challenge the majority of the existing legal education institutions that are more tuition centers than law colleges. Given its past track record, its resources, and its exciting vision, LUMS has a great chance of realizing what it envisions. The legal education reform process in Pakistan should get a valuable boost through an initiative that attempts to focus on combining the local needs with the best international practices.

VII. SPECIFIC RECOMMENDATIONS FOR OVERALL REFORM

While the CELE and LUMS initiatives could be regarded as dynamic and promising, the wide chasm between these nascent visionary efforts and the predominant reality in Pakistani law colleges is disturbing. The current low quality of legal education in Pakistan is a complex, multi-faceted, and resilient problem that cannot be completely healed merely through a short-term surgical intervention. Institutions take time to develop; academic culture and output feeds on sustained incentives and requires a conducive atmosphere to flourish. Inertia incapacitates most public sector institutions. Highly bureaucratic and self-serving governance structures and arrangements are naturally resistant to reform. Only a multi-pronged strategy, diligently pursued over a period of time can arguably reverse the present decline in Pakistan. At the same time, it is encouraging to see how, over a comparatively short period of time, new benchmarks for legal education have

¹⁰³ *Id.*

¹⁰⁴ Lahore University of Management Sciences, Law & Policy Library, http://www.lums.edu.pk/Schools%20&%20Programs/art_school/ba-llb/lawpolicy_library (last visited Nov. 6, 2006).

¹⁰⁵ The vision of LUMS is (1) to develop high quality professionals and scholars who are committed to excellence, vision, courage and dedication; (2) to improve academic and management practices in Pakistan through the production, assimilation, and dissemination of knowledge; (3) to make a significant contribution towards the social and economic improvement of Pakistan through the development of human resources; and (4) to serve as an intellectual resource. Lahore University of Management Sciences, Vision, <http://www.lums.edu.pk/about/vision.asp>.

been successfully introduced in India. In view of my analysis, some reform suggestions are discussed below.

A. Redefinition and Empowerment of the Regulatory Function

As discussed previously, it is unclear which regulatory institution is ultimately responsible for legal education in Pakistan. The PBC and the HEC have overlapping roles and both also face a severe capacity constraint to perform such roles. The existing data on various aspects of legal education vital for meaningful regulation is largely non-existent, dated, or otherwise unreliable. The mushrooming of private law colleges, ranging from the promising to the purely commercial and qualitatively abysmal; the inertia of public sector law colleges, and their strong disinclination for any positive innovation; and the conservative and lackluster approach to reform by the regulators are all manifestations of role confusion and the result of lackluster financial and human resource support for reform.

Bar councils are controlled by practitioners who by and large have a practitioner's approach to law; their philosophy is different from that of academics. Therefore, it is generally inappropriate for the practitioners to play a decision-making role in areas like curriculum development and the regulation of legal education and law colleges. Given the internationally well-recognized role of bar councils as regulators of the legal profession, it would be logical for the PBC to exclusively focus on that specific neglected area only.

The PBC could work towards ensuring the quality of lawyers entering the profession, maintaining the prestige of the profession, as well as preventing an abundance of under-qualified lawyers from overcrowding the profession. Requiring bar entry examinations and mandatory continuing legal education courses are a start. However, the requirement of bar examinations has only recently been introduced in certain provinces. In addition, there is currently no culture or requirement of continuing legal education within the profession. Such implementation would help maintain the prestige of the profession. Currently, the bar to entry into the practice of law in Pakistan is very low and must undergo significant overhaul to alleviate the many concerns and fallacies.

The quality of academic training in law, on the other hand, could be administered by a separate regulator.¹⁰⁶ Currently, the HEC, the

¹⁰⁶ ASIAN DEVELOPMENT BANK, *supra* note 1, at 137-38. The report calls for the establishment of a National Council for Legal Education (NCLE) as a strong,

regulator of overall higher education in the country with established links/interface with all the institutions of higher learning in Pakistan, is properly equipped to play this role. Another important area of reformation is the introduction of law college entry exams to ensure that entry to law colleges is based on the person's suitability for the study of law. As mentioned earlier, the HEC needs a robust staff of legal education and regulation experts.

It is imperative in reforming policy that amendments are passed to separate and clarify the roles of the PBC and the HEC and enhance these institutions for maximum progress.

