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## **Regulatory Reforms in Indian Legal Education: Reassessing the Bar Council of India in the Post-NEP 2020 Framework**

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# Regulatory Reforms in Indian Legal Education: Reassessing the Bar Council of India in the Post-NEP 2020 Framework

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## **Abstract**

*The legal education in India takes a unique and strategically significant position in the system of national higher education due to the dual institutional role. It is a learned course in the university study, and the great gateway to the bar. Historically, the above duality has been utilized to place the Bar Council of India (BCI) at the heart of such a role in prescribing legal education standards and enrolment grades of law degrees under the Advocates Act, 1961. Nonetheless, the contemporary model of legal education regulation is increasingly coming to be revealed as structurally unsound: the deficiency of coherence in regulation, the complicit regulatory regime, the relative weakness of institutional quality, the relative insensibility of curricula, the ineffectiveness of adaptation to the contemporary demands of networked legal work. These concerns have assumed a different dimension in the National Education Policy, 2020 (NEP 2020) that re-balances higher education to become more focused on multidisciplinary, flexible, research-based, integrating technologies, and outcome-based quality. On the one hand, NEP 2020 has no direct reform proposal of legal education but the general principles allow direct implications on legal education as a professional. This paper hypothesizes that the BCI cannot be abandoned by virtue of its worth as the professional regulator of legal education but its components should be tailored to assume the shape of a reform model as opposed to the control-dominated and inspection-oriented paradigm as dictated by policy of post-NEP higher education. It contends that the future of Indian legal education would be in a greater precision of professional and academic regulator coordination, modernization of curricular periodically, enhanced authority of clinical and researchers, performance-based quality and a shift in focus more towards educational performance than regulatory compliance.*

**Keywords:** *Legal Education; bar council of India; NEP 2020; regenerative reform; professional education higher education policy; legal profession.*

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## I. Introduction

Students of legal studies in India do not simply study law at a university; this is the institutional basis of the legal profession and, through it, a significant part of the justice delivery system. A law degree has a twofold role. It is an academic degree awarded by a university, but it is also the main pre-requisite to the entry into professional legal practice. This unique status is the reason why legal education in India has traditionally been regulated by a specialised regulatory regime in which the Bar Council of India (BCI), and the provisions of the Advocates Act, 1961, plays the key role in setting standards and designating law degrees as a prerequisite to enrolment as an advocate.<sup>4</sup>

In spite of its importance, there are still structural deficiencies that affect Indian legal education. Growth in the institutions has not necessarily resulted in attainment of the same improvement in the quality of education. At most of the educational establishments, the education in the law is characterized by old-fashioned curricula, ineffective practical training, low research orientation, inconsistent faculty quality and the existing gap between teaching in the classroom and contemporary demands of professional work.<sup>5</sup> Institutional roles of the BCI, the University Grants Commission (UGC), universities and the bodies that they are associated with shape legal education. This has commonly translated into incoherent oversight, compliance overlap and lack of policy coherence.<sup>6</sup> In most instances, regulation is there, but viable reform is wanting. The National Education Policy, 2020 (NEP 2020) has enhanced the necessity to rethink this paradigm. Even though NEP 2020 does not directly restructure the legal education system, the broader vision of higher education policy included in it of multidisciplinary, flexibility in the curriculum and in research, skill building, academic mobility, and quality improvement has direct implications to all the professional fields such as law.<sup>7</sup> The crucial question, however, is not whether the BCI needs to regulate legal education, but whether its philosophy of regulation suffices in the post-NEP 2020 period.

The paper provides an argument that the BCI cannot be dispensed with because it is the major professional overseer of the study of law, except that its functions have to be radically shifted. The main argument being put forth here is that Indian legal education requires a move to something less compliance-based, with greater controls, and more of a reformist-focused model that is based on curricular modernization, measurable learning outcomes, institutional quality, on-research culture, digital preparedness and professional preparedness. The paper, in this regard, studies legal education as a policy area, reviews the current regulatory framework, reconsiders the significance of NEP 2020, redefines the role of the BCI, finds the gaps in structure, and suggests a more logical model of a regulatory transformation. It goes on to allege that without reconceptualising legal education as a location of policy-driven professional change, then the current regulatory framework would continue to result in a continued production of formally recognised law graduates without due safety in substantive professional competence.

