UNIVERSITY OF SINGAPORE
FACULTY OF LAW

Regional Conference on Legal Education

A REPORT ON THE PROCEEDINGS OF THE CONFERENCE

SINGAPORE
1962

PUBLISHED WITH THE SUPPORT OF THE
INTERNATIONAL COMMISSION OF JURISTS, GENEVA

UNIVERSITY OF SINGAPORE

FACULTY OF LAW

Regional Conference on Legal Education

(A Report on the Proceedings of the Conference)

SINGAPORE

1962

Published with the support of the
International Commission of Jurists, Geneva

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INTRODUCTION

SOMETIME after joining the Faculty of Law of the University of Singapore as a Visiting Professor in 1960, I had the opportunity of visiting law faculties in a number of countries of Southeast Asia. I was particularly impressed by two observations, the apparent disparity in educational standards from institution to institution and the small, sometimes virtually non-existent, degree of communication between legal institutions within the same country, much less with other similar institutions elsewhere in the region. Such parochialism on the part of law schools seemed not only quite contrary to many trends drawing the nations and peoples of the region together; it appeared to be a factor in a certain stagnation of standards of legal education often noted by the teachers themselves in many of the schools visited.

It occurred to me that perhaps a significant stride in legal education might be made by opening up channels of communication among members of the profession on a regional basis. I envisaged an organization that might provide the opportunity for regular exchange of ideas among the many persons throughout this vast area who in their stewardship of the law and the influence which they must, perforce, have upon the minds of young people are in a very real way guardians of such rights as the people may know, not only now, but generations from now.

Upon my return to the University from my travels, I found a reception for my ideas; and from them developed the Conference which this book describes. I must disclaim credit for the actual success of the Conference. This largely belongs to others; for during much of the period which preceded it I was again away, on that occasion to the United States.

H. E. GROVES
Head, Department of Law
Dean, Faculty of Law
University of Singapore

March 11, 1964

Note. In the summer of 1964 a second regional conference on legal education was held at the University of Singapore. A permanent organization, the Association of Law Teachers and Schools in South East Asia, was formed. The first president was Professor H. E. Groves, of the University of Singapore, who resigned later in the year after departing from Singapore and was replaced by the Vice President, Dr. G. S. Sharma, of Jaipur Law College.

PREFACE

THOUGH legal studies were started in Southeast Asia many years ago, it must be admitted that a great deal has yet to be done to place legal studies on a sound academic footing and to consolidate the efforts of law teachers on an all-Southeast-Asian basis. Moreover, there is a special responsibility on the part of the legal profession and particularly on the teachers of law in all countries where freedom of thought and liberty of expression of opinion are respected and the government is subjected to the Rule of Law. The teacher of law can help in creating an atmosphere in which the Rule of Law can flourish in this region by fostering the growth and instilling among the law students the importance of the Rule of Law.

An event of major importance to the development of legal education in Southeast Asia was the First Regional Conference on Legal Education, held in the University of Singapore from August 27, 1962 to September 1, 1962. The Conference was attended by delegates from universities, representatives from the bench, bar, government legal services, directors and representatives of law institutes from Burma, Cambodia, Ceylon, India, Indonesia, Japan, Pakistan, Philippines, Thailand and Vietnam. The entire staff of the Law Faculty of the University in Singapore, as well as all those practising and government lawyers and judges in Malaya and Singapore who wished to, also participated in the Conference. The Conference was also represented by observers from Australia, United Kingdom, the International Commission of Jurists and the Association of Southeast Asian Institutions of Higher Learning.

During the deliberations of the Conference, the delegates split into various working parties, exchanged views, discussed, read papers and considered such aspects of legal education as problems of law school development; standard of admission and graduation; curriculum; minimum standard for law schools; optimum number of students; teaching methods; examinations; media of teaching; library organization and development; research; publication of journals and other writings; recruitment and salary of teachers; status of lawyers and law teachers; relations of law schools with the bench, bar, universities and governments; admission into the profession and problems of mutual recognition of degrees. These problems are not easy to solve. However, the Conference has provided for the teachers of law a forum for personal contacts, interchanges of ideas and affirmation of our joint belief in the sanctity of the Rule of Law. Most of the delegates, who had been

trained in, practised, and taught the diverse and contrasting systems of law prevailing in Southeast Asia, learnt in Singapore that the problems of legal education in this region were almost identical.

In its closing session the Conference resolved to establish a permanent Association of Legal Institutions in this region and that membership should be open to law schools, law institutes and individuals interested in the promotion and improvement of legal education and that drafting of the constitution of the proposed Association was to be entrusted to the Faculty of Law of the University of Singapore which sponsored this Conference. The formation of the Association of Law Teachers and Schools in Southeast Asia is a welcome venture. It is hoped that the formation of the Association as a permanent organization will be a great step forward in promoting the cause of legal education in this region.

I must mention that unfortunately some of the proceedings of the Conference and papers were either not recorded or not submitted for publication. However, it is hoped that the publication of this work will be of great use and interest at the present time when there is a great deal of divergence both in the methods and in standards between the systems of legal education prevailing in different parts of this region.

It is my pleasant task to record my gratitude to many of my friends and colleagues who gave their valuable time and helped in making the Conference a success. I should also like to express our profound debt of gratitude to the International Commission of Jurists, who provided the finance to publish a report on the proceedings of the Conference, without which it would have been impossible to present this work. Our gratitude also extends to the financial sponsors who made this Conference possible: the Asia Foundation, the Lee Foundation and the authorities of the University of Singapore. The social success of the Conference was due entirely to our various generous hosts: Dato Lee Kong Chian, Chancellor, University of Singapore; Mr. G. J. Malik, Assistant Commissioner for India, Singapore; Mr. Tan Lark Sye, Chairman of the Nanyang University Council; Singapore Indian Association; Singapore Ceylon Sports Club; Consuls General of Indonesia, Japan, the Philippines and Vietnam.

I would also like to extend my thanks to Professor L. A. Sheridan, Professor H. E. Groves and Professor L. C. Green for their assistance and guidance in the solution of the many problems and difficulties I faced in organizing the Conference and for affording me every facility I needed while this work was in progress. I also appreciate the help and co-operation given to me by the typists of the Faculty of Law, University of Singapore. Last but not least, I also take this opportunity to express my thanks to my wife, who read the entire text in manuscript and tendered invaluable advice on the principles of editing.

S. P. KHETARPAL
Faculty of Law
University of Singapore

March 14, 1964

A.

GENERAL INFORMATION ON THE CONFERENCE

UNIVERSITY OF SINGAPORE

FACULTY OF LAW

REGIONAL CONFERENCE ON LEGAL EDUCATION

AUGUST 27 — SEPTEMBER 1, 1962

List of Delegates

J. G. ADVANI, LL.B.	Advocate and Solicitor 51B Market Street Singapore
Professor CHAUDHRY MOHAMMAD ALI	Dean, Faculty of Law Vice-Chancellor University of Peshawar Peshawar, West Pakistan
Professor IMTIAZ ALI, M.A., LL.M.	Principal,Law College University of the Panjab Lahore, West Pakistan
Dr. ANANDJEE, LL.M., D.C.L.	Dean, Faculty of Law Benares Hindu University Varanasi, India
Professor BIENVENIDO C. AMBION	University of the Philippines College of Law Quezon City The Philippines
L. W. ATHULATHMUDALI, M.A., B.C.L.	Lecturer, Faculty of Law University of Singapore
U HLA AUNG, M.A., LL.M.	Director, Burma Law Institute Rangoon, Burma

Professor CRISPIN BAIZAS	Dean, Far Eastern University Institute of Law Manila, The Philippines
G. W. BARTHOLOMEW, LL.M., B.Sc. (Econ.)	Senior Lecturer (Commercial Law) Faculty of Law University of Singapore
R. S. BOSWELL, M.A., LL.B.	Faculty of Law University of Singapore
Dr. J. A. BOTTOMLEY, M.A., Ph.D.	Department of Economics University of Singapore
Professor C. J. CHACKO	Secretary-General Indian Society of International Law New Delhi, India
CHUA SIAN CHIN, B.A., LL.B.	Faculty of Law University of Singapore
B. L. CHUA, M.A., LL.B.	Senior Lecturer Sub-Dean, Faculty of Law University of Singapore
F. CIOFFI, B.A.	Department of Philosophy University of Singapore
Professor JORGE R. COQUIA	Faculty of Law University of Manila Manila, The Philippines
P. COOMARASWAMY, LL.B.	Faculty of Law University of Singapore
E. P. ELLINGER, LL.B., M. Jur.	Assistant Lecturer Faculty of Law University of Singapore
Justice T. S. FERNANDO, Q.C.	Puisne Justice, Supreme Court 3 Cosmas Avenue Colombo, Ceylon
Dr. ENRIQUE M. FERNANDO	Attorney at Law 205, National Press Club Building Magallanes Drive Manila, The Philippines
WILLIAM T. FLEMING	The Asia Foundation No. 1, Damansara Road Kuala Lumpur
FOO YEW HENG, LL.B.	Faculty of Law University of Singapore
Dr. G.E. GLOS, LL.M., J.S.D. J.U.D.	Lecturer, Faculty of Law University of Singapore
GOH HENG LEONG, M.A., LL.B.	Faculty of Law University of Singapore

R. K. W. GOONESEKERE, LL.B., B.C.L.	Lecturer University of Ceylon Peradeniya Ceylon
Professor L. C. GREEN, LL.B.	Professor of International Law Vice-Dean, Faculty of Law University of Singapore
Professor H. E. GROVES, A.B., J.D., LL.M.	Visiting Professor of Constitutional Law Faculty of Law University of Singapore
Professor SUJONO HADINOTO	Dean of the Faculty of Law and Social Sciences University of Indonesia Djakarta, Indonesia
R. H. HICKLING	The Law Revision Commissioner Kuala Lumpur
P.F.P. HIGGINS, LL.B.	Law School University of Tasmania Hobart, Tasmania Australia
G. S. HILL, M.A.	Faculty of Law University of Singapore
Dr. R. C. HINGORANI, LL.M., J.S.D.	Dean, Law Faculty University of Gorakhpur Gorakhpur India
HO CHIANG CHEN YU (Mrs.), B.A.	The Library University of Singapore
Professor HUANG YING JUNG	Nanyang University Singapore
AHMAD BIN MOHD. IBRAHIM, M.A.	State Advocate-General Havelock Road Singapore
J. B. JEYARETNAM, LL.B.	First Civil District Court Empress Place Singapore
Dr. S. P. KHETARPAL, B.Sc., LL.M., Ph.D.	Assistant Lecturer Faculty of Law University of Singapore
KHOO HIN HIONG, LL.B.	Legal Aid Bureau Havelock Road Singapore
KOH ENG TIAN, LL.B.	State Advocate-General's Department Havelock Road Singapore

Koh Thong Bee, Tommy, LL.B.	Assistant Lecturer Faculty of Law University of Singapore
Dr. James A. Kokoris	The Asia Foundation Shaw House Orchard Road Singapore
Judge Masatomi Komatsu	Legal Training and Research Institute Supreme Court of Japan 3, Kioicho, Chyoda-Ku Tokyo, Japan
Edward S. Kozera	Administrative Secretary International Commission of Jurists Geneva Switzerland
Tanin Kraivixien, LL.B.	Faculty of Law Thammasat University Bangkok, Thailand
V. Kumar, B.A., LL.M.	Assistant Lecturer Faculty of Law University of Singapore
Dato Dr. Lee Kong Chian, S.P.M.J., S.J.M.K., Hon. LL.D., J.P.	Chancellor University of Singapore
Lee Min Sen, LL.B.	State Advocate-General's Department Havelock Road Singapore
Lena Cheng (Miss)	The Library University of Singapore
Lim Chor Pee	State Advocate-General's Department Havelock Road Singapore
Lie Kim Gwan, B.Com., M.A.	Assistant Registrar University of Singapore
R.C.H. Lim	Advocate and Solicitor 34A, Market Street Singapore
Lim Ewe Huat	Legal Aid Bureau Havelock Road Singapore
Lim Joo Hock	Ministry of Health and Law Havelock Road Singapore
Lim Kheng Lian (Miss), LL.B.	Polytechnic, Singapore

Professor Lim Tay Boh, M.A., Ph.D., Dip. Arts.	Deputy Vice-Chancellor University of Singapore
Professor Lin Wo-chiang	Nanyang University Singapore
Dr. G.I.T. Machin, B.A., D.Phil.	Department of History University of Singapore
Abdullah Majid	City Secretariat City Hall Penang
G. J. Malik	Assistant Commissioner India House 31, Grange Road Singapore
Dr. Bashir A. Mallal, LL.D.	Malayan Law Journal 20, Malacca Street Singapore
Professor A.T. Markose, M.A., LL.D.	Research Director The Indian Law Institute Supreme Court Building New Delhi India
D. S. Marshall, LL.B.	Faculty of Law University of Singapore
T.P.B. Menon, LL.B.	Faculty of Law University of Singapore
Professor R. S. Milne, M.A.	Department of Political Science University of Singapore
Dr. J. Minattur, M.A., Ph.D. Dr. R.	Assistant Lecturer Faculty of Law University of Singapore
J. K. Mittal, B.Sc., LL.B.	Assistant Professor of Law University of Allahabad India
R. Muragason	Advocate and Solicitor 51B, Market Street Singapore
Professor T. Nadaraja, M.A.	Professor and Head of the Law Department University of Ceylon Peradeniya Ceylon
Manijeh Namazie (Miss), B.A., M.L.S.	The Library University of Singapore
Dr. Purnadi Purbatjaraka, LL.D.	Secretary of Law and Social Sciences University of Indonesia Djakarta Indonesia

Professor HAFEEZUL RAHMAN, B.A., LL.B., J.S.D.	Dean, Law Faculty Muslim University Aligarh India
Professor HASSANALLY A. RAHMAN, LL.B.	Principal Sind Muslim Law College Karachi West Pakistan
JUSTICE S. A. RAHMAN	Supreme Court Lahore, Pakistan
Professor S. S. Z. RAHMAN, M.A., LL.M.	Dean, Faculty of Law University of Rajshahi Rajshahi, East Pakistan
Dr. ALEEM-AL-RAZEE, M.A., Ph.D., LL.B.	Principal, City Law College Dacca, East Pakistan
RENÉ ROBLOT	Doyen, Faculté de Droit Phnom Penh, Cambodia
Sir ALAN ROSE, K.C.M.G.	Chief Justice Supreme Court Singapore
SAURAJEN SACHI	State Advocate-General's Department Havelock Road Singapore
Professor VICENTE ABAD SANTOS	Dean, College of Law University of the Philippines Quezon City The Philippines
Dr. U. C. SARKAR, M.A., M.L., LL.D.	Principal The University Law College University of the Panjab, Chandigarh, India
F. KEITH SELLAR	Advocate and Solicitor 64, First Cross Street Malacca
Professor L. A. SHERIDAN, LL.B., Ph.D.	Professor of Law and Dean Faculty of Law University of Singapore
Professor N. U. A. SIDDIQUI, M.A., B.C.L., LL.D.	Professor of Law University of Dacca Dacca, East Pakistan
AMARJIT SINGH, LL.B.	Faculty of Law University of Singapore
CHOOR SINGH	District Judge and First Magistrate South Bridge Road Singapore

T. S. SINNATHURAY, LL.B.	Faculty of Law University of Singapore
Professor L. R. SIVASUBRAMANIAN, B.A., M.L.	Dean, Faculty of Law University of Delhi Delhi, India
Professor S. A. DE SMITH, M.A., Ph.D.	Professor of Public Law University of London
Dr. B. R. SREENIVASAN, L.M.S., M.R.C.P. Hon. LL.D.	Vice-Chancellor University of Singapore
E. SRINIVASAGAM (Miss), M.S.	The Library University of Singapore
ISMAIL SUNY, LL.M., M.C.L.	Lecturer in Law University of Indonesia Djakarta Indonesia
Dr. ENRIQUE P. SYQUIA	Professor of Civil Law Faculty of Philosophy and Letters University of Santo Tomas Manila The Philippines
TAN BOON CHIANG	State Advocate-General's Department Havelock Road Singapore
U MYO THAN	Consulate General of the Union of Burma 15 St. Martin Drive Singapore
POC THIENN	Président du Conseil d'Administration Faculté de Droit Phnom Penh Cambodia
THIO SU MIEN (Mrs.), LL.B.	Assistant Lecturer Faculty of Law University of Singapore
Professor VU QUOC THUC	Dean, Faculty of Law University of Saigon Saigon, Vietnam
Professor K. G. TREGONNING, B.A., B.Litt., Ph.D.	Department of History University of Singapore
N. VAITHINATHAN, M.A., LL.B.	Faculty of Law University of Singapore
WANG CHEN HSIU CHIN (Mrs.), LL.B., M.A., M.L.	Assistant Librarian University of Singapore
JEAN M. WALLER (Miss), M.A., A.L.A.	The Librarian University of Singapore

WEE SOON KIM, ANTHONY	Crown Counsel and Deputy Public Prosecutor State Advocate-General's Department Havelock Road Singapore
HARRY L. WEE, M.A., LL.B.	Faculty of Law University of Singapore
S. R. WIJAYATILAKE	Additional District Judge Lecturer, Ceylon Law College Colombo Ceylon
ROBERT W. WINKS, M.A., Ph.D.	Department of History University of Malaya Kuala Lumpur
A. V. WINSLOW, B.A., LL.B.	Solicitor-General State Advocate-General's Chambers Singapore
Professor LESLIE J. G. WONG, B.Com., M.B.A.	Department of Economics University of Malaya Kuala Lumpur
R. KOESTO WONGSODIDJOJO	Konsulat Djenderal Indonesia
RENÉE F. YOU (Mrs.)	The Association of Southeast Asia Institutions of Higher Learning Bangkok Thailand

PROGRAMME

MONDAY AUGUST 27, 1962

8.30 a.m.	Visit to the Shell refinery.
10.00 a.m.	Tour of the Singapore Harbour Board, National Museum, National Library and Botanical Gardens.
3.00 p.m.	Opening Session (new science lecture theatre No. 4). Speech of welcome by Dr. B. R. Sreenivasan, Vice-Chancellor, University of Singapore.
3.30 p.m.	Break for tea.
4.15 p.m.	Tour of the library and University buildings.
7.00 p.m.	Reception by Dato Dr. Lee Kong Chian, Chancellor, University of Singapore.