B. The CELE Initiative: From Vision to Fact

The current status of law colleges in Pakistan is a highly diverse one. However, as discussed earlier, one can pinpoint certain institutions as generally more promising than others. The Indian experience has shown that vibrant, successful new institutions have a multiplier affect. Once the hard work is done towards creating a prototypical institution, replication is somewhat easier. Therefore, the "centers of excellence" model can be a successful one. Indeed, it has been recommended as a viable strategy for Pakistan in earlier reports on education reform.¹⁰⁷

However, unlike the Indian experience where NLSIU was created by a pioneering group of reform minded academics that relinquished their old positions at public and private sector universities and converged under a new umbrella,¹⁰⁸ the CELE initiative looks to upgrade existing public and private law colleges of potential. A salient issue is that most of the public sector law colleges are oppressed by outdated rules and regulations, a retrogressive culture, and several levels of sti-

independent statutory body, with a full-time secretariat, to exclusively handle various aspects of legal education regulation in Pakistan. *Id.* This supports the current author's argument that the licensing and legal education dimensions be separated and current role confusion between PBC and HEC be removed. The NCLE is proposed to be vested with the role that I am arguing should exclusively vest with HEC to the exclusion of PBC. However, it is not evident as to why, with the appropriate capacity building steps, the proposed role of the NCLE cannot be played by HEC, which is already playing a similar role for higher education in other disciplines. The NCLE would arguably be a better option in that it could make a fresh start; yet with the right steps towards empowerment, HEC is also well-placed to deliver.

¹⁰⁷ *Id.* at 138-39.

¹⁰⁸ National Law School of India University, Faculty Directory, <http://www.nls.ac.in/faculty> (last visited Jan. 28, 2007).

fling bureaucracy.¹⁰⁹ Reforming these will be a tall order unless their governance systems and regulatory frameworks are radically revisited and appropriately amended for greater transparency, efficiency, productivity and accountability, and independent charters approved and provided to each institution. It would be useful for the CELE initiative to scrutinize the Indian experience as well as legal education reform initiatives at institutions like LUMS, which due to their academic autonomy and disentanglement with the past, can provide useful lessons and benchmarks for the future of legal education reform in Pakistan.

C. Curriculum Reform, Development of Textbooks, and the Creation of a Research Environment

The various issues with the current LL.B curriculum predominantly used in Pakistan as well as the positives and shortcomings of the proposed reforms have been examined. The current curriculum falls short, though the HEC-led reform process shows important strides in the right direction. Further improvement could come through: (i) a revisiting of the curriculum once the proposed capacity-building of the HEC has taken place, so that there is a pool of experts and academics on whom to call;¹¹⁰ (ii) feedback from selected institutions, once the CELE reform process is launched and the selected institutions go into the reform mode; and (iii) feedback from academia as an ongoing process, which is activated, energized and enriched by academics in law colleges that have graduated to centers of excellence status either through the CELE initiative or otherwise. There are potential short, medium, and long-term processes that can be implemented to ensure that the curriculum remains updated and energized by regular inquiry and oversight. At the same time, these processes

¹⁰⁹ This is a vital area, but, owing to its complexity and size, it could not be realistically addressed in this article. For example, the University of the Punjab publishes a compendium of its regulatory laws and regulations titled the "University Calendar." This is a voluminous publication that contains several, at times overlapping, applicable laws, regulations, policies, description of administrative structures etc, which in turn have been amended, at times frequently, so that it is difficult to maintain continuity. This challenge exists at other public sector universities as well.

¹¹⁰ Curricular reform is an on-going process, even for the most established law programs. This is evidenced by the fact that in 2006, Harvard University's Law School faculty adopted a reform of the entire required first year curriculum. This was after a three year process of study and consultation with legal academics, faculty from other professional schools, and practicing lawyers. Harvard University School of Law, http://www.law.harvard.edu/news/2006/10/06_curriculum.php.

will be important for the development of quality graduate and post-graduate programs in law, specialized diplomas, and other related qualifications.

Internationally, academic research is well-fueled by: (i) attraction of high quality, well-trained, and intellectually curious people to academia; (ii) creation of “research space,” by which universities create incentives for research by reducing the teaching load of research-oriented faculty, by attracting research funding from various sources in increasingly innovative ways, and by providing adequate research associate/library/research tool support; and (iii) by setting promotion criteria that place a premium on research output.

The creation of an academic culture is a long-term process resting on sustained financial support and the creation and sustenance of research grants, augmentation of faculty salaries, and the establishment of research infrastructure. It is also dependant on strong formalized assurances and protections for freedom of speech because legal academics are most likely to venture into controversial and heavily debated areas and cannot carry on independent and intellectually honest research unless they are confident that they will not become victims of conscience. The creation of tenure-track systems in colleges/universities can contribute to the development of an academic culture as well as providing safeguards for freedom of speech.