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<sup>4</sup> The Advocates Act, 1961 (Act 25 of 1961), s. 7(1)(h) and s. 24(1)(c)(iii).

<sup>5</sup> Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 8–15 (2002).

<sup>6</sup> The University Grants Commission Act, 1956 (Act 3 of 1956), s. 12; Bar Council of India, Rules of Legal Education, 2008, r. 2, r. 8 and r. 17.

<sup>7</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 33–40, 48–52 (2020).

## II. Legal Education as a Policy Domain in India

Legal education in India must be conceived as policy area, rather than as an educational area that is traditional. What it is also unique about is that it is a two-fold thing: one it is an educational discipline and two it is the primary way to become a professional lawyer. Legal education is not only an academic qualification, but also legal cornerstone of admission to the roll of advocates of systems or regulatory principles.<sup>8</sup> The quality of law education directly affects legal practitioners and subsequently courts, legal systems, government, dispute resolution and access to justice.

Legal education is more conceptually appropriate as being the institutionally useful. Legal education system: legal education first has an effect on lawyers, judges, legal academicians, prosecutors, corporate counsel, and even legal researchers. The consequences of poor legal education do not include poor academic performance alone, and may extend to include the legal professional culture, law reasoning, advocacy culture, the skills in drafting, the fidelity to the institution, and even the overall legal culture. It requires a policy system, which may offer fairness amid academic quality, professional competence, institutional accountability and the accountability of the populace.<sup>9</sup>

**Traditional Institutions** Traditionally, Indian legal educational has been of different institutional forms: traditional three, year LL.B., integrated, which is aimed at integrating five years and university department, legal college of a university, and National or University Law University, on the other hand, private university. This variety is an expansion and complexity. In spite of the increase in various regions in the number of elite institutions, there is disproportional distribution of quality in the entire system, especially in the following domains: pedagogy, faculty development, culture of research, use of infrastructure and practical training.<sup>10</sup> Even some infrequent success stories by a few institutions would not suffice to compensate structural vulnerabilities in the whole legal education system.

Further, the demands of the legal profession have changed significantly. In contemporary jurisprudence, contemporary legal practice is even more intertwined with technology, arbitration, regulatory compliance, public policy, information protection, financial regulation, corporate governance, computerized evidence, and cross-national legal procedures.<sup>11</sup> A too-doctrinaire exam-centric and de-linked to the new realities, education system will inadvertently result in graduates who are technically competent, but who lack the ability to meet the demands of learning outcomes, interdisciplinary exposure, research competence, practical competence and professional flexibility. This is what precisely itself renders legal education no longer an experience of professional qualification by position; but by far a social institution in the state of perpetual development.<sup>12</sup> This policy framing is important especially in the Indian context, as the law education makes a foundation to the law profession and constitutional governance. The quality of legal education is what defines quality of legal argument, of adjudication to people and of the enforcement of rights and responsibility of the institutions. Legal education is at reform a question not of academic concern; but even of structural concern to democratic government and to the administration of justice.

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<sup>8</sup> The Advocates Act, 1961 (Act 25 of 1961), s. 7(1)(h) and s. 24(1)(c)(iii).

<sup>9</sup> Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 3–7 (2002).

<sup>10</sup> Bar Council of India, Rules of Legal Education, 2008, r. 2, r. 8, r. 10 and r. 17.

<sup>11</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 33–40 (2020).