TUESDAY AUGUST 28, 1962

9.30 a.m.	General session. Problems of Law School Development (court room). (Chairman — Professor H. E. Groves). The following papers were read: Professor L. A. Sheridan — Legal Education in Malaya. Professor L. R. Sivasubramanian — Legal Education in India. Professor Hassanally A. Rahman — Legal Education in West Pakistan. Professor Vu Quoc Thuc — Legal Education in Vietnam.
11.00 a.m.	Break for coffee.

11.30 a.m. The following papers were read:
U Hla Aung — Legal Education in Burma.
Professor T. Nadaraja — Legal Education in Ceylon.

12.30 p.m. Break for lunch.

2.30 p.m. General Session.
(Chairman — Professor L. C. Green).

The following papers were read:

Judge Masatomi Komatsu — Legal Training Programme of the Legal Training and Research Institute in Japan.

Mr. Ismail Suny — Legal Education in Indonesia.

Professor Vicente Abad Santos — Legal Education in the Philippines.

Professor S. S. Z. Rahman — Legal Education in East Pakistan.

Mr. Tanin Kraivixien—Legal Education in Thailand.

4.30 p.m. Break for tea.

5.15 p.m. Public lecture by Professor S. A. de Smith — Constitutionalism in the Commonwealth Today (new science lecture theatre No. 3).

6.15 p.m. Reception by the Faculty of Law, University of Singapore.

WEDNESDAY AUGUST 29, 1962

9.45 a.m. General Session.
Standards of Admission and Graduation; Curriculum; Minimum Standards for Law Schools; Optimum Number of Students; Teaching Methods; Examinations and Medium of Teaching.
(Chairman — Mr. G. W. Bartholomew).

The following papers were read:

Dr. Anandjee — The Problem of Selected Student Body in Indian Law Schools.

Professor A. T. Markose — Examinations and Medium of Teaching.

Dr. R. C. Hingorani — Minimum Standards for Law Schools.

11.00 a.m. Break for coffee.

11.45 a.m. General Discussion.

12.30 p.m. Break for lunch.
(Lunch for Rotarians at Cathay Hotel).

2.30-5.15 p.m. Group I — Methods of Teaching.
(tea break International Law and Jurisprudence
3.30-4.15 p.m.) (faculty board room).
Chairman — Professor L. C. Green.
Dr. R. C. Hingorani initiated discussion.

Group II — Methods of Teaching Public Law (committee room).
Chairman — Professor H. E. Groves.

Group III — Methods of Teaching Commercial Law and Property (committee room).
Chairman — Mr. L. W. Athulathmudali.
Mr. G. W. Bartholomew initiated discussion.

Group IV — Methods of Teaching Muslim Law (committee room).
Chairman — Dr. S. P. Khetarpal.
Professor H. Rahman initiated discussion.

7.00 p.m. Reception by Mr. G. J. Malik, Assistant Commissioner for India, Singapore.

THURSDAY AUGUST 30, 1962

9.45 a.m. General Session.
Relations of Law Schools with Bench and Bar; Admission into the Profession; Other Careers.
(Chairman — Professor L. A. Sheridan.)

The following papers were read by:

Mr. S. R. Wijayatilake — Admission into the Profession, Bar and Careers.

Dr. U. C. Sarkar — Relations of Law Schools with Bench and Bar.

10.45 a.m. Break for coffee.

11.30 a.m. The following paper was read;
Professor Jorge R. Coquia — Educating Lawyers for Changing Conditions.

12.30 p.m. Break for lunch.

1.30 p.m. Visit to Nanyang University.

4.15 p.m. General Session.
Library Organization and Development; Research, Publication of Journals and Other Writings.
(Chairman — Dr. Bashir A. Mallal.)

The following papers were read:

Professor A. T. Markose — Research, Publications in Journals and Other Writings.

Miss E. Srinivasagam — Library Organization and Development.

5.15-6.15 p.m. Group I — Library organization and development (committee room).
(Chairman — Miss E. Srinivasagam.)
Dr. G. E. Glos initiated discussion.

Group II — Research, Publication of Journals and Other Writings (committee room).
(Chairman — Dr. Bashir A. Mallal.)
U Hla Aung initiated discussion.

FRIDAY AUGUST 31, 1962

9.45 a.m. General Session.
Recruitment and Salary of Teachers; Status of Lawyers and Law Teachers.
(Chairman — B. L. Chua.)

The following papers were read:

Professor L. C. Green — Recruitment and Salary of Teachers.

Professor Hafeezul Rahman — Reorientation of the Outlook on Legal Studies.

10.45 a.m. Break for coffee.

11.30 a.m. Group I — Recruitment and Salary of Teachers (committee room).
(Chairman — B. L. Chua.)
Mr. G. W. Bartholomew initiated discussion.

Group II — Status of Lawyers and Law Teachers (committee room).
(Chairman — Professor H. E. Groves.)
Dr. Purnadi Purbatjaraka initiated discussion.

12.30 p.m. Break for lunch.

2.30 p.m. General Session
Problems of Mutual Recognition of Degrees and Inter-University Relations; Relationship of the Law Schools with Universities and Governments.
(Chairman — Professor L. C. Green.)

The following papers were read:

Sheikh Imtiaz Ali — Mutual Recognition of Degrees and Inter-University Relations.

Professor Sujono Hadinoto — Relationship of the Law Schools with Universities and Governments.

Justice T. S. Fernando — Relationship of the Law Schools with Universities and Governments.

3.30 p.m. Break for tea.

4.15 p.m. Group I — Relationship of the Law Schools with Universities and Governments (committee room).
(Chairman — Mr. A. V. Winslow.)
Dr. Enrique M. Fernando initiated discussion.

Group II — Problems of Mutual Recognition of Degrees and Inter-University Relations (committee room).
(Chairman — Professor L. C. Green.)
Professor L. R. Sivasubramanian initiated discussion.

5.30 p.m. Public lecture by Mr. R. H. Hickling — The First Five Years of the Federation of Malaya Constitution (new science lecture theatre No. 2).

8.15 p.m. Dinner by Mr. Tan Lark Sye, Chairman of the Nanyang University Council.

SATURDAY SEPTEMBER 1, 1962

9.15 a.m. Closing Session.
General Discussion
(Chairman — Professor L. A. Sheridan).

11.15 a.m. Break for coffee.

11.45 a.m. Closing speech by Sir Alan Rose, Chief Justice of Singapore.

7.30 p.m. Dinner by the Singapore Indian Association;
Singapore Ceylon Sports Club;
Consul General of the Republic of the Philippines;
Konsulat Djenderal Republic of Indonesia;
Consulate General of Japan;
Consul General of Vietnam.

All sessions of the conference were held in the court room, University of Singapore.

LIST OF PAPERS

SUBMITTED TO THE FIRST REGIONAL CONFERENCE

ON LEGAL EDUCATION

1962

Sheikh Imtiaz Ali	Mutual Recognition of Degrees and Inter-University Relations.
Dr. Anandjee	The Problem of Selected Student Body in Indian Law Schools.
U Hla Aung	Legal Education in Burma.
Professor Jorge R. Coquia	Educating Lawyers for Changing Conditions (An Appraisal of Legal Education in the Philippines).
Justice T. S. Fernando	Relationship of the Law Schools with Universities and Governments.
Professor L. C. Green	Recruitment and Salary of Teachers.
Professor Sujono Hadinoto	Relationship of the Law Schools with Universities and Governments.
Dr. R. C. Hingorani	Minimum Standards for Law Schools. Methods of Teaching International Law and Jurisprudence.
Judge Masatomi Komatsu	Legal Training Programme of the Legal Training and Research Institute of Japan.
Mr. Tanin Kraivixien	Legal Education in Thailand.
Professor A. T. Markose	Examinations and Medium of Teaching.
Professor T. Nadaraja	Problems of Law School Development in Ceylon.

Professor Hafeezul Rahman	Need for Reorientation of the Outlook on Legal Studies.
Professor Vicente Abad Santos	Legal Education in the Philippines.
Dr. U. C. Sarkar	Relations of Law Schools with Bench and Bar.
Professor L. A. Sheridan	Legal Education in Malaya.
Miss E. Srinivasagam	Law Library Organization and Development.
Mr. Ismail Suny	Legal Education in Indonesia.
Professor Vu Quoc Thuc	Legal Education in Vietnam.
Mr. S. R. Wijayatilake	Admission into the Profession, Bar and Careers.

LIST OF PUBLIC LECTURES

DELIVERED DURING THE REGIONAL CONFERENCE

ON LEGAL EDUCATION

August 28, 1962 — Constitutionalism in the Commonwealth Today[1]
by Professor S. A. de Smith, Professor of Public Law, University of London.

August 31, 1962 — The First Five Years of the Federation of Malaya Constitution[2]
by Mr. R. H. Hickling, Law Revision Commissioner, Federation of Malaya.

[1] Published in the Malaya Law Review, Vol. 4, No. 2 (December 1962), 205.
[2] Published in the Malaya Law Review, Vol. 4, No. 2 (December 1962), 183.

B.

PROCEEDINGS OF THE CONFERENCE

I. OPENING SESSION

MONDAY AUGUST 27 1962 (EVENING)

Dr. B. R. SREENIVASAN, Vice-Chancellor, University of Singapore, opened the Session. He gave the following address:

I have always believed that an ideal world is one in which there are no laws and no lawyers. Similarly also I believe that the ideal world is one in which there are no diseases and no doctors. It is not an ideal world, however, and there are grave dissensions between man and man and between man and the state. Therefore I have to concede that laws are necessary and so are lawyers.

The main function of the law is to see that justice is done and equity maintained. I am using the word " equity " in its ordinary and not its legal connotation. In order that this may happen, it is necessary for the law to be studied carefully. This the Faculty of Law does. In establishing departments of study at the University, priority is often given to the more urgent needs of man, such as the alleviation of pain and the prevention and cure of disease. In Singapore a Medical School was established in 1905. Even after a full-fledged University came into existence in 1949 we were slow to accept the need for a Faculty of Law.

It was with great difficulty that the authorities were persuaded to establish a Faculty of Law. It was considered that in a newly developing country such as ours priority should be given to Arts and Science, Medicine and Engineering. It was not appreciated that above all a new community should begin by establishing the Rule of Law.

The Rule of Law *inter alia* means " that there is an order of law which limits and checks the arbitrary will of those who govern. It further means that there is a judiciary which, in its interpretation of the law, takes no orders from the Government." The greatest gift, I will not say parting gift, that Britain could have given to Singapore is the Rule of Law. It is easy in a young country like ours for us to find short cuts to justice, in other words, to set aside the Rule of Law which is difficult and cumbersome, and rule instead by fiat. If such a state of affairs is avoided in this country it will be to no small extent because we have established a Faculty of Law in time to prevent it.

Shakespeare was aware of the importance of the Rule of Law. Let me illustrate this. In 1951 Stratford produced for the first time the histories of Shakespeare—Richard II, Henry IV Part II and Henry V —the second tetralogy—in series, with the same actors playing the same parts in all the plays. This brought out the significance of the Histories as never before and showed that Shakespeare and his audience were less concerned with the career and fortunes of the characters than with " the sanity and health of the whole state of England." I venture to think that the second tetralogy is concerned not only with the sanity and health of the whole state of England but with the sanity and health of the whole world. Richard II is deposed and replaced by Henry IV, followed by Henry V. Richard repeatedly states that he rules by divine right and therefore does not have to obey the Law. When York points out that it is unlawful for him to seize the estate of Gaunt he says:

> Think what you will: we seize into our hands his plate, his goods, his money and his lands.

Compare this with Henry V. To the Chief Justice who had committed him to prison in his younger days he says:

> You are right, justice; and you weigh this well;
> Therefore still bear the balance and the sword;
> And I do wish your honours may increase
> Till you do live to see a son of mine
> Offend you and obey you, as I did.
>
> So shall I live to speak my father's words:
> " Happy am I, that have a man so bold
> That dares do justice on my proper son;
> And not less happy, having such a son,
> That would deliver up his greatness so
> Into the hands of justice."

In short, Richard who ruled by divine right and was above the Law had to make way for the Henrys who ruled by Law.

We are fortunate in Singapore that we have a strong Faculty of Law. Although it is only six years old it is already well established. Our graduates already command the respect of the legal profession. We are fortunate in that we have a very able and dedicated staff. I think I will be forgiven if I single out one name for mention because I am sure that all the members of the Faculty of Law will agree with me when I say that we are particularly fortunate in having as founder and leader of the Faculty of Law, Professor Sheridan, to whom this University and this country owe a debt they can never hope to repay.

It gives me great pleasure to welcome to this Conference distinguished members of the legal profession from India, Pakistan and Southeast Asia. By your presence here you honour us and lend importance to this humble and small University of Singapore. I have no

legal knowledge and I have spoken as a layman, as an unlearned person sees the law. I have used words in the lay sense and not in the legal sense, in the dictionary meaning and not as it is used by the legal profession. You will forgive me any lapses or errors which I assure you arise from pure ignorance. I wish you a happy stay while in Singapore. We, on our part, will be glad to give every assistance to make your stay an enjoyable one.

II. PROBLEMS OF LAW SCHOOL DEVELOPMENT

TUESDAY AUGUST 28 1962 (MORNING SESSION)

Chairman: Professor H. E. Groves

1. Legal Education in Malaya

by

L. A. SHERIDAN [1]

(1) *Introduction*

The King Edward VII College of Medicine was founded in 1905 and Raffles College (of Arts and Science) in 1929. These two colleges were amalgamated to form the University of Malaya in 1949. The name was changed to the University of Singapore at the beginning of this year. The Department of Law was initiated in July 1956 with the appointment of a Professor of Law, and teaching in this field began in September 1957.

(2) *The Degree of Bachelor of Laws* [2]

This degree is taken over four years by full-time candidates. During their first year, candidates read introductory subjects such as Malayan legal history. An examination, called the Intermediate Examination, is held during the long vacation at the end of this year, and this is treated in a sense as the test of the candidate's fitness for legal studies. The policy of the Faculty of Law is to admit into the first year all applicants possessing the University entry requirements,

[1] LL.B. (London); Ph.D. (Belfast); of Lincoln's Inn, Barrister-at-Law; Professor of Law and Dean of the Law Faculty in the University of Singapore.

[2] For details, see the following Faculty of Law booklets: *Undergraduate and Research Programmes* (published annually); *Handbook for Law Students* (revised about every three years); the following University of Singapore publications: *Calendar* (published annually); *Annual Report*; *Examination Papers;* and the following articles: "University Law" (1956) 22 *Malayan Law Journal xxviii;* "Legal Education in Malaya" (1957) 4 *Society of Public Teachers of Law Journal* 19 and (1960) 5 *S.P.T.L.J.* 155; "Legal Education" (1961) 27 *Malayan Law Journal lxxxv.*

because it is believed that a person's relative ability to study law is not necessarily indicated accurately by his school performance.

During the second year and the first two terms of the third year, LL.B. candidates pursue a course covering the basis principles of the law of Malaya and an elementary introduction to Legal Philosophy. The basic principles are put under the heads of Contract, Tort, Criminal Law and Procedure, Civil Procedure, Evidence, and Property, including Equity and Trust. There is also a general course in which students are apprised of the main outlines of other branches of law, though they are not at this stage equipped to tackle problems in fields other than those I have enumerated. There is an examination, called the General Examination, at the end of the second term of the third year.

In the third term of the third year and throughout the fourth year, LL.B. candidates read courses for the Final Examination. All candidates take five subjects. One compulsory subject is common to all candidates, namely, Legal Philosophy, Legal Analysis and Legal Sociology. All candidates take a principal course comprising three subjects. The principal courses at present available are Common Law, Property, Public Law and Commercial Law. This year we are introducing a fifth principal course in International Law and Relations, and during the next few years additional principal courses are projected in Muslim Law, Family Law and Industrial Law. For example, the principal course in Public Law comprises Advanced Constitutional Law, Administrative Law, and either the general Principles of Public International Law or Advanced Criminal Law; while the principal course in Commercial Law comprises Sale of Goods, Carriage and Banking, and one of the following: (i) Bankruptcy and Insurance, (ii) Agency, Partnership and Unincorporated Associations and (iii) Company Law. Finally, candidates select one additional subject from a long list, and their choice is not restricted by their choice of principal course. The Final Examination is held at the end of the third term in the fourth year.

(3) *Qualification to practise*

After passing the Final LL.B. Examination, a person may qualify to practise as an Advocate and Solicitor in any part of Malaya by either spending twelve months in the office of a senior practitioner or taking the Postgraduate Practical Course and then spending six months in such an office. The Post-Graduate Practical Course, which lasts three months, is organised by the Faculty of Law and taught by practitioners. It consists of practical exercises in drafting, working with the registry of land titles, professional ethics, etc.

(4) *Academic nature of the LL.B.*

Despite the fact that the LL.B. takes its holders a long way towards qualification to practise, the LL.B. is not tied to the legal profession.

It is not assumed that graduates will enter practice, and indeed they go in for a variety of careers.

The general aims of legal education are no different from those of any other kind of University education, namely to indoctrinate the student with a respect for truth, to develop the student's powers of reasoning until his actual performance coincides with his potential capacity, to help him to work on his own, to direct his mental development primarily through study in a limited field, and to provide a general approach and environment tending to enhance the culture and civilisation of everyone coming into contact with him. A lawyer must not only be proficient in the legal syntax of his own system. He must strive to know other systems of law and to be philosopher, sociologist, economist, psychiatrist, and much else besides. That is not to say that the object of the study of law is to ensure profound intimacy with all branches of social knowledge. That is the goal to be presented to the student as a vision towards which he must fight his way. Everyone will be satisfied if he is nearer to it when he graduates than when he was when he entered the university. He will have done all that is expected of him if the graduate has mastered the technique of the law, realised the problem of locating law in the perspective of human endeavour, and seen how the lawyer must know when to call on other social sciences.

