



1-7-1990

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Recommended Citation

Patwari, Dr ABM Mafizul Islam (1990) "Status of legal education and delivery of legal services in Bangladesh," *National Law School Journal*: Vol. 2: Iss. 1, Article 18.

Available at: <https://repository.nls.ac.in/nlsj/vol2/iss1/18>

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Status of legal education and delivery of legal services in Bangladesh

Dr. A B M MAFIZUL ISLAM PATWARI

1. Introduction

Bangladesh emerged as an independent State in 1971 and inherited the legal system of the then Pakistan which followed more or less common law as introduced/infiltrated by the British during their colonial rule in Indian sub-continent for about two centuries (1757-1947). The British brought into the Indian sub-continent not only the mass of legal rules strictly known as common law but also their traditions, outlooks and techniques in establishing, maintaining and developing the judicial system, the far-reaching impact of which has not been removed and will not be removed in the near future.

Along with this common law system, among the people of Bangladesh two major systems of personal laws prevail: Muslim law among the Muslims and Hindu law among the Hindus. The British did not normally interfere with these laws, though through the judicial pronouncements made by the Privy Council, some times their religious sentiments were attacked.

In Bangladesh, in the different faculties of the Universities and in the different law colleges affiliated to the different Universities Common law, codified or not, and personal laws are taught with a view to giving legal training to the persons who in their professional career will be concerned with the delivery of legal service to the people. In Bangladesh, in the academic institutions only theoretical legal training is given without any emphasis on the practical application of law. In the following pages along with system of legal education in the context of Bangladesh the this issue will be raised with a view to giving the correct perspective of the study.

2. Educational institutions and degrees

In Bangladesh legal education is imparted to the students/scholars in the Faculty of Law, University of Dhaka, in the Faculty of Law, University of Rajshahi, in the Institute of Bangladesh Studies, University of Rajshahi. Besides these institutions, legal education is imparted in the different law colleges which are affiliated to the University of Dhaka, University of Rajshahi and University of Chittagong. In all these institutions the following degrees are awarded to the students after successfully completing the course:

(a) *Bachelor of Law (Honours)*.—4 years undergraduate Bachelor of Law (Honours) course has been introduced in the Department of Law which is under the Faculty of Law, University of Dhaka, and in the Department of Law which is under the Faculty of Law, University of Rajshahi. In this Honours course as per recommendation of the Legal Education Committee of the Bangladesh Bar Council the major laws are taught such as Jurisprudence, Roman Law, Personal Law (Muslim Law and Hindu Law), Equity, Tort, Constitutional Law, Criminology, Civil Laws, Labour Law, Criminal Law, Law of Evidence, Land Law, International Law etc. Annual Course system has been introduced in which at the end of each academic year final examination is held. Gradation of the merits of the students are evaluated and divided into three classes: first class who

obtains 60% marks on an average; second class who obtains 45% marks on an average; third class who obtains 36% marks on an average.

(b) Bachelor of Law.—Two years post-graduate Bachelor of Law course has been introduced in the different law colleges which are affiliated to the University of Dhaka, University of Rajshahi or University of Chittagong on the territorial basis. The curriculum, the examination and all the academic matters are conducted by the Faculty concerned. The syllabus of the course is more or less same as prevalent in the Bachelor of Law (Honours) course; but the technical difference is that, in the case of Bachelor of Law, the course has to be completed within two years.

(c) Master of Law.—Master of Law course is taught in the Departments of Law, Universities of Dhaka and Rajshahi. In the Department of Law, University of Dhaka, two LL.M. courses have been introduced: Course-A and Course-B. The duration of Course-A is one year which is meant for the students who have successfully completed bachelor of Law (Honours) course. Annual written examination is held at the end of academic session. The duration of Course-B is two years which is meant for the students who have successfully completed Bachelor of Law course with at least 45% marks on an average. The students of Course-B need not attend the class—only registration is sufficient to appear at the examination and preparation of the dissertation for the award of the degree. Graduation of the merits of the students of Course-A and Group-B are evaluated in the same manner as the merits of the students of the Honours course are evaluated.

In the Department of Law, University of Rajshahi, two Master of law courses have been prevalent; Master of Law, Part I and Master of Law Final. One year's Master of Law, Part I is meant for the student who has completed Bachelor of Law Course; and one year Master of Law Final course is meant for the students who have successfully completed Bachelor of Law (Honours) course or Master of Law Part I course. The final position is that those students who have completed Bachelor of Law course are to require two years and those students who have completed bachelor of Law (Honours); course are to require one year for obtaining Master of Law degree.

(d) Master of Philosophy.—Two years Master of Philosophy in Law course has been in existence in the Faculty of law, University of Dhaka, in the Faculty of Law, University of Rajshahi, and in the Institute of Bangladesh Studies, University of Rajshahi. In the case of Faculty of Law, University of Dhaka, the research scholar has to complete in the first year course work and to pass written examination; and in the second year he has to write dissertation duly approved by the authority of the University. In the case of the Institute of Bangladesh Studies the research scholar has to complete in the first year inter-disciplinary course work and in the second year he has to write independent thesis duly approved by the authority of the University. In the case of Faculty of Law, Rajshahi University. The research scholar has only to write a thesis duly approved by the authority of the University.