<sup>12</sup> *Id.*



### III. Existing Regulatory Architecture of Indian Legal Education

In India, the structure of legal education regulation is both stratified and disjointed, at the border between professional regulation and government of higher education. The Bar Council of India (BCI) occupies the centre stage and its powers are mostly based on the Advocates Act, 1961. Under section 7(1)(h), the BCI is also required to encourage legal education and issue a standard of legal education, in liaison with both universities and State Bar Councils, which makes BCI to be a key actor in the regulation of legal education.<sup>13</sup> “Further, section 24(1)(c)(iii) links enrolment as an advocate with possession of a recognised law degree, thereby giving the BCI a decisive role in determining which legal qualifications are professionally valid.”<sup>14</sup>

This authority is operationalized in a statute initiated by the Bar Council of India Rules of Legal Education 2008, which form the main legislative framework of standards of the legal education. Such Rules deal with the content and form of law education, the qualification of legal education, terms of attendance and the membership of the law faculty, norms of library facilities, faculty needs, recognition of Centres of Legal Education and the BCI, historically attempted to maintain minimally institutional uniformity and relevance of law education to professional expectations. This standardising function has been significant in a nation where there are institutional pluralism and an unequal system of education.<sup>15</sup>

Nevertheless, the BCI cannot work in a vacuum. Legal education does also form a subset of the wider concept of Indian higher education and so does come, at least partially, within the field of regulatory power of the University Grants Commission (UGC) by the University Grants Commission Act, 1956. This has led to a situation where law colleges and universities may be regulated in two or more ways: one via BCI professional regulations and another way via UGC higher education regulations.<sup>16</sup> Practically, this overlap impacts the design of curricula, the appointment of a faculty, institutional structures, recognition and Compliance.

The complexity of legal education is further compounded by the variety of institutional patterns within which legal education is provided. Other law colleges, the private universities, the National Law Universities, the deemed universities and traditional university departments are governed in varying forms, although all are linked one way or another to the need to have professional recognition.<sup>17</sup> This plurality has created a system where standardization is hard to realize and meaningful change may be impeded by the fact that there are too many layers to compliance to structure meaningfully. The outcome is a system where there is a high regulatory presence, and a weak regulatory coherence.

The value of regulatory standards in professional education has also been appreciated by judicial decisions. The decision of the Supreme Court, in previous cases on *State of Tamil Nadu v. Adhiyaman Educational and Research Institute*, show that the national standards in professional and technical education are important, but the cases do not focus particularly on legal education, the decisions support the idea that the process of educational regulation in professional fields should be taken seriously and based on the standards.<sup>18</sup> Similarly, “in *Prof. Yashpal v. State of Chhattisgarh*, the Court underscored the importance of credible institutional

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<sup>13</sup>The Advocates Act, 1961 (Act 25 of 1961), s. 7(1)(h).

<sup>14</sup> The Advocates Act, 1961 (Act 25 of 1961), s. 24(1)(c)(iii).

<sup>15</sup> Bar Council of India, Rules of Legal Education, 2008, r. 2, r. 8, r. 10 and r. 17.

<sup>16</sup> The University Grants Commission Act, 1956 (Act 3 of 1956), s. 12.

<sup>17</sup> Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 18–24 (2002).

<sup>18</sup> *State of Tamil Nadu v. Adhiyaman Educational & Research Institute*, AIR 1995 SC 1042.

and academic structures in higher education.”<sup>19</sup> The key challenge, though, is that the existing architecture tends to focus more on formal compliance than co-ordinated reform. This differentiation turns critical in the post-NEP 2020 period, when the legal schooling needs not only supervision, but modernization consistent with policies.

#### **IV. NEP 2020 and the Reform Imperative in Legal Education**

The National Education Policy, 2020 (NEP 2020) has had a considerable impact on changing the tone of the discussion about higher education reform in India despite the lack of a separate chapter dedicated to legal education. It is not only significant in terms of legal education by making it directly institutionally designed, but also in terms of broad overall policy principles it presents to all professional and higher educational programmes. Post-rigid and compartmentalised higher education NEP 2020 favours multidisciplinary, curricular flexibility, research focus, skills building, technology integration, and quality improvement as the reform features most of all. legal education is not an exception as it has traditionally been characterised by a comparatively formal and standardised regulatory framework.<sup>20</sup>