This is the sort of education that will be the securest foundation upon which to superimpose professional skill. People who pride themselves on being practical sometimes look with disgust upon theory. It will often be found that they are not as practical as they think, or that they have a grasp of theory to which they do not admit, or that the substantial object of their criticism is unsound theory. One need have no sympathy for those who tailor their facts to fit their theories. Conversely, once the validity of a theory has been established he is not a practical man who ignores it. Properly handled, the law provides an excellent liberal education for all who are up to its standards, whether they propose to have any professional connection with the law afterwards or not. Learning legal syntax alone is not the study of law, but is an indispensable part.

(5) *Student numbers*

There are at present 370 reading LL.B. subjects in the University of Singapore.[1] Of these 327 are full-time LL.B. candidates, of whom 133 are in the first year. The intake is rising steadily, and it is expected that there will be well over 400 students next year, and well over 600 by 1965.

[1] A detailed breakdown of this figure will be found in Appendix I to this paper.

(6) *Staff*

There are 14 members of the full-time academic staff, including three Professors, two Senior Lecturers, eight Lecturers or Assistant Lecturers (one Chair being vacant). There are also about two dozen Part-Time Lecturers and Tutors drawn principally from the legal profession and government legal service. The exact number varies from term to term.[1]

(7) *Methods of teaching*

Formal lectures are given in some subjects. It is my belief that they have no more than a marginal educational value, and I do not lecture myself. All members of the staff are, however, free to teach in any way they wish.

Tutorials are given in all first, second and third year subjects. In these tutorials, students come in a group of 10 or less for the reading and criticism of essays, discussion of problems, and sorting out of difficulties.

Case classes are given by some teachers in lieu of lectures. Students read the cases or other materials before the class takes place, and the teacher expounds the subjects (so far as he can be said to do so at all) by questioning and the initiation of discussion.

In final year courses the basic method of teaching is the seminar. Seminar groups may vary in size from half a dozen to 25 or even a few more, and here time is spent in discussing and criticising the fruits of the students' research into some fairly advanced problem.

Visits to courts, legislatures, etc., and the spending of a period in the office of an Advocate and Solicitor are encouraged, but not compulsory.

I like to take every opportunity, in and out of season, of protesting against the continued existence of formal lectures. Lecturers either repeat what they have read, and what therefore the audience can read, or they propound unpublished original ideas, in which case they should publish them. Unless there is interchange of ideas between don and undergraduate, teaching in the flesh is a pernicious institution—a method generally of making things seem easier, or making them seem to be compressed within a smaller compass than they really are. The employment of teachers is justified to the extent to which they can offer a service not provided by the library. In law, this consists of leading discussion, analysis and criticism and aiding understanding. In law, this is best done by a socratic approach to prepared materials. I believe that lectures persist in such quantity because the Socratic method of teaching requires greater preparation

[1] Details of the academic staff as at August 1962 will be found in Appendix II to this paper.

beforehand, requires a greater effort during the class, is never the same twice and rarely leaves the teacher in the end with the warm thrill of having constructed a masterpiece of orderly and absorbing presentation.

(8) *Library*

Owing to the practical good sense of the Governments of the Federation of Malaya and Singapore, the University of Singapore has a law library which is adequate for virtually all undergraduate demands and, as a necessary by-product, adequate for many research purposes. There is fairly comprehensive coverage in the way of reports, legislation, journals and textbooks in respect of legal systems wholly or partially derived from the English common law, and also a good and growing section on international law. In order that research, which has already been quite plentiful in relation to the number of full-time teachers, may be increased, it is hoped that it will be possible to build up that side of the library which is not immediately required for undergraduate work.

(9) *Standards*

Apart from admission requirements, attention to methods of teaching and library facilities, which have already been referred to, the standards of the law school are maintained by two main mechanisms. One is the appointment to the teaching staff of persons only of the highest calibre, and the other is the employment of external examiners [1] in the Final Examination. In point of fact the standard required of the University of Singapore Final LL.B. candidate is such as would gain him an equivalent result in the best law schools in other countries.

(10) *Research and publication*

Apart from the supervision of candidates for higher degrees, members of the University of Singapore Law Faculty are constantly engaged in research. Much of this is on an individual basis with a view to publication. Some of it is on a departmental basis, and some research projects involve the use of student assistance with a view to training senior undergraduates and higher degree candidates in research techniques.

[1] The external examiners in January 1963 will be Professor D. P. Derham, M.B.E., M.A., LL.M., of Victoria, Barrister-at-Law, Professor of Jurisprudence in the University of Melbourne; Professor L. C. B. Gower, M.B.E., LL.M., Solicitor of the Supreme Court of England, Adviser to the Council of Legal Education, Nigeria; the Honourable Mr. Justice H. T. Ong, LL.B., of the Supreme Court of the Federation of Malaya; J. S. H. Skrine, Esq., of the Federation of Malaya, Advocate and Solicitor; and A. V. Winslow, Esq., B.A., LL.B., of the Middle Temple, Barrister-at-Law, Solicitor-General of Singapore.

Members of this Faculty, in addition to a fairly high rate of publication of books and articles in periodicals abroad,[1] also run the Malaya Law Review and contribute to the Malayan Law Journal. The Malaya Law Review is in its fourth year of publication. It has had a considerable academic success, and (most encouraging, I hope, to those who are thinking of or starting law school journals) it has paid its way from the outset. The participation of undergraduates in writing notes and comments for the Review has not been as active as was hoped by the founders. However, the students' Law Society of its own initiative started its own legal periodical *(Me Judice)* which began in a rough and ready way even before the staff began the *Malaya Law Review* and gradually matured into a professionally produced, printed publication.

There are also many works on detailed aspects of the law of Malaya in the nature of textbooks or case and material books which, though vital for teaching, would not be suitable for commercial publication, and these are prepared by members of the staff and stencilled in the Law Faculty office to be sold to students at a rate covering the cost of production.

Research in law necessarily comprises interest in law reform, and the Law Faculty's research (other than individual research) is directed by a committee called the Research and Law Revision Committee. This Committee works through sub-committees, and has one sitting at the moment, for example, on the legislative provisions in Singapore and the Federation of Malaya governing the relevance of English law in commercial and other matters. The Faculty is also represented on the Singapore government's Law Revision Advisory Committee.

(11) *Higher degrees*

There are three higher degrees obtainable in the Faculty, namely, Master of Laws, Doctor of Philosophy, and Doctor of Laws. At present the degree of Master of Laws is awarded on a dissertation written after a minimum period of one year's supervision by a senior member of the staff. Candidates submitting themselves for this degree of dissertation may enter at any time of the year. Arrangements are in train to make the degree available also partly by examination, and for this purpose courses will be held during the academic year from mid-May to mid-January, with examinations a couple of months or so later. It is intended to provide large-scale facilities and a choice of courses for the LL.M. by examination, and it is hoped that young law teachers and potential law teachers from all over South and Southeast Asia will come here to take advantage of them.

[1] Lists of publications by members of the Faculty appear in the University's *Annual Report*.

One of the subjects in which it is proposed to offer courses in this future LL.M. is Legal Education. It is also proposed that a candidate who obtains his LL.M. by examination, taking Legal Education as one of the subjects, will be able to stay on if he wishes for one more term (that is, mid-May to late July) to do practical exercises in Legal Education, the satisfactory completion of which will lead to the award of a certificate. The University of Singapore hopes that other universities in this area will grant their staff no-pay-leave to come here from May in one year to April in the following year to do the LL.M., or from May in one year to July in the following year to do both the LL.M. and the Certificate in Legal Education. The University is soliciting outside help to pay the cost of passages and subsistence of candidates coming from abroad.

The Ph.D. is awarded on a thesis written after a minimum of two years' supervision, and the LL.D. normally on the strength of an independent and notable published contribution to the advancement of legal knowledge.

The number of candidates for higher degrees has fluctuated. Many have started as part-time candidates and then withdrawn on finding that they had not the time for the work involved. Some dissertations have been submitted and rejected. So far two dissertations have been successful, and at present there are seven LL.M. candidates and one for the Ph.D.

(12) *Non-degree courses*

Concurrently with the introduction of a principal course in International Law and Relations, the Faculty will be introducing a certificate course for non-law students in International Relations. At the same time, a weekly course not leading to a certificate will be introduced on current problems of international law and relations. It is expected that courses in Criminology for non-law students will shortly be developed. At present Criminology is taught only as part of the Criminal Law course in the third year and as part of the Advanced Criminal Law course in the fourth year of the LL.B.

(13) I have attempted in this paper to convey information over a broad field in order that our visitors may have a rough idea of what this Faculty is like. Our visitors will learn more of this Faculty by seeing the library and classes in action. I have not attempted to put forward ideas, save in one or two instances, or to provoke discussion of policies. The reason for this is that we are proceeding from the general to the particular in due course, and I conceive it to be more appropriate that provocativeness should come from those who are presenting papers on more limited titles.

APPENDIX I

Students of the Law Department, University of Malaya

Date	1st year LL.B.	2nd year LL.B.	3rd year LL.B.	4th year LL.B.	5th year part-time LL.B.	6th year part-time LL.B.	LL.M.	Ph.D.	Graduating
Sept. 1957	125	—	—	—	—	—	—	—	—
July 1958	64	42	—	—	—	—	2	2	—
May 1959	72	38	41	—	—	—	3	1	—
May 1960	96	43	46	35	—	—	6	1	22
Jan. 1961	—	—	—	—	—	—	—	—	—
May 1961	125	64	48	43	9	—	7	1	23
Jan. 1962	—	—	—	—	—	—	—	—	—
May 1962	139	80	73	51	5	9	7	1	—

Notes:

(1) The figures for 1st-4th year LL.B. include part-time candidates.

(2) All figures include candidates repeating courses.

(3) Some part-time candidates become full-time, and a few move in the opposite direction.

(4) In addition to candidates reading for law degrees, the Law Department caters for non-matriculated students and (since August 1960) pre-university students. There were in May 1962, 13 non-matriculated law students and 38 pre-university students.

(5) The figures of graduations in 1962 includes one LL.M. graduate. There were 22 LL.B. graduates in 1961 and 1962.

APPENDIX II

Academic Staff of the Law Department, University of Malaya and University of Singapore

Post	Date of Commencement	Holder	Date Vacated
Chair of Law	July 31, 1956	L. A. Sheridan,* LL.B. (London), Ph.D. (Belfast), of Lincoln's Inn, Barrister-at-Law.	November 30, 1956.
Research Assistant	October 1, 1956 to March 1, 1957	Miss M. C. Scharenguivel, B.A. (Malaya), M.A. (Manila)	December 31, 1958.
Part-time Research Assistant	February 4, 1957	Mrs. J. Heah, of the Middle Temple, Barrister-at-Law	December 31, 1958.
Lecturer	July 1, 1957	N. Vaithinathan, M.A. (Madras), LL.B. (London)	December 31, 1958.
		B. L. Chua,* M.A., LL.B. (Cantab.), of the Middle Temple, Barrister-at-Law, of Singapore, Advocate and Solicitor	June 30, 1962.
Lecturer	March 16, 1958	W. E. D. Davies,* LL.B. (Wales), of Gray's Inn, Barrister-at-Law	January 22, 1961.
Assistant Lecturer	August 4, 1961	Vinod Kumar,* B.A. (Punjab), LL.B. (Delhi), LL.M. (London), of Lincoln's Inn, Barrister-at-Law	
Assistant Lecturer	July 1, 1958	Miss A. E. S. Tay,* of Lincoln's Inn, Barrister-at-Law, of Singapore, Advocate and Solicitor	December 31, 1959.
	April 1, 1960	B. J. Brown,* LL.B. (Leeds)	February 10, 1962.
	April 7, 1962	J. Minattur,* M.A., LL.B. (Nagpur), Ph.D. (London), Doctor in de Rechtsgeleerheid (Nijmegen), of Lincoln's Inn, Barrister-at-Law, Advocate of the Kerala High Court	

* Denotes members of the Faculty of Law or, before November 9, 1959, of the Committee of Legal Studies.

Post	Date of Commencement	Holder	Date Vacated
Lecturer	March 28, 1959	H. G. Calvert,* LL.M. (Leeds)	December 31, 1959.
	May 20, 1960	G. W. Bartholomew,* LL.B., B.Sc. (Econ.) (London), LL.M. (Tasmania), of Gray's Inn, Barrister-at-Law	May 2, 1961.
Assistant Lecturer	May 1, 1959	J. C. Y. Tan,* LL.B. (Bristol), of the Inner Temple, Barrister-at-Law	October 22, 1960.
	May 1, 1961	E.P. Ellinger,* LL.B. (Hebrew University), M.Jur. (Jerusalem), of Israel, Barrister-at-Law	
Lecturer	June 4, 1960	G. E. Glos,* LL.B. (Prague), LL.B. (Melbourne), LL.M., J.S.D. (Yale), J.U.D. (Charles University, Prague), of Czechoslovakia, Barrister, of Victoria and Australia, Barrister and Solicitor	
Assistant Lecturer	July 14, 1960	L. W. Athulathmudali,* M.A. B.C.L. (Oxon.), of Gray's Inn, Barrister-at-Law	April 1, 1962.
Chair of Constitutional Law (Visiting)	July 31, 1960	H. E. Groves,* A.B. (Colorado), J.D. (Chicago), LL.M. (Harvard), of North Carolina and Texas, Member of the Bar, Dean of the Law School, Texas Southern University	
Assistant Lecturer	August 1, 1960	T. B. Lee, B.A. (Harvard), LL.B. (California), of California, Member of the Bar	January 31, 1961.
	August 29, 1961	S. P. Khetarpal,* B.Sc. (Punjab), B.L. (Rangoon), LL.M., Ph.D. (London), of Gray's Inn, Barrister-at-Law	
Chair of International Law	December 10, 1960	L. C. Green,* LL.B. (London)	
Assistant Lecturer	May 1, 1961	Mrs. S. M. Thio,* LL.B. (Malaya)	

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Post	Date of Commencement	Holder	Date Vacated
Senior Lecturer (Commercial Law)	May 3, 1961	G. W. Bartholomew,* LL.B., B.Sc. (Econ.) (London), LL.M. (Tasmania), of Gray's Inn, Barrister-at-Law	
Lecturer	April 1, 1962	L. W. Athulathmudali,* M.A., B.C.L. (Oxon.), of Gray's Inn, Barrister-at-Law	
Assistant Lecturer	May 1, 1962	T. T. B. Koh,* LL.B. (Malaya), of Singapore, Advocate and Solicitor	
Senior Lecturer	July 1, 1962	B. L. Chua,* M.A., LL.B. (Cantab.), of the Middle Temple, Barrister-at-Law, of Singapore, Advocate and Solicitor	
Lecturer (History of Civil Procedure)	1957	B. T. Tan,* LL.M. (London), of the Middle Temple, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor, of the Singapore Legal Service	
Lecturer (Evidence)	1957	P. Coomaraswamy,* LL.B. (Nottingham), of Lincoln's Inn, Barrister-at-Law, of Singapore, Advocate and Solicitor	
Tutor	1957	Mrs. P. P. Buss-Tjen, Meester in de Rechten (Rechtshogheschool, Batavia), Advocaat en Procureur (Indonesia)	1959
Tutor	1957	T. L. Tan, B.A., LL.B. (Cantab.) of Gray's Inn, Barrister-at-Law, of Singapore, Advocate and Solicitor	1958
Tutor	1957	N. Vaithinathan, M.A. (Madras), LL.B. (London)	
Tutor in English	1957	Mrs. M. C. Schubert, B.A. (Manchester), Dip. Ed. (Oxon.)	

* Denotes members of the Faculty of Law or, before November 9, 1959, of the Committee of Legal Studies.

Post	Date of Commencement	Holder	Date Vacated
Tutor	1958	S. K. Tan, LL.B. (London), of Lincoln's Inn, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor	1959
Lecturer (Civil Procedure)	1958	H. L. Wee,* M.A., LL.B. (Cantab.), of England, Solicitor, of Singapore, Advocate and Solicitor	
Lecturer (Criminal Procedure)	1958	D. S. Marshall,* LL.B. (London), of the Middle Temple, Barrister-at-Law, of the Federation of Malaya, Singapore, North Borneo and Sarawak, Advocate and Solicitor	
Tutor in Criminal Science	1958	Mrs. J. M. Brown, B.A. (Oberlin)	1960
Tutor	1958	E. W. Barker, B.A., LL.B. (Cantab.), of the Middle Temple, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor	
Tutor	1958	B. J. Brown, LL.B. (Leeds)	1960
Tutor	1958	J. Downing, LL.B. (London), of Gray's Inn, Barrister-at-Law	1959
Tutor	1958	H. L. Goh, M.A., LL.B. (Cantab.), of the Middle Temple, Barrister-at-Law, of the Singapore Legal Service	
Lecturer (Conveyancing)	1959	W. B. Baker,* M.A. (Dublin), of Northern Ireland, Solicitor, of Singapore and the Federation of Malaya, Advocate and Solicitor, of Singapore, Notary Public	1961

* Denotes members of the Faculty of Law or, before November 9, 1959, of the Committee of Legal Studies.