(e) Doctor of Philosophy.—Two years Doctor of Philosophy in Law course is prevalent in the Faculty of law, University of Dhaka, in the Faculty of Law, University of Rajshahi, and in the Institute of Bangladesh Studies, University of Rajshahi. The degree is law awarded to a scholar who has earned his distinction by writing a thesis duly approved by the authority of the University concerned.

(f) Doctor of Law.—Two years Doctor of Law course is in existence in the Faculty of Law, University of Dhaka. The research Scholar must have general knowledge in every branch of the laws of Bangladesh. He is to write a thesis which distinctively contributes to the existing literature of law.

3. Legal profession

The procedure for practising the profession of law has been contained in the Bangladesh Legal Practitioners and Bar Council Order, 1972 (Order XLVI of 1972). The said Order provides that no person shall be entitled to practice the profession of law unless he is an advocate (Article 19(1) of the Legal Practitioners and Bar Council Order, 1972). A person shall be qualified to be admitted as advocate if he fulfils the following conditions, namely (a) he is a citizen of Bangladesh; (b) he has completed the age of twenty-one years; (c) he has obtained a degree in law from the University of Bangladesh or a Bachelor Degree in law from any University outside Bangladesh recognized by the Bar Council or he is a Barrister; (d) he has passed such examinations as may be prescribed by the Bar Council; and (e) he has paid such enrolment fee and fulfils such other conditions as may be specified (Article 27(1) of the Legal Practitioners and Bar Council Order, 1972).

Before a person is admitted as an advocate, the Bar Council may require him to undergo regular training for a continuous period of six months as a pupil in the chamber of an advocate of 7 years' experience (Article 27(2) of the Legal Practitioners and Bar Council Order 1972 and rule 60(1) of the Bangladesh Legal Practitioners and Bar Council Rules, 1972). Every applicant for admission as an advocate shall have to pass a written examination and *viva voce* examination held under the direction and supervision of the Bar Council (Rule 60A of the Bangladesh Legal Practitioners and Bar Council Rules, 1972). A person who has obtained LL M degree shall not be required to appear in the written examination but shall not be required to appear in the *viva voce* examination (Rule 60C of the Bangladesh Legal Practitioners and Bar Council Rules, 1972). No person shall practice as an advocate unless he is a member of a local Bar Association which is recognized by the Bar Council.

No advocate shall be permitted to practice before the High Court Division unless— (a) he has practised as an advocate before the subordinate courts in Bangladesh for a period of two years; (b) he is a law graduate and has practised as an advocate before any High Court outside Bangladesh; (c) he has, for reason of his legal training or experience, been exempted by the Bar Council from the foregoing requirements; and (d) he has paid prescribed fees (Articles 21(1), 21(2) and 22(1) of the Bangladesh Legal Practitioners and Bar Council Order, 1972).

Besides practising in the different courts, the advocates are entitled to be legal advisers, legal consultants in different organizations. Some of them become public prosecutors to act on behalf of the Government, when the Government is a party to suit. Some of the advocates become notary public for certifying deeds or other documents on behalf of the Government.

It should be noted in this connection that the law graduates from the Universities have the opportunity to join the judicial service of Bangladesh after completing the competitive written and oral examinations. Besides these judicial officers, other kind of judicial officers are appointed to administer criminal justice. These officers, called Magistrates may not have law degrees. They are appointed through the Public Service Commission on the basis of competitive written and oral examinations.

4. Relation between legal education and delivery of legal services

In the foregoing paragraphs a short picture of the state of legal education and profession has been given. From this discussion it is evident that the legal education in Bangladesh does not have any practical touch of the system, how the judiciary or the legal profession goes on. In the law faculties of the Universities or in the law colleges there is no scope for delivery of legal services to the poor or underprivileged. There is no legal aid

clinic. In short, the legal education in Bangladesh deals with theoretical aspects of law without having any scope for giving any services in the name of legal aid to the people particularly the poor.

5. Conclusion and recommendation

From the above discussion one may be inclined to conclude that in Bangladesh the system of legal education is thoroughly defective because no practical training is imparted to the students who study law either in the law faculties or in the law colleges. No institutionalized system of delivery of legal services to the poor or underprivileged has been provided for by that education.

Therefore, it is recommended that the system of legal education should be re-designed with a view to giving a practical touch, which will be necessary in the future professional career of the students. Some institutional and academic frameworks should be designed so that along with the study and research on law, there would be some scope for delivery of legal services to the poor and underprivileged. The faculty members should take a leading role to motivate the students to deliver such services voluntarily. Not only this, awareness about the legal system and the legal rights should be created among the poor and illiterate people by imparting them para-legal training with the help of the faculty members. In this way, these people would be aware of their rights to redress the grievances as provided for by law. If this sort of delivery of legal services is enjoyed by these people, then the legal education will be effective in the real sense of the term.