In the context of legal education, the most important contribution of NEP 2020 lies in the fact that it redefines the role of professional education as such. Higher education is viewed as the system not to grant the degree, but to cultivate critical thinking, the power of problem solving, the sense of ethics, professional competence and the flexibility in a continuously shifting body of knowledge.<sup>21</sup> This approach attempts to immigration of older models of legal education which still place too much emphasis on doctrinal instruction and examinations, as well as the attitude of minimum compliance. Such a system that views legal education mainly as a means of credentialing only to enter the Bar becomes another casualty to trends of failure to keep pace with the wider transformation proposed by national education policy.

The vision of the NEP 2020 on multidisciplinary learning is research-oriented and institutional quality also has more general implications on legal education, that a post-NEP legal curriculum must not be a narrowly-doctrinal one unrelated to other allied fields, including governance, economics, political science, sociology, technology, and public policy.<sup>22</sup> Interdisciplinary reasoning is becoming an increasingly common requirement to contemporary legal problems. A system of control that maintains formal catalogues of subjects, but does not promote curricular transparency jeopardizes the risk of making the study of law professionally narrow-minded and intellectually outmoded. Meanwhile, the policy renders it challenging to defend a regulatory framework that privileges formal adherence and minimal regard to research culture, academic innovation, or even educational outcomes.<sup>23</sup>

The topicality of NEP 2020 is even intensified when it is possible to refer to the evolving nature of legal profession. Modern law practice has been more and more defined by an encounter with early trends in technology law, data governance, financial regulation, arbitration, environmental compliance, digital evidence, and a policy-focused approach to law. Legal education in this context cannot afford stagnancies of subject arrangements or classical ways of classroom instruction. The interdisciplinarity and flexibility of policy focus thus directly

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<sup>19</sup> *Prof. Yashpal v. State of Chhattisgarh*, AIR 2005 SC 2026.

<sup>20</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 33–40, 48–52(2020).

<sup>21</sup> *Id.* 41–46.

<sup>22</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 34–37 (2020).

<sup>23</sup> *Id.* 48–55.

impacts curriculum change in law schools. Law graduates need to be more than ready to enter the world of traditional litigation, but to also embrace the demands of transactional, regulatory, advisory and policy work that shape the new realities of the twenty-first century professional life. Another key factor is the focus of NEP 2020 on quality and institutional change as opposed to the sheer growth. A marked increase in the number of institutions in Indian law education has not been accompanied by the necessary level of quality. Infrastructure, attendance, and formal course requirements continue to be the key metrics of regulatory compliance in most law colleges as opposed to learning outcomes, research standards, and practical competency, but NEP 2020 implicitly questions this model by presenting quality, innovation, and institutional growth as the main goals of educational policy.<sup>24</sup> In the teaching of law, it implies that regulatory success is no longer to be gauged merely by identification and scrutiny but by the meaningfulness of whether institutions generate competent, morally sound and professionally versatile graduates.<sup>25</sup>

At that, NEP 2020 does not necessarily change legal education, yet, it establishes a strong normative and policy environment where older regulatory presuppositions grow harder and harder to justify. Unless legal education is still maintained within a framework in which the preoccupation has been with minimum conformity rather than with educational transformation it will gradually become increasingly estranged to the national educational policy, and to the realities of the legal profession in terms of their continued transformation. The moment after NEP thus generates a clean reform agenda of the BCI and of the Indian legal education regulatory framework in general.