Post	Date of Commencement	Holder	Date Vacated
Lecturer (Taxation)	1959	G. S. Hill,* M.A. (Oxon.), of Gray's Inn, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor	
Tutor	1959	R. S. Boswell, M.A., LL.B. (Cantab.), of the Inner Temple, Barrister-at-Law, of Singapore, Advocate and Solicitor	
Tutor	1959	K. C. Chan, LL.B. (Nottingham), of Lincoln's Inn, Barrister-at-Law, of Singapore, Advocate and Solicitor	1961
Tutor	1959	J. B. Jeyaretnam, LL.B. (London), of Gray's Inn, Barrister-at-Law, of Singapore, Advocate and Solicitor, of the Singapore Legal Service	
Lecturer (Conveyancing)	1960	R. C. H. Lim,* B.A. (Hong Kong), of the Middle Temple, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor	1962
Lecturer (International Law) and Tutor	1960	S. H. D. Elias, B.C.L., M.A. (Oxon.), of the Inner Temple, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor	1962
Tutor	1960	J. C. Y. Tan, LL.B. (Bristol), of the Inner Temple, Barrister-at-Law	1961
Tutor	1960	S. C. Chua, B.A. (Malaya), LL.B. (London), of the Inner Temple, Barrister-at-Law, of Singapore, Advocate and Solicitor	
Tutor	1961	B. C. Chua, LL.B. (London)	1962

* Denotes members of the Faculty of Law or, before November 9, 1959, of the Committee of Legal Studies.

Post	Date of Commencement	Holder	Date Vacated
Tutor	1961	H. H. Khoo, LL.B. (Malaya), of the Singapore Legal Service	
Tutor	1961	E. T. Koh, LL.B. (Malaya), of the Singapore Legal Service	
Tutor	1961	T. T. B. Koh, LL.B. (Malaya)	1962
Tutor	1961	E. H. Lim, of the Inner Temple, Barrister-at-Law, of Singapore, Advocate and Solicitor, of the Singapore Legal Service	
Tutor	1961	T. P. B. Menon, LL.B. (Malaya)	
Tutor	1961	Miss C. S. Ong, LL.B. (Malaya)	1962
Tutor	1961	Miss M. Raman, LL.B. (Malaya)	1962
Tutor	1961	S. Sachi, LL.B. (Malaya), of the Singapore Legal Service	
Tutor	1961	Y. H. Foo, LL.B. (Malaya)	
Tutor in English	1962	Mrs. B. L. Chua, B.Sc. (Econ.) (London)	
Tutor in English	1962	Mrs. S. P. Khetarpal, M.A. (Rangoon)	
Tutor	1962	M. S. Lee, LL.B. (Malaya), of the Singapore Legal Service	
Tutor	1962	C. P. Lim, B.A. (Cantab.), of the Inner Temple, Barrister-at-Law, of the Singapore Legal Service	
Tutor	1962	J. E. Lloyd, M.A., LL.B. (Cantab.), of the Middle Temple, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor	

Post	Date of Commencement	Holder	Date Vacated
Graduate Assistant	1962	J. K. Mittal, B.Sc. (Agra), LL.B. (Lucknow), Advocate of the Allahabad High Court, Assistant Professor of Law in the University of Allahabad	
Tutor in Taxation	1962	S. C. Rolt	
Tutor	1962	A. Singh, LL.B. (Malaya), of the Singapore Legal Service	
Tutor	1962	C. Singh, of Gray's Inn, Barrister-at-Law, of Singapore and the Federation of Malaya, Advocate and Solicitor, of the Singapore Legal Service	
Tutor	1962	T. S. Sinnathuray, LL.B. (London), of Lincoln's Inn, Barrister-at-Law, of Singapore, Advocate and Solicitor, of the Singapore Legal Service	

2. Legal Education in Vietnam

by

VU QUOC THUC [1]

THE organization of legal education in a country always and faithfully reflects the conception of the intellectual elite on the role of the Law from a national and international viewpoint.

Indeed the setting up of law as the subject of specialized education, distinct from philosophy, political science and public administration, depends upon the recognition by public authorities, political and religious groups, that they are bound by the law.

It is necessary to set up elaborate rules for the structure and organization of the judiciary so that university law graduates can be placed in jobs according to their professional capacities. This is borne out by studying the history of law teaching in Vietnam, by analysing its present structure and organization and by looking at its prospects for the future.

1. *History of law teaching*

The historical approach includes three clear-cut stages:

A. Prior to the French Protectorate Treaty of 1884;
B. Under French rule;
C. Since restoration of national independence in 1955.

A. Prior to the French Protectorate Treaty

The teaching of law was carried out, as it were, empirically.

The official curriculum of " classical education " was limited to the study of Confucian philosophy, literature and history of Chinese and Vietnamese institutions. The curriculum did not provide either for the exact sciences or natural sciences. *A fortiori*, matters relating to the arts, technology, medicine, geomancy and astrology were excluded from the academic training programme. Training in practical sciences was undertaken by practitioners; it was the moral obligation of doctors, astrologers or geomancers to train apprentices so as to impart their knowledge and experience.

[1] Dean of the Faculty of Law in the University of Saigon.

It is noteworthy that law, unlike medicine, was not considered a practical science. There were no legal specialists. To ensure the continuance of national institutions and proper functioning of the Bench, our forefathers introduced unofficial law teaching.

(a) The ancient monarchy in Vietnam took after the Chinese Imperial Court as far as the safeguarding of our national institutions was concerned. Every three years—at least in peacetime—competitive examinations were held simultaneously in a certain number of Universities. Royal Ordinances in advance provided for the number of openings.

Accepted candidates were granted the title of *licenciés* only or bachelors (respectively Master's Degree or Bachelor of Arts) according to their grades and to the number of openings. The *licenciés* were allowed thereafter to take a competitive examination at the capital, through which they were awarded the doctorate. Only *licenciés* and *docteurs* were appointed as government officials, in various levels of the mandarin hierarchy.

The official programme for triennial competitive examinations required deep knowledge of classical books and mainly of " five classical treatises " and of " four text books " which were symposiums made by Confucius and his disciples in Chinese civilization. In fact, from classical books, an intimate blend of moral rules and ritual obligations were drawn and constituted the basic constitutional principles of the ancient monarchical system in Vietnam. There was no clear-cut demarcation between morality, customary rites and law, strictly speaking.

Once appointed mandarins, our scholars had to have a complete knowledge of the political and administrative institutions and organizational structure of their country. Leading scholars published books. Phan-Huy-Chuy's work, for instance, described Vietnamese institutions under the Hong-Duc period (XVth century). This book provides valuable data not only on the political, administrative and financial organization, but also on customs and practices relating to marriage, matrimonial affairs, divorce and succession, etc.

Another official work, the Gia-Long Code, promulgated in 1802, was in fact a collection of legal provisions relating to public administration, civil and criminal law.

Therefore, even if law was not a subject taught directly in schools, candidates for the public service were required to possess a profound knowledge of it.

(b) As far as the functioning of the courts was concerned, there was no professional training for judges and members of the legal profession.

The administration of justice by mandarins was merely the continuation of family or village arbitration; litigation was generally regarded as a regrettable event. Wisdom was generally considered to mean living at peace with one's countrymen, and an unsatisfactory settlement was preferred to profitable litigation. Cases were decided not on the basis of legal provisions but on their own particular facts.

The object achieved was not the defence of legal principles but restoration of the family or social harmony temporarily disturbed by litigation.

In such a spiritual environment no rigid procedure was observed either by the magistrates or by the litigants. Legal procedure was simplified to the extreme and the services of lawyers, attorneys and court auxiliaries were not necessary. The mandarins were named " fathers and mothers of the people ". Litigants brought their affairs to the district chiefs as they did to their parents, to have them settled in accordance with local customs and practices.

Common sense was preferred to the legal rules and it was not felt necessary for judges and the staff of the courts to have legal training.

Nevertheless, in olden Vietnam as any other country, institutions derive from and are created by needs. Although the procedure in the Courts was extremely simple, it was necessary, however, to require some formality in submitting requests or applications to the court and in the making of a contract or will. In the mandarin's office, a great many clerks, officially tolerated by the mandarin himself, gave suggestions or advice, on payment, to inexperienced litigants.

Abuses inevitably committed by these semi-official clerks aroused frequent criticism. But the legal formulae and writs they framed came to be officially recognized and continued even under French rule. Their contribution should be regarded as that of experts in the practice of the law.

In sum, in ancient Vietnam a specialized legal education organization was unknown to the elite. Law teaching was not a science, nor was it a technique worthy of perpetuation in an official way.

B. Under French rule

(1) Under the French Protectorate, from 1884 to 1954, considerable effort was made to achieve what French jurists called " the penetration of French Law into Vietnamese Law ".

However, in this undertaking, colonial authorities were confined for many decades to introducing French legal provisions mainly in the field of contracts and obligations and to heading the native Judiciary with high-ranking French magistrates.

Organization of legal education was still a hazardous undertaking in the mind of the French authorities at the inception of the Protectorate. Only young and wealthy Vietnamese were allowed to go to France to pursue studies in law.

So on the eve of the First World War, the traditional triennial competitive examination was still maintained. It was evident that the obsolete curriculum did not provide the administration with government officials able to meet the needs of the times.

The management of public affairs required the training of a " new class of mandarins " with a mastery of the French language, Cartesian reasoning and having a clear understanding of the spirit and technique of French law.

The need was so pressing that in 1917 a School of Law and Administration was created in Hanoi, the capital of the Indochinese Federation. Seven years later this institution became the School of Indochinese Higher Studies. It was not in fact an institution of higher education since its main objective was the training of administrative officers rather than jurists. On graduation, students were appointed as senior clerks, then as mandarins or district chiefs. They were not allowed to take up liberal careers such as the legal profession. At any rate the school moved towards education in legal subjects in our country since the curriculum provided for the teaching of such subjects as civil law, administrative law, criminal law and tax law. Admission, however, was not open to all young students; there were a limited number of places through competitive entrance examinations (twenty places per year on the average).

The teaching staff was selected among French administrators and judges, some of whom were excellent jurists.

(2) The decisive step was taken only in 1933. The School of Law and Administration was abolished and replaced by the School of Higher Legal Studies.

Modelled on the pattern of French universities, the new Institution was open to all French and Vietnamese students who were holders of the Baccalaureate and awarded the degree of *licence en Droit*. To maintain high standards, the teaching staff included a few French professors from the metropolitan cadre, with the help of assistant professors recruited among administrators and judges in Vietnam who held a doctorate. The School was supervised by the Law Faculty of Paris, which sent every year a delegation to preside over the Boards of Examiners.

The curriculum was that of the *licence en Droit* in France and the teaching staff taught the French legal system. There was no teaching of Vietnamese law, since there were three different legal systems in our country, one for Tonkin (North Vietnam), one for Annam (Central Vietnam) and one for Cochin-China (South Vietnam). This omission was a shortcoming since graduates of the Institution had to

perform their duties in either the Administration or the Judiciary in Vietnam.

Therefore, in 1935, a fourth year of study was added, on the completion of which students were awarded the diploma of *Certificat d'Etudes Juridiques Indochinoises* (Certificate of Studies in Indochinese Law). As its name indicates, the Certificate was evidence of studies (mainly the Vietnamese Civil Law, Vietnamese Criminal Law, Indochinese Administrative Law and Indochinese economic matters).

In 1941, the School of Higher Legal Studies became the Law Faculty, with the establishment of a Doctorate section studying Civil Law and Economics. This arrangement enabled students to complete their course of studies up to the doctorate level once their thesis was accepted by a Board. In fact up to the time of the Japanese coup d'Etat in March, 1945, no student had presented a thesis, and prior to March, 1945, only six students had been awarded a doctorate.

(3) The Japanese military intervention temporarily stopped the operation of the Law Faculty in Hanoi. In 1946, the local revolutionary elements tried in vain to form a Vietnamese School of Law. In January, 1947, through the initiative of a professor of the Law Faculty in Hanoi, Mr. Grégoire Khérian, aided by some of his colleagues, a Faculty of Law was created in Saigon. In October 1947, the Faculty in Hanoi resumed its operation as a unit of the Faculty of Saigon, the central organ.

Two measures were introduced for the completion of the course of studies:

On the one hand, the Proficiency in Law Section, a course of study for two years, was created. It gave courses on elements of law to students who were not holders of the Baccalaureate. The Section was an evening class attended by most low-ranking government employees. On the other hand, a third year of higher studies leading to the Diploma in Public Law concluded the two years of study in civil law and economics. The introduction of political science into the Law Faculty in accordance with the need arising from the new political status granted to Vietnam, Cambodia and Laos, now as members of the French Federation, was a gratifying innovation.

Thus the Faculty of Law in the Indo-Chinese Union with its two centres in Hanoi and Saigon could compare with the Faculty of Law in France. Both of them adopted the same curriculum, and both had the same advantages and disadvantages. The system operated until May 11, 1955, the date of the transfer of Saigon University to the Republic of Vietnam.

C. Since the Restoration of National Independence in 1955

Since the above date the Law Faculty in Saigon has grown into an institution of Vietnamese origin.

(1) This was the final step of an evolution that began in 1951. The Pau Agreement in 1950 provided for the creation of the French-Vietnamese University and a merger of all the Saigon and Hanoi universities. The French-Vietnamese University was headed by a French Rector, aided by a Vietnamese Vice-Rector, while in each university there was a Dean who was French with a Vietnamese Assistant Dean, elected by his colleagues. Professors and Assistant Professors, who were required to hold a Doctorate, were recruited in 1951, 1952, 1953 and 1954. Teaching in French, the Vietnamese staff acquired valuable experience enabling them to take the place of their French colleagues.

During the academic year 1954-55, Professors and Assistant Professors of the Law Faculty in Saigon initiated the creation of a Vietnamese Bachelor's Degree Section operating side by side with the French Section. Vietnamese students could register in the Vietnamese Section where many courses were given in the Vietnamese language and on Vietnamese problems.

Thus, after the official transfer of the University in May 1955, the Vietnamese Section only was maintained, while the French Section was permitted to operate until the end of 1957, when students following French courses would have graduated.

(2) Making legal education Vietnamese was effected smoothly due to favourable circumstances.

(*a*) For the past ten years, the Vietnamese language has been regarded as official in the Courts of Justice, mainly in the North and Centre of Vietnam. Judgments and pleadings have been made in Vietnamese.

Legal terminology in Vietnamese is sufficiently precise and abundant for law to be taught.

(*b*) During the year 1950, great efforts were made by the Vietnamese teaching staff to deal with various subjects relating to Vietnam. Their work has been facilitated by the writings of French jurists such as Luro, Camerlynck, Morché, Caratini and Khérian on legal and political matters. There were also numerous theses written by Vietnamese jurists on Vietnamese problems (Vu-Van-Hien, Bui-Tuong-Chieu, Nguyen-Huy-Lai, Buu-Loc, Nguyen-Quoc-Dinh, etc.). It is worthy of note that prior to the establishment of the Protectorate, the works of Vietnamese scholars of the old school also provide valuable data on old Vietnamese institutions.

(*c*) Finally, Vietnamese students were well prepared to follow instruction in Vietnamese. Our national language has been official for primary and secondary education since 1950.

(3) Although the curriculum and the teaching language have become Vietnamese, the organizational structure of the Faculty has remained unchanged. The spirit and teaching methods introduced

by the French have been preserved. It has been the belief of the Vietnamese authorities that reforms in higher education would be feasible only in the years ahead.

In the meantime, and to make full use of the present staff's capacities, it has been a wise decision not to make radical changes in the structure of the educational system.

II. Organizational Structure of Law Teaching at Present

(*a*) The teaching of law is carried out by the Faculties of Saigon and Hué (created in 1957). The National Institute of Administration is responsible for the training of governmental officials. The Institution also contributes to legal training, since its curriculum embraces legal subjects such as Administrative Law, Constitutional Law, Civil Law, etc.). But its activity is confined to a limited number of students, namely, those choosing an administrative career.

It is noteworthy that the two Faculties of Law in Hué and Saigon are open to all holders of the Baccalaureate without discrimination since no competitive entrance examination is required. In principle there is no limit on the number of students.

(*b*) The organizational structure of each Faculty is modelled on the French pattern prior to the Second World War.

There are three sections:

— Bachelor of Laws Section, which is expanding.
— Doctorate Section, still with limited numbers.
— The Proficiency Section, which is decreasing gradually.

The duration of studies and the curriculum of each Section are in outline as follows:

BACHELOR OF LAWS SECTION

Duration of studies: three years.

At the end of the academic year, students take a compulsory written examination in two subjects, and oral examinations for each course.

First year study

Vietnamese Civil Law
History of Vietnamese Institutions
Constitutional Law
Public Law
Economics

Optional Courses

Either Comparative Law (taught in French) or
Constitutional Law (taught in English)

Second Year Study

Civil Law
Administrative Law
Criminal Law
Economics
Finance

Optional Courses

French Civil Law (in French)
Political Science (in English)

Third Year Study

Civil Law
Civil Procedure
Commercial Law
Private International Law
Vietnamese Economic Problems
Political Thought and Doctrine

Optional Course

Insurance Law
Roman Law
Special Subject in Criminal Law
Maritime Law
Foreign Law and Jurisprudence

DOCTORATE SECTION

To register for the Doctorate, a student must hold a degree in law. One of the three following branches may be chosen:

Private Law
Public Law (Political Science)
Economics

In any branch, students must follow a two-year course and pass an examination at the end of each year. Thereafter, they may present a thesis for the degree of Doctor on a subject coming within the chosen field of studies.

PRIVATE LAW

First year

Civil Law
Commercial Law
Criminal Law
Private International Law
Administrative Procedure

Second year

Civil Law
Maritime Law
Aviation Law (or Labor Legislation or Insurance Law)
Civil procedure
Criminal law

PUBLIC LAW

First Year:

Administrative Law
Constitutional Law
International Organizations
Foreign Political and Administrative Institutions
Law of Liability

Second Year:

History of Political Doctrines
International Politics
Public Finance
Public International Law
Public Administration (or History of Economic Doctrines)

ECONOMICS

First Year:

General Economics
Public Finance
History of Economic Doctrines
and two subjects chosen out of the following list of common subjects for the two years:

Second Year:

Economic Theory
Statistics and Financial Mathematics

and three subjects chosen out of the following list of common subjects for the two years (Any subject chosen during the 1st year cannot be chosen again).

Common Subjects for the Two Years

Economic Geography
Vietnamese Economic Problems
Economics of Banking
Demography
Agricultural Economics
Economic Problems of Foreign Countries
Technology of Industry

PROFICIENCY OF LAW SECTION

First year

Criminal Law
Administrative Law
Constitutional Law
General Economics

Second year

Civil Law
Criminal Law
Commercial Law
International Law
Civil Procedure
General Economics

The above curriculum shows that at first degree level the Law Faculties in Vietnam continue to teach both Economics and Political Science; students have to specialize in one of the three sections at the Doctorate level:

Civil Law
Public Law (or Political Science)
Economics

(*c*) The teaching staff of the Saigon Faculty of Law includes:

— Professors (4)
— Assistant Professors (4)
— Lecturers (6)
— Part-time Lecturers (9)
— Research Fellows (1)
— Assistant Research Fellows (1)

Appointment to the teaching staff requires training which must include research. Once they acquire some experience, they may be appointed as Research Fellows.

Assistant Research Fellows are selected from among candidates who are holders of at least two Certificates of Higher Studies. While performing the role of tutor to the students in the Bachelor's Degree Section, they are permitted to work on the preparation of their thesis.

Once they are awarded the degree of Doctor they may be promoted to Lecturer. After five years a Lecturer may be promoted Assistant Professor and finally Professor.

Holders of the *Agrégation* in Law or Economics (the highest French post-graduate qualification) may be appointed directly to the rank of Assistant Professor.

Part-time Lecturers are chosen from among high-ranking government officers, judges, lawyers and foreign professors.

There is a close cooperation between judges, the Vietnamese Bar Association and the Law Faculty teaching staff.

Professors and Assistant Professors are given administrative functions. Secretaries of State, top government officials, judges, and outstanding lawyers combine their functions with those of Part-time Lecturers. At present, the teaching staff of the Faculty of Law in Saigon includes three Secretaries of State, three judges of the Court of Appeal in Saigon, one judge of the Council of State (the highest court in the Administrative Judiciary), four members of the National Economic Council, six lawyers and several top government officers. Through the cooperation of theoreticians and practitioners, legal training can easily meet the needs of the country.

(*d*) The teaching method consists of delivering lectures. But students are divided into groups to attend practical courses, under the tutorship of Research Fellows. This training technique enables students to do research by themselves, to present cases and to discuss interesting problems. They hold mock trials, in which they have to play different roles—prisoners, counsel or judges.

(*e*) Students. Since 1954, there has been a tremendous increase in the number of students, as follows:

	Bachelor's Degree	*Doctorate*	*Proficiency*
1954	447	72	245
1955	643	54	296
1956	958	59	758
1957	924	86	783
1958	1128	94	345
1959	1772	112	180
1960	2092	118	193
1961	2445	111	105

However, the first year examination for the Bachelor's Degree eliminates large numbers. It is estimated that of the 100 first-year students, 40 take the examination and about 20 are accepted for the second year.

Even though the standard is strict, there is an increase in the number of graduates, as indicated by the following figures:

	Bachelor's Degree	*Doctorate*	*Thesis*	*Proficency*
1955	36	11	2	21
1956	33	0	0	18
1957	63	7	0	72
1958	52	18	0	103
1959	69	21	0	65
1960	68	15	2	27
1961	89	19	0	16
1962	87	15	1	17

From 1933 to 1954, 424 students have been awarded the Bachelor of Laws Degree by the Universities of Saigon and Hanoi. From 1954 to 1962, this number has increased to 497, giving a total figure of 921.

This total is still insufficient to meet the staffing needs of the Administration, the Judiciary, the Vietnamese Bar and private enterprise. Therefore, unemployment is non-existent. If the selection rates remain unchanged, graduates may continue to obtain lucrative employment.

III. Future Prospects

A large-scale reform of the curriculum and teaching methods of the Faculty of Law in Saigon is planned. However, the implementation of the programme has been postponed for future years. The questions to be discussed are as follows:

(*a*) Will there be a clear separation between the teaching of law and that of economics and political science?

(*b*) Will lectures be replaced by up-to-date methods such as seminars, reading courses, etc.?

(*c*) Will there be an increased use of international languages such as French and English?

(*d*) Will students have to pass an entrance examination designed to eliminate those of weaker attainment?

(*e*) Will the registration of students be restricted to holders of the degree of B.A. in Literature and Philosophy?

(*f*) Will a preliminary study year be introduced?

(g) Will an *Agrégation* Section, modelled on the French pattern, be introduced?

While implementation of this large-scale reform is awaited, the programmes which are to be implemented immediately include the establishment of a Comparative Law Institute, an Institute of Applied Economics and an Institute of Criminology. These bodies would operate under the supervision of the Law Faculty and would give students both a broad and specialized knowledge of Law.

In the academic year 1962/63, a preliminary training course was opened for holders of the Bachelor's Degree in Law and for third-year students following this course who wish to become lawyers.

To sum up, law teaching is developing rapidly in Vietnam. Legal education, which originated from the pressing need to train administrators, now imparts a knowledge of legal principles and attempts to combine the theoretical study of law with training for legal practice.

3. Legal Education in Burma [a]

by

U Hla Aung*

Introduction

Modern legal education in Burma is of very recent origin. Before the introduction of the British legal system after annexation of the country in the middle of the nineteenth century, there was no organized legal profession. Disputes among the Burmese people were settled by arbitration rather than by the application of strict legal principles. The officials who tried the cases were, in the modern sense, arbitrators who used the *Dhammathats* [1] more for guidance than for literal application. The whole idea of rendering judgment in accordance with fixed legal principles was alien to the Burmese judicial system.[2]

With the coming of British rule, however, the situation changed. The practice of referring disputes to arbitration gradually declined and the people increasingly resorted to the newly-established courts. The introduction of the Rule of Law created a demand for trained lawyers. But an experimental law class opened in 1875 failed to attract students.[3] There were few Burmese lawyers trained along modern lines and Indian lawyers filled the gap. But later on more and more Burmese young men entered the profession as Pleaders and Advocates.

Pleaders are lawyers who can practise only in the subordinate courts such as Township Courts and District Courts. Advocates are entitled to practise as of right in all courts throughout the country. Pleaders are again divided into two classes, namely, Lower Grade

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[a] This paper is specially prepared for presentation at the Regional Conference on Legal Education.

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[1] A Dhammathat is a " collection of rules which are in accordance with custom and usage and are referred to in the settlement of disputes relating to person and property. " See section 2 of *Kinwun Mingyi's Digest*.

[2] See J. S. Furnivall, *Colonial Policy and Practice* (1956).

[3] *Id.* at 127.

Pleaders and Higher Grade Pleaders. But now this distinction has been abolished and there remains only one class of Pleaders who are entitled to practise in all Courts subordinate to the High Court and the Supreme Court.[1]

Thus it may be said that there are two kinds of legal training in Burma, namely, training for Pleaders and that for Advocates.

Pleadership Training

There are at present no regular classes for the training of pleaders. Some time ago there used to be a training class for those who desired to take the Pleadership Examination. This class was opened and conducted by the Ministry of Education, but it had to be closed down three or four years ago due to inadequate enrolment. But the Pleadership Examination is held every year in June by the Public Service Commission. Certain books are prescribed for the examination.

To be qualified for admission to the Pleadership Examination, a candidate must either be a Lower Grade Pleader who has practised as such for at least five years or a person who has passed the Intermediate Examination of a recognised University. Court Prosecuting Officers, Magistrates and Judges of the subordinate courts are also entitled to sit for the Pleadership Examination. In the case of a Court Prosecuting Officer, he must have passed the High School Final Examination at the time of his appointment and have completed at least eight years' service as such officer. Similarly a magistrate or judge who has completed eight years' service is qualified to be a candidate for the Pleadership Examination.[2]

Candidates, who are not Lower Grade Pleaders, may take the Examination in two compartments. No such concession is given to a candidate who is a Lower Grade Pleader. But he may, if he so desires, elect to take the examination according to the regulations and syllabus applicable to candidates who are not Lower Grade Pleaders.[3]

[1] The present Revolutionary Government has abolished both the High Court and the Supreme Court and established a new Court known as the Chief Court of the Union of Burma with one Chief Justice and five other Judges.

[2] See *Rules Relating to the Qualifications and Admission of Advocates and Pleaders in Burma* (1956), Government Press, Rangoon.

[3] The subjects prescribed for the Pleadership Examination are as follows:
(For candidates other than Lower Grade Pleaders) *Compartment I:* (1) Criminal Law and Procedure; the Law of Evidence generally; (2) Burmese Buddhist Law (3) Miscellaneous Acts. *Compartment II:* (1) Civil Procedure, Limitation, Succession and Probate, and Administration; (2) Contract and Tort; Negotiable Instruments; (3) Transfer of Property and Registration; Insolvency.
(For candidates who are Lower Grade Pleaders): (1) Burmese Buddhist Law; Insolvency. (2) Miscellaneous Acts; (3) Civil Procedure, Limitation, Succession and Probate, and Administration (4) Contract and Tort; Negotiable Instruments. *Id.* at 25-28.

Upon passing the Pleadership Examination, an application may be made to the Chief Court for admission and enrolment as a Higher Grade Pleader.

Training of Advocates

Theoretically speaking, training of advocates can be classified into two categories, namely, University training and non-University training. But there is at present no institution in Burma which systematically imparts non-University legal education to those who desire to become Advocates.

It may be pertinent here to discuss briefly the qualifications necessary for admission as an Advocate. To be admitted as an advocate a person (1) must be a Barrister who has read in England in the Chambers of a practising Barrister of more than five years' standing, or subsequent to his call, has read in Burma in the Chambers of a practising Advocate of more than ten years' standing, or prior to his call, has practised as a Pleader of the Higher Grade for at least three years; or (2) must be a Bachelor of Laws of the University of Rangoon who has practised as a Higher Grade Pleader continuously for at least one year; or (3) must have passed the Advocateship Examination held by the Public Service Commission.[1]

Persons who were most frequently admitted as Advocates have been (1) Barristers trained in England, (2) law graduates of the University of Rangoon and (3) Higher Grade Pleaders of at least seven years standing, who have passed the Advocateship Examination. It may, however, be pointed out that the number of Pleaders who take and pass the Advocateship Examination is very small—less than two or three each year.[2] And since there is no organized and systematic training for Pleaders who wish to take the Advocateship Examination, most of the Advocates at present are either Barristers or law graduates of the University of Rangoon.

An examination of the roll of advocates has revealed that for every four or five Advocates admitted each year one or two are Barristers. Thus the ratio of Barristers to locally-trained Advocates is approximately one to five. And because of the tremendous expense involved, very few young men these days are able to go to England for training as Barristers although in terms of prestige a Barrister is still in a better position than the locally-trained advocate. The present tendency, therefore, is to look to the University of Rangoon, which is at present the only institution that imparts legal education on the University level, for the production of young men with a well-rounded legal training. Let us, therefore, take a brief look at the University aspect of legal education in Burma.

[1] *Id.* at 1-2.

[2] This year only one Higher Grade Pleader passed the Advocateship Examination held by the Public Service Commission.

University Legal Training: The B.L. Class

Generally speaking, the present system of University legal education in Burma is similar to that which can be found in India although it is of more recent origin. A first degree either in Arts or in Science is necessary for admission to the law classes. As the instruction is given on a part-time basis, classes are held only in the mornings, generally two hours a day for five days in the week. In this respect India has gone far ahead of Burma since most of the leading Law Colleges are now established on a whole-time basis.

The method of teaching varies with individual lecturers, but the traditional mode of instruction by lectures is still in vogue and the medium is English. The duration of the course leading to the degree of Bachelor of Laws is two years. There is a final examination at the end of each academic year, usually in March, and after each examination the names of successful candidates are listed in order of merit and published in local newspapers and later in the official Gazette.

The first year class is called Part A and the second year is called Part B. This new terminology was introduced in 1951. A student who passes both the Part A and Part B Examinations is qualified to receive the B.L. degree. If a student fails in the Part A Examination at the end of the first year, he or she may nevertheless enrol in the Part B Class the following year and may take both Examinations at the end of the second year. It is now understood that this system is going to be changed. Under the new regulation a student must first pass the Part A Examination before he can proceed to Part B.

The Nature of the B.L. Degree

The B.L. degree conferred by the University of Rangoon is supposed to be a professional degree, but it has become in effect an academic degree. Most of the students attending the law classes are whole-time employees of the government and less than ten per cent of the students who graduate every year go into the legal profession after getting the B.L. degree. And those few who join the profession immediately after graduation are not admitted straightaway as advocates. They are required to do Chamber reading with an advocate of at least five years' standing for one year. But this requirement is only nominal. All that a Chamber student has to do is to keep a diary in prescribed form, visit the Courts once in a while, watch the hearing of cases and then obtain the initials of the judge or the Magistrate concerned in his diary.

After completion of one year's Chamber reading, he is admitted as a Higher Grade Pleader in which capacity he is required to practise for another year. Thereafter he becomes qualified for admission as an Advocate. But the nature of the training he has received

as a B.L. student and then as a Chamber student is such that by the time he is admitted as an Advocate, he can scarcely prepare a brief or draft a conveyance.

A Visitor's Assessment of Legal Education in Burma

Some time in 1956 an American legal scholar visited Rangoon to observe the system of legal education and legal profession in Burma.[1] The following are some of his views on the state of legal education:

> " What is the state of legal education here today? The Law Faculty of the University of Rangoon has one full-time Lecturer in Law who is beyond retirement age and who remains in his position in spite of ill health only because an adequate replacement cannot be found for him. The other four lecturers are all practitioners in Rangoon, and as leading members of the bar they do not have the time, even if they have the inclination, to do more than appear at the University for a very short period of time each week to give perfunctory lectures. These men do not engage in research—it would be impossible for them to do so without time and without library facilities—and they do not have an opportunity to do the sort of preparation for lectures which would be required if the students were to receive imaginative and stimulating discussions of the various fields of law. There is no such thing as a seminar. There are no moots. The students need do nothing but take lecture notes. (One lawyer told me that the really good lecturer was the man who dictated his notes carefully and underscored the important points. I would call this the concept of student as stenographer.) Learning for the student consists of no more than cramming lecture notes for examinations. The students are not really expected to study because almost all of them are employed at full-time jobs while they are taking their legal training. (Classes are held from 7 a.m. to 9 a.m. so that the students can get to work on time.) Nor can it be said that the students learn very much during the year of chamber reading which is required after they complete their two years in the law faculty. Most of the people with whom I have talked have indicated that chamber reading is nothing more than a formality. It cannot be otherwise when most of the people reading in chambers hold down jobs which require the bulk of their time.[2] As a consequence of all this, it can be said that part-time teachers dictate lecture notes to part-time students, and when the ritual is completed the student receives

[1] He was Dr. Richard Rabinowitz, Adviser to the Programme of Intellectual Co-operation between American and Japanese Law Faculties, Harvard Law School.

[2] This is somewhat inaccurate. A Chamber student cannot hold a whole-time job.

his degree, receives indifferent " practical " training in Chamber reading, and is turned out to offer his services to the public. One has an uneasy feeling that there is much more concern for the form than the substance of the training. "

The above observations still hold true even today although some minor changes have since been introduced. Beginning with the present academic year, a former Judge of the High Court has been appointed as whole-time Professor of Law. The number of part-time Lecturers has been increased to six. But the situation is no better. It may be considered even worse because of the tremendous increase in enrolment. In 1958 there were 277 students in the Part A Class and 131 students in the Part B Class. But now the number of students enrolled in the Part A Class has increased to 660 and that in the Part B Class to 270. This number does not include those attending the law classes opened recently at the University for Adult Education with a view to ameliorating the increasingly deteriorating situation at the University of Rangoon.[1] It may be pointed out that the law students of the Adult University receive instruction from almost the same set of teachers who lecture at the University of Rangoon and they take the same Examination set by the same examiners.

Introduction of an LL.B. Course

The authorities concerned were also fully aware of the shortcomings of the present system of legal education at the University. Some time in 1955, at the instance of the then Dean of Law, a Committee was formed for the purpose of reorganizing the Faculty of Law and introducing a new system of legal studies at the University. In his note addressed to the Rector of the University, the Dean expressed the view that " the standard of attainment in the law classes has steadily deteriorated " and that " the time has now arrived for the taking of measures necessary to cope with the situation ". Some of the reasons for the deterioration of the standard as outlined by the Dean were: (1) the deterioration in the standard of the average graduate in Arts and Science; (2) too large and unwieldy classes, for the classes are not divided into sections as in other large law schools; (3) lack of personal contact between teachers and students; (4) crowding of part-time students not fully engrossed in the study of law; (5) shortness of course of studies and (6) a steadily deteriorating command of the English language.

U Chan Htoon, who was then a Judge of the Supreme Court and a member of the Reorganisation Committee, prepared a comprehensive note and presented it to the Committee for consideration.

[1] The number of students at present attending the law classes at the University for Adult Education is approximately 90 in the Part A Class and 50 in the Part B Class.

In his note, the Justice expressed the view that " the situation calls for an urgent but thorough reorganization of the whole system." He suggested that the existing part-time system be done away with and that the entire Law Faculty be transformed into a whole-time institution. It was proposed that a new six-year B.A. and LL.B. course made up of two years of pre-law and four years of law, be introduced.

The Committee met three or four times to consider the proposals and at the meeting held on February 16, 1957, it was decided that a new course in Law leading to LL.B. degree be introduced.

Under the new scheme, the course leading to the B.A. and LL.B. combined will be of five years' duration beyond matriculation and is divided into three stages as follows:

(i)	Intermediate (Part A and Part B)	2 years
(ii)	B.A. (Part A and Part B)	2 years
(iii)	LL.B.	1 year.