## **V. Reassessing the Role of the Bar Council of India in the Post-NEP 2020 Context**

Bar Council of India (BCI) is still the most powerful regulatory body of Indian legal education since it is placed at the cross hands of academic qualification and entry into a profession. In contrast to general higher education regulators, the BCI does not simply have the authority based on the academic level of authority; it is considered to be related to the statutory validity of the legal profession per se. The professional relevance of a degree in law can only be assessed against the criteria that are presented to permit one to enrol in a law degree, and this is what places the BCI in a uniquely influential role in determining the structure, content and institutional terms of legal education.<sup>26</sup>

It would be incorrect, however, to consider BCI simply as a hindrance to reform. The BCI has historically had a significant standardising role in the education of lawyers in India. It has aided in the maintenance of the professional nature of law degrees, offered a minimum scheme to concentrate on the institutional recognition, and aided the unification of the five- and three-year LL.B. models. Its regulatory intervention has also made sure that legal education is not an ordinary academic programme, which is not in balance with professional ethics, court craft, and practical expectations. Within a system characterized by institutional heterogeneity, and unequal quality, the BCI has been the key agent that could insist that legal education should at least be nationally of a minimum quality.

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<sup>24</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 49–55 (2020).

<sup>25</sup> *Id.* 48–52.

<sup>26</sup> The Advocates Act, 1961 (Act 25 of 1961), s. 7(1)(h), and s. 24(1)(c)(iii).

Meanwhile, the shortcomings of the current BCI model have become more noticeable. The existing framework is still largely influenced by the compliance-ready logic. The institutional evaluation frequently seems to be more pre-occupied with the formal conditions of educational quality (infrastructure, stipulated course formats, attendance, and numerical staffing requirements and policies) than with deeper measures of quality. Though these prerequisites are essential conditions, they do not alone suffocate meaningful legal learning.<sup>27</sup> What a law college may meet is not merely excessive regulation, but reliance on a form of regulation that is more adept than effective in determining conformity rather than transformation of the education system.<sup>28</sup>

The NEP 2020 follows will necessitate the BCI to redefine its functions as a gatekeeping regime to a reform-oriented professional regulator instead. It is no longer so much a question of whether the minimum eligibility requirements in institutions are being met, but a question of whether the entire legal education system can even be able to deliver graduates adequately prepared to meet the current-day professional realities. This requires a change to policy-responsive regulation as opposed to rule-preservation. The BCI needs to increasingly consider the question as to whether curricula are responsive to the newer frontiers of law, whether institutions are promoting research, writing, whether students are getting meaningful clinical and even experience training, whether learning has become something that is technologically enabled, and whether graduating legal culture is yielding graduates who have quantifiable professional competence as opposed to graduates who have formal credentials.

Indirectly this requirement to re-examine has been supported by the reasoning of the judiciary. In “*V. Sudeer v. Bar Council of India & Bar Council of India v. Bonnie Foi Law College*”<sup>29 30</sup> The net effect of these decisions is not to diminish the significance of the BCI, however; these cases help to make it clear that the powers of the BCI must be used in a way that does not undermine the fact that its powers, though vast, are not unrestricted and must continue to be tied to the purpose of the statutes.

The question, however, is not whether the BCI still ought to play a central role in education of law, but what form of regulator it should assume. The relevance of the BCI in the post-NEP 2020 era will follow the extent of its updating of regulatory philosophy. It cannot be hubristic to stay within a paradigm of permission and inspection with formal recognition as the main considerations. To ensure that legal education can be responsive to the wider national reforms in higher education, BCI should shift to an approach which places greater importance on the dynamism of its curricula, the quality of its institutions, the culture of research, and outcome-focused evaluation, and the adaptability of its professions. The future of legal education regulation is as to whether the BCI will be interested in regulating to transform and not just to continue.

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<sup>27</sup> Bar Council of India, Rules of Legal Education, 2008, r. 8, r. 10 and r. 17; Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 25–31 (2002).

<sup>28</sup> Id. 25–31.

<sup>29</sup> *V. Sudeer v. Bar Council of India*, AIR 1999 SC 1167.

<sup>30</sup> *Bar Council of India v. Bonnie Foi Law College*, AIR 2023 SC 2615.