A student who desires to proceed to the LL.B. degree is required to take English, Burmese, Logic, Economics and Sociology during his Intermediate years. These are pre-law subjects and unless a student passes the examinations in all these subjects, he will not be permitted to proceed further in the course.

The New Curriculum

For B.A. (Part A): (1) Personal Laws and Law relating to Family Relations including Guardianship of Minors and embracing marriage under special enactments in force in the Union, Divorce and Intestate Succession; (2) Constitutional Law with special reference to the Constitution and the Judicial System of the Union; (3) Legal Method and History of Law with special reference to the History of the Burmese Buddhist Law and the Burma Laws: (4) Criminology, Criminal Law and Criminal Procedure; (5) International Relations.

For B.A. (Part B): (1) Public and Private International Law; (2) Evidence, Psychology applied to Legal Evidence and Interpretation of Statutes; (3) Civil Procedure, Arbitration and Limitation; (4) Jurisprudence and Principles of Equity, Trusts and Specific Relief Act; (5) General Principles of Contract and Torts.

In addition to the said subjects the student must also take English Composition (one paper) in his third year and again in the fourth year. A student who passes both the B.A. (Part A) and (Part B) Examinations is qualified to receive the B.A. degree in Law. Thereafter he may, if he wishes, proceed to the LL.B. degree by taking the following additional courses for one more year:

For the LL.B.: (1) Partnership, Company Law, Co-operative Societies; (2) Property Law, Insolvency and Succession; (3) Mercantile Law (Sale of Goods, Carriers, Negotiable Instruments, Trade Marks,

Patents, Copyrights); (4) Industrial Law (Fatal Accidents, Workmen's Compensation, Trade Disputes); (5) Administrative Law (Local Self-Government, Democratic Local Government Administration, the History and Development of the Central Administration and Statutory Boards and Public Corporations, their rights and liabilities and their relations to the Government).

As far as the curriculum is concerned, the suggested new course is a great improvement on the old one. The subjects prescribed for the B.L. Examination are as follows:

For B.L. (Part A): (1) Criminal Law and Evidence; (2) Contract Act, Torts, Sale of Goods, Carriers, Fatal Accidents, Workmen's Compensation and Trade Disputes; (3) Personal Law and Law relating to Family Relations including Guardianship of Minors; (4) Constitutional Law; (5) Principles of Equity, Trusts and Specific Relief Act.

For B.L. (Part B): (1) Civil Procedure, Arbitration, Limitation and Court Fees; (2) Property Law, Negotiable Instruments, Trade Marks and Designs; (3) Insolvency and Succession: (4) Partnership, Company Law and Co-operative Society; (5) International Law.

Implementation and Failure of the New Scheme

Implementation of the new scheme of legal studies leading to the LL.B. degree was begun at the start of the academic year in 1957. It is understood that approximately 60 whole-time students enrolled for the new course. The existing part-time set-up for the B.L. degree was, however, not abolished and allowed to continue.

The new LL.B. programme broke down just before it entered its crucial third year. There are a number of reasons for this. First, no serious attempt was made by the authorities concerned to implement the new scheme. Second, no provision was made for the appointment of teachers necessary to handle the new whole-time classes. Third, since the existing B.L. classes were allowed to stay, the students were unwilling to enrol as whole-time students in the new programme. Fourth, there was a change in the Rectorship and the new Rector of the University was not as interested in the new programme as the former Rector, who in fact was mainly instrumental in bringing about the LL.B. course.

Thus there has been practically no change in the system of legal education at the University of Rangoon. The situation remained essentially the same as it was before. The students who enrolled for the LL.B. programme had to change their courses and abandon the programme altogether.

Conclusion

As this paper was in the process of being prepared, this writer saw the Minister of Education in the present Revolutionary Government and inquired whether there was any intention on the part of the Government to reorganise the system of legal studies at the University. I was given to understand that the Government had plans to change the present part-time set-up into a whole-time undergraduate programme more or less along the lines of the defunct B.A. and LL.B. programme. It would, however, appear that the exact nature of the plans has not yet been thought out and drawn up. It is, therefore, hoped that steps will be taken in the near future to introduce a completely new system of legal education at the University with a view to raising the standards that have declined as well as improving the quality and prestige of the legal profession in Burma.

4. Problems of Law School Development in Ceylon

by

T. NADARAJA *

I should like to begin by expressing my thanks on behalf of the University of Ceylon for the opportunity of participating in this Regional Conference on Legal Education. I believe this is the first time that such a Conference of persons, interested in legal education in the Asian countries, has been held. Many of the problems which face us in this part of the world are common to our countries and, though ultimately each country must work out its own solutions, it can undoubtedly profit from the successes and mistakes of the others. In Western countries the trend today is away from legal parochialism or what Dean Roscoe Pound has called " Mainstreetism " and towards uniformity of legal solutions in many fields. It is well worth attempting to secure this kind of co-operation between countries in the Asian areas of the world as well.

In Ceylon today there are two law schools—the Ceylon Law College conducted by the Council of Legal Education, which was incorporated in 1873 and consists of judges and practitioners, and the Department of Law of the University of Ceylon, established in 1947. The former institution, to which the vast majority of law students in Ceylon belong, prepares students for admission to the profession as Advocates (i.e. Barristers) or Proctors (i.e. Solicitors). The courses of instruction, which extend over three years, are given by part-time teachers who generally lecture before the sessions of the Courts begin. The University Law School, which has a much smaller full-time staff, covers broadly the same subject, also in courses extending over three years; and a graduate of the University school who seeks admission to the profession is exempted from attending lectures at the Ceylon Law College and generally needs to pass only its Final Examination. I should add that, although I have taught in both law schools, I propose speaking in the short time at my disposal with particular reference to the University school. Many of the problems I shall mention are, however, common to both, though the financial difficulties that have crippled the expansion of the University Law School do not apply to the Ceylon Law College,

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which (unlike the University) charges fees for attendance at lectures and is conducted by a wealthy corporation.

I shall begin with difficulties connected with the subject-matter that we teach. Much of the prevailing dissatisfaction with the law and its administration in Ceylon may be traced to the uncertainty of our law. Though we have law reports covering the period from 1820 to the present day, Ceylon lawyers are very inadequately supplied with works of reference. Our Digests of Cases are far from adequate for our needs, we have no complete restatement of the law like Halsbury's *The Laws of England*, and very few monographs on particular branches of the law exist even for the use of practitioners. Consequently, the field which a teacher must explore in order to discover the law on any topic may well be described, in Judge Cardozo's words, as " the land of mystery ". Since our law is for the most part a combination of the Roman-Dutch and the English Law, a conscientious teacher must be prepared not only to hack his way through the jungle of cases decided over 142 years in Ceylon, as well as the foreign cases cited in the Ceylon judgments, but must also consult the text books cited in those decisions, including the writings of the great jurists who expounded the Roman-Dutch Law. In Ceylon, therefore, law students and their teachers would readily endorse the dictum of Maitland that " taught law is tough law ", and they regard with envy the fortunate position of their counterparts in more advanced countries where text books, specially written for students and revised at frequent intervals, are freely available. The absence of such books in Ceylon necessarily results in a difference in the techniques of instruction: the teacher's task is more arduous because his students rely on his lectures to supply in large part the want of a text book, and the student has also to do more work on his own in the way of referring to cases and statutes.

It is undoubtedly a reproach to the legal profession in Ceylon that it has continued to exist for over 165 years without some of the working tools necessary for the proper exercise of its functions. I myself have ventured to point out, at intervals over the last 16 years, that the defect of " uncertainty, the mother of contention and confusion " (to use the words of a great English judge of the 17th century) is one that must be remedied by a comprehensive restatement of our law which, apart from providing students and working lawyers with a large measure of certainty, would have the incidental advantage of being the best preparation for a code, if at any future time codification of the law should be decided upon. But while other countries whose law was not in such urgent need of restatement as ours—I need here mention only India and Scotland—have recently established Law Institutes for the purpose, *inter alia*, of clarifying their law and promoting scientific legal work, no similar institution has yet been set up in Ceylon; and although one or two members of our University Law School have made notable contributions to legal

literature in Ceylon, it is obviously impossible for a law school consisting of five teachers to undertake single-handed the production of a Restatement of Ceylon Laws, however urgently such a work may be needed by the legal profession.

The next difficulty that has faced the University Law School has been the inadequacy of its staff. The Department began in 1947 with a Senior Puisne Justice of the Supreme Court as Professor, the Vice-Chancellor of the University (Sir Ivor Jennings) and a busy practitioner as Visiting Lecturers, and myself as Lecturer. Today, fifteen years later and with an increased number of students, the work in the Department is carried on by only five full-time teachers. The unfortunate result of one Professor doing the administrative work and sharing the academic work of the Department with four other teachers is that each teacher monopolizes instruction and examining in the subjects with which he deals. The students are thus denied the advantages accruing from going to lectures given by one person, attending classes in the same subject taken by another and being examined in it by a third. Further, the burden of routine teaching and examining has hindered the members of the staff in their efforts to remedy the situation arising from the absence of students' textbooks and to provide the students with regular facilities for extra-curricular scholastic activities, such as law review work, legal research and writing programmes and moot court competitions. The opening of the University's doors to external students last year and the projected institution later this year of courses for postgraduate degrees will add greatly to the work of the staff, who may, however, console themselves with the reflection that the latter innovation at least will gradually result in reducing the area of uncertainty in the law of Ceylon.

The Law School of the University has always been treated as a poor relation of its Medical and Engineering Schools, but unfortunately the lack of funds which has been the main cause of the inadequacy of staff has become critical this year. In the absence of any extensive private endowments, our University is dependent almost entirely on the annual grant given to it by the Government, which, being faced with a severe financial crisis, has been compelled this year to cut the grant by a very substantial amount. The University authorities are now engaged in effecting drastic economies in all Departments. The law section of the University library (which, incidentally, contains the best collection of legal material in Ceylon) will practically cease to buy any more books during the present financial year; no increase of teaching staff will be possible; and it seems likely that Assistant Lecturers on probation, who would normally have gone to Universities abroad for post-graduate work, will be denied this opportunity of access to wider horizons. All we can do for the present is tighten our belts and hope that conditions permitting the normal expansion and development of the law school will not be long delayed.

Having noticed difficulties connected with the subject matter and with the teachers, I shall mention very briefly some difficulties relating to the third end of the triangle of legal education—namely, the students. In most of the countries where there has been any serious study of the problems of legal education, it has come to be realised that many of those problems arise out of defects in pre-legal education; and attention has been drawn to the need for schools and colleges to train prospective law students, *inter alia*, to assimilate masses of information, to reflect on what they have learned and to express themselves orally and in writing in language that is lucid and precise. These requirements become all the more important in a country like Ceylon where the majority of the students who read law have just left school and do not possess the advantages of having previously taken a degree in some other subject. Cicero would have required of the orator that " before approaching his task of oratory, he has been trained in all the liberal arts "; but though this might seem a counsel of perfection for the lawyers of today, it is essential that law teachers should keep in close touch with the schools from which their students come. In this connection the example set by the Law Faculty of the University of Malaya which, I understand, makes explanatory visits to schools and has introduced a pre-law school year of training in the English language, social history and philosophy, is well worth following in other Asian countries.

Mention of the English language brings me to the question of the medium of instruction. The problem of changing from English to the native languages in administration, in courts of law, in school and higher education, is one that has to be faced by all the former Asiatic and African colonies of the British Empire. In principle the demand for the use in a country of the native languages of the people is unanswerable; but a dispassionate observer, a more than ordinarily reasonable person, would be forced to the conclusion that practical difficulties, varying with the circumstances of each country, limit the speed with which English can be effectively replaced by these languages in particular spheres. The difficulties are especially great in the field of law, where so much depends on the correct and precise use of language.

So far as Ceylon is concerned, there are two primary difficulties in replacing English with the native languages in teaching the law of Ceylon in its present form; and these difficulties, incidentally, are equally applicable to the use of those languages in arguments on points of law in the Supreme Court. The first is that the materials used in teaching the law of Ceylon are not at present in a compact form susceptible of translation into Sinhalese and Tamil. As I have already pointed out, in the absence of textbooks on most branches of the law of Ceylon, the ascertainment of the law on any particular point requires laborious research through the decisions of the Ceylon courts over one and a half centuries, and involves the reading of

reports of cases decided in England, the United States, India, South Africa and other Commonwealth countries and the Roman-Dutch, English and other texts cited in those reports. This vast material is available only in English and it would be impossible to translate it within the foreseeable future.

In such a context as this the added urgency of a Restatement of Ceylon Law, such as I have mentioned earlier, becomes clear. But even if a restating committee of persons learned in the law were appointed, and the labours of its members have at last resulted in a Restatement, carefully drafted in English, the problem of getting it faithfully translated into Sinhalese and Tamil would then arise. The difficulty here is that nearly all practitioners, judges and law teachers in Ceylon today have learned their law in English and are unable to express themselves on legal questions in any other language. Their situation is comparable to that of the Welsh who, it has been said, think about family matters and religion in Welsh but about business affairs in English, their minds being in two compartments so that they find it difficult to express themselves in English on family matters or religion or in Welsh on business matters. In circumstances such as this, who would be competent to translate the Restatement of Ceylon Law?

The experience of the Department of National Languages of the Government of Ceylon in translating from English into Sinhalese and Tamil standard textbooks used in schools and the University suggests the necessity for care in selecting those who are to translate law books and statutes. A knowledge of English and of one of the national languages, which to a layman might seem sufficient, would be an inadequate qualification for the delicate task of translating legal materials. It is submitted that those best fitted to make the change-over from English to the national languages in legal education and in the courts would be the young men and women who are now in our law schools, for they have acquired a grounding in their mother tongues at school and have learned their law through the medium of English. It is such persons who after their graduation will be competent to settle the Sinhalese and Tamil equivalents of terms and concepts used in law, to translate statutes and textbooks from English and, in course of time, to argue cases and write judgements and books in the native languages.

It may be objected that the preparatory steps which have been suggested above might mean the postponement of the change-over from English to the native languages for nearly a generation. But if we reflect that it took several centuries for English to replace Norman-French as the language of law reports and textbooks and Latin as the language of court records, and we consider how cautious has been the attitude of our nearest neighbours, India and Pakistan, to the problem under discussion, we shall realise the need for careful forethought and planning before introducing a fundamental change

in such a vital field of human relations as law. Professor Sir Carleton Allen has rightly remarked that the law is too great and complicated an instrument for blundering improvisation; and if lawyers are, as the Roman jurist Ulpian described them, " *sacerdotes iuris, artis boni et aoqui* ", " priests of the law, the art of what is good and fair ", we would be failing in our duty if we did not point out to lay policy makers that, unless the preparation for the change-over from English to the national languages in the sphere of law is as complete and detailed as possible, a serious dislocation in the administration of justice will inevitably result.

In reviewing some of the problems of development that face the law school of the University of Ceylon, I may have painted a somewhat gloomy picture. But it is possible to conclude on a more cheerful note by pointing out a factor which might at one time have constituted a problem but which now appears as a silver lining in an otherwise dark horizon. I refer to the attitude of the Bench and Bar to legal education. When I commenced teaching law at the Ceylon Law College nineteen years ago, I was appalled at the indifference with which practising lawyers and judges (who then exercised a complete control over legal education in Ceylon) regarded the education of those who were soon to enter their profession. It would have been true to say of Ceylon, what Sir Frederick Pollock said of his own country in 1883, that " the scientific and systematic study of law " is " a pursuit still followed in this land by few, scorned and depreciated by many ". But I am glad to say that the picture is quite different today. The favourable impression created by the graduates of our University Law School has resulted in a sympathetic understanding by practitioners of what law teachers are trying to do and of the many ways in which the latter can serve our common mistress, the Law. Many of our judges in particular have come to value the services of our graduates given in the capacity of private secretaries or " law clerks "; and after the establishment of the University Law School in 1947 some judges have taken a keen interest in problems of legal education. There is, therefore, every reason to hope that, in facing the formidable problems that confront them, the two law schools of Ceylon can expect the active interest and encouragement of influential members of the legal profession. Only if such co-operation continues to be forthcoming can the law schools be expected to produce men and women qualified to carry on the highest traditions of a public and learned profession so essential to the welfare of the State.

TUESDAY AUGUST 28 1962 (AFTERNOON SESSION)

Chairman: Professor L. C. Green

5. Legal Training Programme of the Legal Training and Research Institute in Japan

by

MASATOMI KOMATSU *

There are about 11,000 persons in the legal profession in Japan, including 1,200 full-fledged judges, 670 assistant judges, 500 summary court judges, 1,100 public procurators, 730 assistant public procurators and 6,800 practising lawyers. The administration of justice is not being carried out through these people. Roughly speaking, under our Law, no one will be allowed to enter the legal profession, except summary court judges and assistant public procurators, without graduating from the Legal Training and Research Institute of the Supreme Court (hereinafter referred to as the Institute). In this sense, it might well be said that the Institute is the main source which supplies the bench, the bar and the public procurator's office with trained personnel to keep the machinery of the law in operation.

Before beginning to explain the structure and functions of the Institute, I think it might be appropriate to give you a general picture of the system of legal education in Japanese law schools. The typical Japanese university is made up of a number of departments including a law department in which the law students receive legal education. There are about 14,500 new law graduates from 38 universities throughout Japan every year. However, the law department is not a so-called graduate school or the law school of a university in the American sense. It can be properly said that the law department of a Japanese university is organized for the purpose of training those who are interested in becoming civil officials in the administrative branch of the government, or who want to enter business or some other occupation after having obtained a fundamental knowledge about the general principles of law. The primary function of the law department is not to give professional training for the practice of law. It is true that a certain number of graduates of the law department enter the legal profession, but the number differs greatly from university to university, and is never large in any particular case.