## VI. Structural Gaps in the Present Regulatory Model

Despite the fact that the current regulatory framework has been effective in maintaining a fundamental national framework to legal education, it is still plagued by a number of structural shortcomings which restrict meaningful reform. The major drawback of the current model lies in the fact that it continues to be more useful in terms of formal compliance rather than substantive quality in education. This is not an assurance that bestows competent legal training, research-based pedagogy, or learning outcomes that are professionally relevant, but this imbalance between institutional regulation and educational quality has been at the centre of the current crisis in reforms.<sup>31</sup>

One significant weakness is the fact that there is still a lot of curricular rigidity. The legal profession has evolved very quickly to address the impact of technology, globalisation, growth of regulations and specialised fields of practice, however legal training in most institutions has remained based on the conventional delivery of subjects and learning based on exams. New fields like technology law, data protection, digital evidence, fintech regulation, compliance studies, competition regulation, and policy-oriented legal analysis are not well developed in many areas of the system.<sup>32</sup> as well as when these are offered, they are generally marginal electives and not part of the core training of professional lawyers. This brings about a gap between the education of law and the practice in the real world today.

A poor application of practical and result-based legal education is another structural weakness that is noteworthy. Despite the importance accorded to the regulatory framework to internships, moot courts, and clinical elements, these are seldom highly monitored learning experiences but instead formalistic elements of compliance. Moot court activities can be carried out without a sustained mentoring, reflective feedback, or combination with drafting and advocacy training.<sup>33</sup> Going on, the traditional examinations and attendance requirements are still taking over assessment, yet they do not sufficiently assess drafting, analytical reasoning, interviewing, counselling, and professional competence.<sup>34</sup>

Another area of weakness is the poor research culture and development of faculty that is not equal over much of the legal education sector. Although several prominent institutions have established more robust research communities, most law schools still operate on a relatively small scale of scholarly output, a weakness in pedagogic innovation, poor culture of publication, or scant training in legal writing and legal doctrine, legal policy research or interdisciplinary inquiry.<sup>35</sup> These are the main weaknesses that should not be disregarded in a post-NEP scheme where the major emphasis is placed on research, academic innovation, and the quality of the institutions.

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<sup>31</sup> Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 25–31 (2002).

<sup>32</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 33–40, 48–52 (2020).

<sup>33</sup> Bar Council of India, Rules of Legal Education, 2008, r. 10, r. 12 and r. 13.

<sup>34</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 41–46, 49–55 (2020).

<sup>35</sup> Law Commission of India, 184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 25–31 (2002); Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 49–55 (2020).

The existing regulatory paradigm has failed to respond satisfactorily to the requirements of digital and hybrid legal education as well. Ease of access to digital databases, online learning, simulation, online research on the law, and technology-based pedagogy have become more significant to modern legal training. The current regulatory strategy, however, lacks a sufficiently elaborated scheme to incorporate all of these elements into the general legal education standards; nevertheless, it is becoming an academic and professional necessity.<sup>36</sup> Lastly, the BCI, UGC and universities still co-exist with the affiliating authorities and their coexistence still generates the overlapping of regulation with little clarity. The numerous layers of compliance often create a pathway through which institutions operate but coordinated quality assurance has not always been achieved. Rather, it has frequently served to increase the procedural load at the expense of more fundamental issues of curriculum change, pedagogic creativity, teacher growth, and outcomes measurement. The requirement is not, however, merely one of tighter enforcement but of a more sensible and reform-minded regulatory structure.<sup>37</sup>

## **VII. Towards a Reformed Regulatory Framework for Indian Legal Education**

Unless the current crisis in Indian legal education is simply a crisis of enforcement, but crisis of regulatory design, then reform should be more than that of more stringent rules. This post-NEP 2020 moment demands that a paradigm is changed towards model based on institutional permission and minimum compliance to that of quality, results, relevancy of the curriculum, and long-term professional capacity. How far as this goes, the future of law schooling does not lie in the abrogation of regulation but in rebuilding regulation on more consistent and reform-based lines.

The initial demand is the evolution of clearer and much more coordinated connection of the Bar Council of India (BCI) with the University Grants Commission (UGC). Currently, legal education has been trapped between higher education governance and professional regulation that in most cases lead to duplication without distinction.<sup>38</sup> A better way would be to separate their areas of core competency: the BCI must still control professional competence, academic requirements linked to enrolment, and core law training standards, whilst the UGC assume a more powerful role in the overall quality of academic standards, research standards, faculty development, institutional autonomy and innovation.