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Legal education at the university level is, on the whole, like this. Although most universities have a four-year law course, only the final two or two-and-a-half years are devoted to legal education, while the initial one-and-a-half or two years are given over to liberal arts training, for example, the study of philosophy, psychology, sociology, history and foreign languages. It might well be pointed out that the amount of time devoted to legal education would be comparatively long, if the law department of the university should be demanded to produce only such persons as expect to become lawyers. But it is not the case with the law departments of our universities. Therefore, the Institute, as its primary aim, cannot help but assume the task of training those people who are going to enter the legal profession after graduating from the university.

The Institute is located in Tokyo and is an agency of the Supreme Court. Under our law, anyone who wishes to enter the legal profession must pass the National Law Examination, which is a prerequisite for admission to the Institute. The National Law Examination is administered by a Committee attached to the Ministry of Justice. It consists of a written examination in which the Constitution, Civil Law, Criminal Law, Commercial Law, Civil or Criminal Procedure are required subjects. The Law of Administrative Litigation, Bankruptcy Law, Labour Law, International Private Law, Criminology, Psychology and several others are elective, from which the applicants select two. An oral examination on the required subjects is given to those who have passed the written part. Nearly all applicants for the examination are university students or graduates. Each year the number of applicants is slightly over 10,000, out of which 340 to 380 are successful. Upon completion of a two-year course of training at the Institute, the students, who are called " legal apprentices, " have to pass another examination, after which, as a general rule, they are qualified to enter any one of the three segments of the legal profession.

The Institute has a teaching staff of 40, excluding the President, of whom 16 are judges, eight are public procurators, and 16 are practising lawyers. All of them are selected by the Supreme Court. The President is also selected by the Supreme Court. He supervises the personnel and administers the affairs of the Institute under the direction of the Chief Justice of the Supreme Court. The present President, Mr. Hakaru Abe, is the third since the establishment of the Institute. He assumed his present post after he retired as Chief Justice of the Tokyo High Court four years ago. Both his predeces-

sors were also judges, though there is no requirement of law that the President of the Institute shall be a member of the Judiciary. The judges and public procurators at the Institute are full-time members of the teaching staff, although they simultaneously retain their positions as judges or public procurators. Lawyer-instructors are selected from among practising lawyers of high repute and long experience. They work at the Institute on a part-time basis. All instructors confine their teaching to their respective field of specialization. The instructors are individuals with a lot of practical experience behind them. They carry out their teaching functions by emphasizing the practical aspects of various problems in a manner which is in striking contrast to that of the university law professors, who, as a rule, start their academic careers directly after their graduation from a university and consequently have no experience in the actual practice of law.

Meetings of instructors are held approximately once a week at the Institute for discussion and deliberation of various problems concerning the training of the legal apprentices. The meetings are presided over by the President.

At the present time the total number of legal apprentices is 709, 374 of whom were admitted in 1962, 333 in 1961, and two in previous years. Thirty-two are women. Their average age is 27. Legal apprentices receive a monthly stipend of Y17,900 (about $50) plus family allowances, without any obligation being imposed on their future careers. No payment of tuition is required. This fact is indicative of the importance which is attached to training for the legal profession in Japan. This stipend, it should be noted, exceeds the salary of officials in the administrative branch of government at a comparable stage in their careers. Apprentices, however, are not government employees, although they are entitled to many of the same privileges. For example, they are insured under the health insurance system for government employees.

The apprentices are not allowed to work during the course of their apprenticeship without the express permission of the Supreme Court. Such permission is rarely given. Apprentices are forbidden to divulge confidential information which may have come to their knowledge by virtue of their apprenticeship.

The two-year course of training is as follows:

(1) The training period at the Institute begins in April with an opening ceremony attended by the Chief Justice of the Supreme Court, the Minister of Justice, the President of the Japanese Federation of Lawyers' Associations, the Procurator-General, and other outstanding jurists and lawyers. This ceremony marks the opening of the first four-month period, which is called the " initial training term ".

(a) New apprentices are divided into eight groups of approximately 48 members each. Each group has its own teaching staff consisting of a judge who is a specialist in civil litigation, a judge who has specialized in criminal litigation, a public procurator, a lawyer specializing in civil litigation, and another lawyer specializing in criminal cases. Instruction is primarily conducted by the discussion method. As will be mentioned below, this is in striking contrast to the university law faculties, where the lecture method is the usual way of teaching.

(b) The primary function of the initial collective training period is to orient the apprentices for the field training period which is to follow. In each class an attempt is made to give them a " general and basic conception of law practice (judicial work, prosecution, and private practice). " Instruction at the Institute differs from that at the universities in that the practical aspects of law, especially developments in case law and problems of fact finding, are emphasized. Because Japan is a country with a codified system of law, it is natural that much time is devoted to an explanation of existing statutory law from the theoretical point of view in the universities. This university training may provide a good basic foundation in law, but from the practical point of view it is not free from weaknesses. Theory without practice aids the practitoner but little, just as practice without theory is blind. Therefore, at the outset of the initial period, the instructors of the Institute try to give the apprentices an idea of how training at the Institute compares and contrasts with the legal education the legal apprentices have received at the universities. After several introductory lectures and visits to trials, actual instruction begins—about five hours being spent each day in the classroom. The following courses are the principal ones given:

(i) Draftsmanship
   a. Judgments—supervised by judge-instructors.
   b. Indictments—supervised by public procurator-instructors.
   c. Pleadings—supervised by lawyer-instructors.

(ii) Lectures on specialized subjects.

(iii) Inspection tours to prisons, Scientific Police Research Institute, etc.

(iv) General cultural education.

(v) Foreign law seminar.

One of the most important items in the curriculum is instruction in the drafting of judgments. In this course each apprentice is given a printed copy of the entire record of a case recently decided by a trial court. Much effort is expended by the instructors, who are judges, to select cases from all over the country which involve interesting legal or factual issues which will lend themselves to discussion. The apprentices are required to examine the record, which

contains a summary of all pleadings, testimony and other evidence offered, as recorded by the court clerk, and upon this basis alone they prepare a " judgment " in which they make findings of fact and state conclusions of law. This process is repeated several times. The apprentice usually has a week or more to prepare his " judgment ". This kind of studying takes up much of the new apprentice's time and at first gives him considerable difficulty. The " judgments " are reviewed by the instructor and then discussed among the fellow apprentices and the instructor, at times in the classroom and at other times in personal interviews. Apprentices seem to be able to improve themselves in the field of law not only by the preparations necessary for submitting their " judgment " but also through free discussions with their fellow students conducted under the guidance of the instructor. The topics to be taken up in the discussion usually range from the problem of fact finding to the points of law involved in the transcript—substantive and procedural laws as well as Constitutional Law. Also more often than not, psychological, sociological and economic sides of the picture are presented for their deliberation during the free discussions in the class.

Training in the drafting of judgments has been thought to be the best way of developing the legal mind and skills since it requires the student to analyse the entire case carefully and to obtain a good grasp of the essential facts and the legal principles contained in the case. This type of instruction is still felt to have great value. For the future judge, the skills and the method of legal analysis this work develops are indispensible. Also, without a doubt, it is very helpful to the future lawyer or public procurator, because it teaches him to analyse a case in detail, and a study of actual records helps the apprentices evaluate the effectiveness with which the examination of witnesses has been conducted.

In similar fashion, instruction in the drafting of complaints, indictments, trial briefs, etc. is conducted by instructors who are lawyers and public procurators.

In addition to this training based on actual records, lectures are also given on selected topics which are of practical importance at present, such as the problems of corporation law, administrative law, labour law, family law, forensic medicine and criminal psychology. These lectures are given by outstanding scholars and specialists in these respective fields. Instruction by the lecture method at the Institute has been undertaken in order to give the apprentices both a practical and realistic grasp of some contemporary problems which cannot be treated in sufficient detail in the universities under the present educational system. Above all, we attach importance to the subject of accounting because cases involving difficult problems of accounting, both civil and criminal, have been increasing in Japan.

Inspection tours to the prisons, securities exchanges, clearing house, mental institutions, large factories and the Scientific Police

Research Institute are arranged in order to give apprentices some ideas on the operation of these institutions with which they otherwise might not come into contact.

A number of hours are allotted to cultural education, in which lectures on literature, religion, art and science are given by well-known scholars or other experts. Legal ethics is also one of the subjects. We have some difficulty in finding an effective way to teach it. At present lectures on the Code of Professional Ethics of the Japanese Federation of the Lawyers' Associations are given by our lawyer-instructors, but we are not satisfied that this method is the most appropriate.

The educational principle entertained by President Abe seems to be expressed by the words " High ideal and low posture ". It implies an image of the humble man who dedicates himself to the noble spirit of humanity and always tries to place himself in the position of the gentle common people belonging to the lower level of the community.

As the number of subjects has been increasing, the problem of the crowded curriculum has already been raised to some degree at the Institute, and the apprentices are very busy. Still they are advised to attempt some research in at least one specialized problem during two years of their apprenticeship. The results of such research may be published in the Law Review of the Institute.

(2) After the initial training period has been completed, field training begins at the Courts, Public Procurator's Offices and Lawyers' Associations. The President assigns the apprentices to District Courts, District Public Procurator's Offices and the Prefectural Lawyers' Associations, located in cities throughout the country—at present 22 cities in all, and competent judges, public procurators and practising lawyers of the respective organizations are appointed instructors for the field training period. To maintain a close connection with the local training program, 80 or more of these local instructors are invited to annual conferences held at the Institute or other places to discuss important problems connected with field training. The term of field training is 16 months—eight months at the court (four months for training civil cases, four months in criminal cases), four months at the public procurator's office, and four months at the lawyers' associations.

(a) During field training at the court each apprentice is assigned to a judge of the District Court, who tries to impart to the trainee a sense of litigation as seen from the judicial point of view. He studies actual records of pending cases before trial and attends trials with the judge. He is enabled thereby to observe the conduct of the real trials, not mock-trials, through which he can learn how a judge presides over a trial and finds facts. This also gives him an opportunity to observe the activities of lawyers, and he can observe

their skill in the examination of witnesses just as though he himself were a member of the tribunal. After the trial is over, he obtains a critique of his own fact finding from the judge, and then he drafts the judgment, which the judge corrects. But, as the judges are so busy, they cannot give thorough training to apprentices in every case that comes before them. For this reason suitable cases are chosen for training purposes. At a large District Court, such as the Tokyo District Court, a particular judge, other than the one assigned to the job of training an individual apprentice, will assume the task of supervising the training of all apprentices assigned to that court. While in civil cases emphasis is placed upon training in the drafting of judgments, in criminal cases special emphasis is given to fact-finding and assessment of punishment as well as the way of conducting the trial proceedings.

(b) During the four months spent at the District Public Procurator's Office, the legal apprentices are given instruction in investigation and prosecution. During this period, they work as subordinates of the instructing public procurator under his direct supervision. They are also taught to draft indictments, and they attend trial with the public procurators.

(c) Training at the lawyers' associations is conducted principally at law offices. As law firms are almost non-existent in Japan, individual lawyers are usually chosen as instructors for a particular apprentice, and the apprentices are instructed in advocacy and counselling. They are taught to prepare complaints, briefs and other documents. They also attend trials with their instructors and observe the examination of witnesses and the general conduct of the trial from the lawyer's point of view. The instructing lawyer discusses trial strategy with the apprentices after the hearing has been completed.

(3) After sixteen months of field training is completed, the apprentices return to the Institute for a final four-month period of collective training. The content of the course is similar to that of the initial period. Rough spots caused by the field training in local institutions are smoothed over, and instruction proceeds at an advanced level. It should be noted that we have " moot-court " training in the Institute in which apprentices use their skills in playing the parts of judges, public procurators or defense lawyers, as if they are engaged in a real trial as important participants. And also we have several seminars on foreign law, criminology, forensic technique and so on.

In short, we may say that the initial period is to bridge the gap between university education and practical training, and the final period is to provide some finishing touches. At the end of this final term, there is an examination.

This final examination is conducted by a special committee, the Chief Justice of the Supreme Court being its Chairman. A written examination on five subjects, namely civil and criminal judgments, civil and criminal practices, and prosecution, is given and this is followed by an oral examination. With but rare exceptions, all apprentices pass this examination. This is not surprising in view of the fact that they have already become well-educated in law through a two-year period of extensive and intensive training.

A Commencement is held. It is a ceremonial occasion conducted in the presence of the Chief Justice of the Supreme Court and other distinguished guests.

Graduates of the Institute are qualified to become assistant judges, public procurators or practising lawyers: the choice among these three segments of the profession is left to their own determination, but a fixed number of positions in the judiciary and the Public Procurator's Office are provided by law.

The total number of graduates from the Institute to date is 3,510. Approximately 280 of these have been appointed full-fledged judges after ten years of experience as assistant judges, about 670 assistant judges, about 700 public procurators, and the other 1,860 have become practising lawyers.

As the number of graduates of the Institute is increasing, they are beginning to exert a discernible effect on the legal profession as a whole as well as on the society at large. In the first place, young practitioners are better trained in both practice and theory than their predecessors were in the past. They are going to take an important part in the world of lawyers. Secondly, there is an increasing consciousness of integration of the legal profession. It is difficult to define what the concept of " integration of the legal profession " means. But it may be safely said that one of its meanings is the self-consciousness of the important role to be played by the co-operation and mutual understanding between the three segments of the legal profession to protect freedom and fundamental human rights of the individual against undue pressure from various quarters of society. It is hoped that the legal-minded people of the profession will dedicate themselves to the task of promoting the common cause of justice as a whole, while maintaining a competitive spirit among themselves in the exercise of their respective duties in connection with trial proceedings.

6. Legal Education in Indonesia

by

ISMAIL SUNY *

Higher education in present-day Indonesia is very different from higher education at the beginning of 1950 when Indonesia had only two State Universities, namely the University of Gadjah Mada in Jogjakarta founded on December 19, 1949, and the University of Indonesia located in Djakarta which was created on February 2, 1950. The establishment of the State Universities was the result of efforts to unite a number of institutes of higher learning which had been in existence before the recognition of sovereignty by the Dutch on December 27, 1947. The University of Gadjah Mada was founded as an amalgamation of all institutes of higher learning in Jogjakarta. And the University of Indonesia was established as an amalgamation of the institutes of higher education of the Republic of Indonesia in Djakarta and the *Universiteit van Indonesia* (Dutch-University of Indonesia), the university founded by the Dutch soon after they tried to re-occupy Djakarta.

The History of Legal Education

In colonial times Indonesian lawyers were relatively few. Although legal education at senior high school's level *(Rechtsschool)* had been established, it was not until 1924 that the first and the only School of Law *(Rechtshoogeschool)* commenced in Indonesia. Before the establishment of the School, some young men of talent went to the Netherlands to study law, returning to work in Dutch administration or to become active in political life of the country. In 1939, about fifteen years after the establishment of the School of Law in Djakarta, the enrolments were only 375 and the number of graduates in ten years were 146.[1] In the Japanese occupation this School was closed. The Proclamation of Independence in 1945 brought about an awareness of, and a determination to fulfil, Indonesia's need for a great number of educated, trained and skilled people to be able to accomplish the construction of the country.

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[1] See *Jaarboekje der Rechtshoogeschool te Batavia* (Year-book of the School of Law in Djakarta) 1940. Batavia: Landsdrukkerij, 1940, pp. 83-85.

Thus, in 1946 the first National Law Institute was created by the Republic of Indonesia in Djakarta.[1] Despite the first Dutch military attack on the Republic on July 21, 1947, where the building of the institute had been occupied, the school functioned until 1950. The Dutch established the Faculty of Law and Social Sciences *(Faculteit der Rechtsgeleerheid en Sociale wetenschappen)* as a faculty of the *Universiteit van Indonesia.*[2] The Republic of Indonesia at its capital in Jogjakarta created its second law school in December 3, 1949, which later was incorporated into the University of Gadjah Mada.[3] After fifteen years of independence Indonesia has seven State law faculties and more than 21 private law faculties.[4]

Objectives and Teaching Methods

Writing in the Journal of Legal Education on the place of moot courts in a law school curriculum, Professor J. R. Richardson, of the University of Florida, based his discussion on the assumption that " the primary objective of the law school is to train men and women for the practice of law." [5] On the general dispersal of the graduates of the Canadian law schools, Professor F. C. Cronkite predicted as follows: " Seventy-five or eighty per cent of these will become members of a law society, as barristers or solicitors, or as both." [6]

Indonesia has taken over from the pre-war colonial times the system prevalent in Continental countries for the law training. In contrast to the American-Canadian law school, the Continental law faculty does not aim at " releasing its students as trained lawyers, neither as attorneys in particular nor as lawyers in the wider sense of the term. University instruction represents rather the laying of conceptual foundations for later professional training." [7]

[1] See Prof. Mr. Soediman Kartohadiprodjo, *Sepuluh Tahun Peladjaran Hukum Tinggi Negeri Nasional* (Ten years of State, National and Higher Legal Education) in *Buku Peringatan Dies Natalis ke-VI Senat Mahasiswa Fakultas Hukum dan Pengetahuan Masjarakat Universitas Indonesia* (Memorial Book of the VIth birthday of the Student Senate of the Faculty of Law, University of Indonesia). Djakarta, 1956, p. 17.

[2] *Ibid.*, pp. 79-81.

[3] See *Riwajat Balai Perguruan Tinggi Gadjah Mada* (The History of the Gadjah Mada University) in *Republik Indonesia, Daerah Istimewa Jogjakarta* (Republic of Indonesia, special region Jogjakarta). Djakarta: Kementerian Penerangan, 1953, pp. 731-733.

[4] See *Rantjangan Dasar Undang-undang Pembangunan Nasional Semesta-Berentjana delapan tahun* (Basic Draft of the Act on Over-all National Development Plans - 8 years) 1961-1969. Djakarta: Dwan Perantjang Nasional Republik Indonesia, pp. 1395-1396 and 1472.

[5] " Is there a Place for Moot Court in the Law School Curriculum? ", (1952), 4 *J. Legal Educ.* 431.

[6] " Pre-Legal Education ", (1950), 28 *Canadian Bar Review* 131.