**Second**, the regulation of legal education needs to shift away towards an outcome-based approach of legal education as opposed to an input-based model. The regulatory system needs to be more and more critical whether graduates are equipped with identifiable professional and academic competencies rather than on whether institutions meet infrastructure and procedural standards.<sup>39</sup> This would involve both legal reasoning, writing, and advocacy, research, ethical and digital literacy and capacity to respond to and address current regulatory and policy matters.<sup>40</sup>

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<sup>36</sup> Id. 50–52.

<sup>37</sup> The University Grants Commission Act, 1956 (Act 3 of 1956), s. 12; Bar Council of India, Rules of Legal Education, 2008.

<sup>38</sup> The Advocates Act, 1961 (Act 25 of 1961), s. 7(1)(h); The University Grants Commission Act, 1956 (Act 3 of 1956), s. 12.

<sup>39</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 33–40, 48–52 (2020).

<sup>40</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 48–52 (2020).

**Third**, it requires a sense of curricula modernization on a periodic basis. Among the most tangible failures of the existing system, it can be argued that the reform of curriculum proceeds very slowly as compared to changes in the field of legal practice and governance. Reformed should institutionalise a review cycle and preferably with a period of three to five years, by which time the core and optional subjects of legal education fall under a continuous reflective approach where they are re-examined in relation to dynamic fields.<sup>41</sup> The curriculum in the context of the post-NEP 2020 world needs to be seen as a flexible tool of change, as opposed to a fixed control model.

**Fourth**, the regulatory reform should focus on placing clinical and experiential learning in the core of legal studies instead of considering it as an additional aspect of legal education. Moot courts, legal aid clinics, drafting exercises, trial simulations, mediation practice, internships, client counselling and exercises based on negotiation should not continue to be ornamental aspects of legal training. They ought to be exposed to more rigorous academic criteria and substantive examination.<sup>42</sup> Righteous course of study that does not evaluate practical ability on a system basis cannot presume to be in complete relationship with the tasks of either legal professionalism or higher education reform. Practical legal education should hence be regarded as fundamental regulatory issue and not an aside academic exercise.

**Fifth**, the reform agenda should entail faculty development, research culture and digital preparedness. There would be no possible improvement of the quality of long-term legal education through regulation with the only consideration of the students and institutions without once focusing on the capacity of the academic. Blended learning, digital databases, virtual simulations, and technology enabled pedagogy should be welcomed by the BCI in collaboration with universities and the UGC to ensure that the legal education is adjusted to these advancements.<sup>43</sup> A new paradigm ought to thus incorporate technological competence within the larger concept of institutional quality.<sup>44</sup>

Another reform that should be taken seriously is that performance should be more sensitive in the review mechanism of recognised Centres of Legal Education. Conventional inspection has not been supplanted, but should be accompanied by periodic review of academic performance indicators like faculty publications, student research production, implementation quality, supervision of internships, use of digital resources and graduate readiness to meet a professional or further academic track.<sup>45</sup> The regulatory process, instead of concentrating solely over whether the institutions meet minimum physical standards, would be embarking on analysing the effectiveness of legal education as in fact an effective working system of professional and academic transformation.

**Lastly**, the reform agenda must acknowledge that legal education is also a source of professional pipeline and a location of democratic and constitutional capacity-building. A strong legal education system not only produces future lawyers but also future judges,

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<sup>41</sup> Bar Council of India, *Rules of Legal Education, 2008*; Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 31–36 (2002).

<sup>42</sup> Bar Council of India, *Rules of Legal Education, 2008*, r. 10, r. 12 and r. 13.

<sup>43</sup> Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 49–55 (2020).

<sup>44</sup> *Id.* 50–52.

<sup>45</sup> Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 31–36 (2002).

policymakers, government administrators, legal researchers and theorists. To that end, regulatory reform should maintain the standards of the profession but also allow legal education to be intellectually open, socially responsive and institutionally creative. Reform must be however seen as not weakening the control of the profession but as the transformation of regulatory intent.<sup>46</sup> Overall, the reform should not be aimed to dilute the role of BCI, but to redefine its role. The BCI should stay the protector of professional standards, although it should become more of a policy-attentive regulator that has the power to shape legal education to become innovative, quality, and professionally relevant. Whether regulation can be seen as both a tool of transformation (as opposed to an instrument of control) will determine the success of legal education reform in India.

### **VIII. Comparative Reform Lessons**

Past experience indicates that effective legal education reform requires less strict central control sometimes and more the ability to establish clear non-financial standards of quality, review the curriculum periodically, and establish a consistent coordinate between academic and professional regulators. The regulatory focus in a few jurisdictions has taken a slow transition away that the wholly formal standards towards quantifiable competence and institutional quality. This is a comparable trend applicable to India, especially with the post-NEP 2020 scenario.

The UK has traditionally had a legal education system that shares a dichotomy between university-based legal studies and preparing for a professional qualification, with reforms increasingly emphasizing efforts to retain flexibility without compromising professional competency and academic quality.<sup>47</sup>

A more general moral is that professional legal education is often more effective when there is a division between threshold standards and quality-enhancement standards by regulators. The former makes institutions live up to minimum qualification standards; the latter aims to promote and sustain quality improvement by examining the curriculum, evaluating skills, facilitating research proposals, and executing technology and innovation at the institutional level.<sup>48</sup> There is no model that India should follow. But the moral of the story is equally obvious: an inspection and recognition-based legal education system must not be considered the mainstay of reform-oriented education. It also needs to create clear standards, updated curricula, enhanced experiential learning, and an integrated interface between the academic and professional regulators.<sup>49</sup>

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<sup>46</sup> Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 31–36 (2002); Ministry of Human Resource Development, Government of India, “National Education Policy, 2020” 48–52 (2020).

<sup>47</sup> Richard L Abel, *English Lawyers Between Market and State: The Politics of Professionalism* (Oxford University Press, Oxford, 2003) 112–118.

<sup>48</sup> Law Commission of India, “184th Report on the Legal Education and Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956” 31–36 (2002).

<sup>49</sup> *Id.*



## **IX. Conclusion**

The Indian legal education is at a point of crisis at a junction. The current regulatory system has been a significant factor in the maintenance of the professional nature of legal training, and has been a subsystem of institutional acknowledgement and standards linked to enrolment. Yet, the continued discordance of small parts regulation, a control-oriented but not innovative framework, the inflexibility of curriculum, the poor culture of research, and the inability to match modern professional conditions and realities are evidence that the current model is no longer adequate to the needs of a shifting legal and educational landscape. This weakness has become more apparent as the National Education Policy, 2020 replaces the discussion about institutional control with that of educational transformation in the national discourse. Its attention to multidisciplinary and quality improvement, research culture, flexibility, and innovation provides a strong reform environment across the entire professional field, law included. The future relevance of the Bar Council of India in this environment is contingent on its capacity to transcend its narrow gate keeping function and become more modern and reform oriented. The BCI should continue to lie at the heart of professional requirements, although it should also be engaged in the construction of a legal education system that attaches importance to measurable competence, curricular renewal, experiential learning, academic quality, and digital preparedness.

The way forward to any meaningful future of legal education in India is therefore more coherent, coordinated regulation, a regulation that confronts less overlap in the role of the professional and academic regulatory bodies, which tightens the assurance of quality and equeers legal education to the larger reform logic of the higher education policy. A non-dynamic regulatory framework that operates in an evolving educational context runs the risk of creating formal rather than meaningful professional excellence. It will not only be the ability to control access to the Bar that will determine the long-term legitimacy of the legal profession, but also by guaranteeing that legal educational establishments can in turn graduate intellectually rigorous, ethically-grounded, professionally-competent and socially-responsive graduates in the post-NEP 2020 world.

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