[7] Eric F. Schweinburg, *Law Training in Continental Europe, Its Principles and Public Functions*, New York, 1945, p. 10.

The Government of Indonesia envisages its law faculties largely as a training ground for administrative civil servants. Prospective attorneys form a comparatively small group among those for whom instruction is provided in the law faculties. Therefore, there were an estimated 75% graduates in State servicie; the remainder in law firms and other activities.

The teaching in Indonesian law faculties—like Continental training in general—is dominated by the lecture method. As far as the lecture method demands little intellectual effort on the part of the students, except perhaps an exercise in memory,[1] there is room in Indonesian legal education for new and effective teaching methods.

Law School Curriculum

Pre-Legal Study. Before attempting to describe present-day law faculty curriculum, a word should be said as to the pre-legal studies of the law students. The individual who eventually enters law faculty commences formal education at the age of six in the elementary schools (*Sekolah Rakjat* — S.R.). Here, in his first and second years, the curriculum stresses fundamentals, such as reading and writing the Indonesian languages, simple arithmetic, and religion. In the third, fourth, fifth, and sixth years, he receives additional instruction in basic Indonesian history, geography, physics, drawing, and gymnastics.

The successful student then enters the junior high school (*Sekolah Menengah Pertama* — S.M.P.). His programme here consists of a study of Indonesia, world history and geography, advanced mathematics (including algebra), gymnastics, drawing, physics, English, and religion. This school is designed to prepare the students who will continue their education at higher levels.

Upon completing the three-year course of the junior high school, the student then enrolls in the senior high school *(Sekolah Menengah Atas* — S.M.A.). The programme in three years continues the subjects of the junior high school and adds civics, political science, introduction to the study of law, economics, and German. Successful completion of this course entitles the student to the award of a certificate of S.M.A., which qualifies him for admission to a law faculty. Some law faculties now require an entrance examination for all S.M.A. graduates before admittance.

Programme of the Law Faculty. Higher education in Indonesia is under the control of the Department of Higher Education and Sciences. The new Act on Higher Education stipulated that the stage of study shall be provided by the Government Ordinance and

[1] See Maxwell Cohen, *The Condition of Legal Education in Canada* (1950), 28 *Can. Bar Rev.* 287.

the curriculum by the ministerial one.[1] Therefore, based on the transitional provision of the Act, a very great deal of initiative is left to the law faculties, which determine their own structure and the subjects they will teach.

The other main contrast with English-speaking countries lies in the organization of courses, examinations and degrees. The Anglo-Saxon system is organized on a " time " basis (e.g. the academic year in England and Australia, the semester or half year in the U.S.A. and Canada) which fixes periods of examinations. The Indonesian system is organized on a " stage " basis though there may be maximum and minimum times within which a stage must be completed. Most examinations in the Indonesian system are oral, and the student can ask for his examination when he feels ready for it.[2] The first two stages in the system are known as *candidate* stages. If the candidate is successful in these he may pass on to the next two stages known as *doctoral* stages. The first degree is awarded on the completion of these stages and the student may then decide to enter on the *doctorate* stage. However this involves several years further work, the publication of a dissertation and its public defence, so that only a small proportion of doctorandi ever become doctors.

The completion of the candidate stage in the law faculty used to average two years and the doctoral stage usually requires at least another three years, thus making both stages approximately equivalent to Master's degree. The name of degree awarded at the completion of the doctoral stage is *Sardjana Hukum = Meester in de Rechten*, abbreviated Mr (Master of Laws).

The curriculum. The recommended sequence of courses in the Faculty of Law, University of Indonesia, is as follows:[3]

The first part of the candidate stage: (1) Introduction to Jurisprudence, (2) Political Theory, (3) Economics, (4) Sociology, (5) Islamic Law I, and (6) Cultural Anthropology.

The second part of the candidate stage: (1) Constitutional Law, (2) Administrative Law (3) Civil Law I, (4) Criminal Law I, (5) Economic Development/Co-operatives, and (6) *Adat* (Indonesian Customary) Law I.

The first part of the doctoral stage: (1) Civil Law II, (2) Criminal Law II, (3) *Adat* Law II, (4) Commercial Law I, (5) Civil Procedure, (6) Criminal Procedure, (7) International Law, (8) Conflict of Laws, and (9) Criminology (elective).

[1] Art. 9, par. 1 and 4, Law 22, 1961, State Gazette 1961, 302.

[2] But now the system of " free academic study " has been replaced by the system of " guided study " mentioned in art. 9, par. 5 of the Act.

[3] *Cf. Pedoman Fakultas Hukum dan Pengetahuan Masjarakat Universitas Indonesia* (Calendar of the Faculty of Law and Social Sciences, University of Indonesia), 1958/1959/1960.

The second part of the doctoral stage: (1) Commercial Law II, (2) Islamic Law II, and (3) Legal Philosophy.

Law Faculties

Earlier in this article, a general indication was given as to the nature of the law faculty system in Indonesia, but a more detailed description of the organization of law faculties may be of interest. This, however, is not a matter on which generalization is easy since law faculties vary greatly in size. A recent tabulation by the National Planning Council revealed that of seven law faculties of the State Universities, two (Indonesia and Gadjah Mada Universities) had faculties of 29 and 16 full-time law teachers. Five of the faculties ranged from four to eight full time teachers.[1] Law faculties generally include some part-time teachers brought in to give courses in which professional experience is of special value.

Enrollments also vary widely, the largest faculties in terms of number of candidates for Master of Laws being the Gadjah Mada and the Airlangga Law Faculties, which in 1960 had 2,201 and 2,070. Indonesia, Padjadjaran, and Sumatera Utara Universities are the only other faculties to have over 1,000. Andalas and Hasanuddin Universities have enrolments of five or six hundred students.[2]

Law faculties are headed by one of their number who invariably bears the title of " dean ". The dean is appointed and discharged by the Minister of Higher Education and Sciences on the advice of the university's senate,[3] much weight being given in most cases to the wishes of the law faculty. Frequently a dean is appointed from the ranks of his faculty, but there are some exceptions to this rule. Law teachers are chosen from two principal sources: 1) The most numerous is comprised of high-ranking young graduates of the appointing school or of other schools of high standing. Some of these men enter law teaching directly upon graduation (usually beginning as an assistant to a professor of a given field of law); more often they will have some one or two years' experience in practice and sometimes will have obtained a doctor of laws degree. 2) The second source is the experienced civil servant. The number of lawyers who transfer from a Government position, usually legal in character, falls steadily as their period of experience in practice increases. This is due in part to economic factors, in part to the policy of the faculty, which easily appoints part-time teachers. Thus for the latter it is more profitable to become a part-time teacher than a full one.

[1] See *Basic Draft, op. cit., supra,* pp. 1395-1396.

[2] *Ibid.*

[3] Art. 20, par. 5 of the Act.

When a teacher is appointed to a law faculty from the first category noted above, he will usually be given the rank of professional assistant and appointed for a period of one or two years. Before he will be a full professor, the appointment is made to intermediate ranks of junior lecturer, lecturer, and senior lecturer.

The principal problems of law faculty are decided in law faculties by faculty vote. Appointments, although not made by the faculty itself, are usually made on its recommendation, as is the award of degrees.

The major problems for law faculties in Indonesia, in terms of the facilities they must provide, are the maintenance of an adequate library and adequate classrooms. With the possible exception of Padjadjaran, even the minimum integrated requirements of library and classrooms were not provided for and the faculty of law usually had to share barely adequate classrooms or library space with other crowded branches of the university.

Finally, I may conclude that although there are some major problems which must be overcome, yet the progress made by the country after gaining independence from the Dutch is tremendous. The number of students of the State law faculties alone was 30 times bigger than the number in 1942.[1]

[1] Until 1960 the number of students of the seven State law faculties was 9,410.

7. Legal Education in the Philippines

by

VICENTE ABAD SANTOS *

I am thankful for the honour of addressing the Conference for the purpose of presenting before you a brief sketch of legal education in the Republic of the Philippines. I find the task somewhat difficult, not because the subject is complex, but because talking about it easily assumes the nature of an awkward confession.

But first, allow me to tell you about the College of Law, University of the Philippines, which my colleague, Professor Bienvenudo Ambion, and I have the honour to represent in this Conference.

The U.P. College of Law is at present the only government-operated law school in the Philippines. All other law schools in my country are privately owned and maintained. But the U.P. College of Law started as a private law school founded in 1910 by a far-sighted American colonial careerist, George A. Malcolm. He was a colonial official who was not a confirmed imperialist nor sceptical of Filipino aptitude for self-government. Foreseeing the eventual independence of the Philippines, he took it upon himself to train eligible Filipinos to hold government offices in the future.

Before 1910 a preparatory law course in English had been instituted in the Philippine Normal School. But having prepared students to study law in the English language, the government was unwilling to make further provision for legal instruction. Malcolm was able to persuade the Manila Y.M.C.A. to offer law courses. This was in 1910. Enrolled at that time were a further President of the Philippines and a future Chief Justice of the Supreme Court.

On January 12, 1911, the Board of Regents of the University of the Philippines finally authorized the establishment of a law school in the University. The Y.M.C.A. then discontinued its law classes and its students were absorbed by the U.P. College of Law. At that time the students came to the law school direct from the high schools only. They also went through law school in three years.

At present, the U.P. College of Law has four primary purposes, namely: (1) to prepare students for the practice of the law profession,

* Dean of the College of Law in the University of the Philippines.

(2) to train them for leadership in the different spheres of service, (3) to develop them for technical or policy positions in the civil service and outside, and (4) to contribute to the development of Philippine jurisprudence and legal literature. To carry out these purposes, the College of Law actively offers two courses: a four-year course leading to the degree of Bachelor of Laws and a two-year course leading to the degree of Master of Laws. It also publishes a law journal five times a year.

As with most units of the University of the Philippines, our College is situated in the main campus at Diliman, Quezon City. In addition to classes in the main campus which are all held during the day-time, the College operates an evening unit in Manila primarily to accommodate students who cannot attend day-time classes because of day-time employment. Both day and evening units have the same curriculum and practically the same faculty.

Formerly a regular member of the Association of American Law Schools, the U.P. College of Law became an associate member only when the Philippines regained its independence in 1946.

The administration of the U.P. College of Law is vested in a dean who is assisted by the college secretary in the day unit and by a director in the evening unit. In particular areas of college administration, the dean is assisted by one or more members of the faculty, usually organized into a committee, as those on publications, curriculum, textbooks, and extra-curricular activities.

The present active faculty consists of 11 full-time members and nine lecturers. Of these, three are women. Incidentally, a lecturer does not lecture only. The title refers to a teacher on part-time status in the teaching staff rather than the method employed in classroom instruction.

In our full-time faculty, there is a tendency to cluster at the higher ranks of professor and associate professor. In its membership of 11, there are but two assistant professors and no instructor. The reason is quite simple: because of their training, generally longer than other teachers, the University has come to realize that they should be compensated better than the others for otherwise they will be tempted to look for greener pastures. This is the reason why our faculty turnover during the past two years has been nil. This is not to say, however, that we are fully satisfied with our present salaries. Law teachers, human as they are, are always reaching for higher financial goals.

The entire teaching staff, full-time and lecturer, holds law degrees from the College. In addition, 15 of them hold graduate degrees in law from American schools mainly like Harvard and Yale.

Before 1960, the enrolment of the U.P. College of Law was fairly steady and tended to stay in the neighbourhood of 650. But in 1960, this was sharply decreased because of a Supreme Court resolu-

tion requiring a bachelor's degree in arts or sciences as a prerequisite for admission to all law schools in the Philippines. Our present enrolment is only 282 students, of which 20% are women.

As an essential tool in the study of the law, the U.P. College of Law maintains one library in Quezon City and another in Manila. The Quezen City library contains over 20,000 carefully selected collections and occupies almost the entire third floor of the law building. The library in Manila is not as big as the one in Quezon City. The heart of both libraries is, of course, Philippine legal material. In addition, we have several thousand volumes of foreign books and legal periodicals. Understandably, the bulk of these materials is American. For much of our law, public and private, has been derived from American law.

In the reading rooms of our libraries, only a minimum check is provided and the students may take books of their choice directly from open shelves. However, books in constant demand are placed in the reserved list so that their use can be regulated in fairness to everyone. A reserved book may be checked out for an hour's use, renewable for another hour provided that no other student has previously asked for it. And then, of course, we have seldom-used books in the stacks which can be drawn out upon request.

And now, with your indulgence, I shall talk generally about legal education in the Philippines.

The legal profession is indubitably the most popular in the Philippines. This is due to several significant considerations. In the first place, it is by far the most inexpensive of the prestigious callings in our society. Apart from books which could be easily obtained, no outlay is essential or need compete with personal needs. This suitability to limited budgets in itself controls in many cases the choice of law as a career. In addition, the law graduate finds himself welcome in diverse fields of endeavour. The probability of lucrative employment is therefore greatly enhanced; and in a country where at least a fourth of the total labour force is normally unemployed or under-employed, this advantage of law graduates is persuasive to most young men in search of a profession. Finally, the law profession, in itself, confers as elsewhere a respectable status and personal influence, in addition to prestige and wealth which success brings.

The marked tendency of the Filipino student to prefer a law career has been met by the establishment of many private law schools. Since 1956, their number, according to government records, has never fallen below 65, with a total annual enrolment of at least 10,000 students for the same period. As may be expected, the private law schools tend to cluster in the urban areas. Of the 68 law schools registered in 1961, 17 of them are to be found in Greater Manila alone. Most of the remainder are likewise located in the other cities. Thus we find five in Cebu City, four in Iloilo City, three each in

Davao City, Dagupan City and Baguio City. Even the smallish city of Cagayan de Oro has two law schools.

Private law schools in the Philippines are usually units of some larger educational concern, such as a university or affiliated colleges. Most of them are operated by educational corporations, a good many of which are business ventures.

Virtually all private law schools in the Philippines have the same organizational set-up as the U.P. College of Law. The school is headed by a dean. In many schools, the dean is a prominent member of the bar and sometimes a substantial investor in the capital fund of the school or institution of which the school is a part. His standing as a lawyer is deemed essential in attracting prospective students.

Very rarely are faculty members of these schools on full-time basis. Virtually all have regular employment elsewhere either in the government or in private practice. Their salaries depend on the number of hours they teach. It is on this point that they present a strong contrast with the U.P. College of Law which maintains, as has been pointed out, a substantial core of full-time faculty members.

For a clearer view of the situation, let us imagine a young man who has decided on a law career. On the average he would be about 20 years old. He would have had six years of elementary schooling, four years of high school, and a bachelor's degree in arts or sciences with any of the following as major or field concentration: political science, logic, English, Spanish, history and economics. He pays school fees amounting to about P320 a year, which is about $ US 80, and much less the amount he would have paid had he decided on a medical career. If our young man's pre-law record is outstanding, he may be the recipient of a tuition scholarship and in some cases additional stipend for board, lodging and books.

He attends a class the size of which may vary from 10 to as many as 80 students. Class size is regulated in private law schools by the Bureau of Private Schools which prescribes a maximum limit of 50 but this limit is sometimes disregarded. In the U.P. College of Law, class size follows the university rules although we tend to have smaller classes than the other units of the university. As a rule, our classes do not exceed 40 students each, with around 30 as the average. In this connection, I must state that if we have, say, 120 students in the freshman year, we divide them into three sections of 40 students each.

In class, our young man would be dealing with practically the same subjects as his counterpart in all other law schools. The general uniformity is chiefly due to two factors: (1) government regulation of the curriculum; and (2) the exigencies of the bar examination.

All private law schools in the Philippines are subject to supervision by the Bureau of Private Schools which is empowered by law

to prescribe standards as to size of classes, curriculum and other vital matters through uniform rules. While the U.P. College of Law, as a state law school, is beyond the regulatory powers of the Bureau of Private Schools, nonetheless, like all law schools in the Philippines, it is subject to the authority of our Supreme Court explicitly conferred by our Constitution to prescribe requirements for admission to the practice of law, and such authority has recently been exercised in respect of the content of the law curriculum. Thus by resolution promulgated on December 5, 1961, our Supreme Court stipulated that no applicant shall be admitted to the bar examination unless he has satisfactorily completed the following courses in a law school: civil law, commercial law, political law, labour and social legislation, medical jurisprudence, taxation, and legal ethics.

The bar examination, too, produces a unifying influence. Every student who enters a law school seeks to be a lawyer. And since passing the bar examination is an essential requirement for becoming a lawyer, it is to be expected that the operations of all law schools must be generally oriented to such an end. The bar examination is given annually on the first four Sundays of August and covers the following subjects: civil law, land registration and mortgages, commercial law, international law, criminal law, political law, remedial law, and legal ethics and practical exercises.

Our student will use treatises in some subjects and casebooks in others, depending on what is available and the preference of the teacher. These books are prepared by Philippine lawyers and are primarily intended for classroom use. In the U.P. College of Law, we have consistently tried to escape the dull abstractness of using treatises by using casebooks which include textual and statutory materials whenever they are available. Even when a treatise has to be used, we make it a point to assign particular cases for extensive discussion.

With classes under way, our young man finds that actual classroom work proceeds by two methods: by recitation or recitation supplemented by lecture. The purely lecture method, notwithstanding its convenience to the teacher, is rarely used. In the U.P. College of Law, recitation is the prevailing method. Resort to this method is encouraged for what appears to us good reasons. First, it forces the student to study. I hope that I do not exaggerate, but it must be admitted that few of our students are by inclination avid and serious readers. This is due in part perhaps to the intellectual inertia usually associated with the tropics, or to the widespread absence of reading habits arising from or due to the privations of an agricultural society. At any rate, the students of the U.P. College of Law are kept on their toes, so to speak, by requiring recitation and so spend a good part of their daily waking hours absorbing law lessons. In addition, recitation trains the memory, teaches alertness and improves whatever skills in speech they already have.

We are not, of course, unmindful of the shortcomings of the recitation method. We are acutely aware that the method confesses a perhaps unfair assumption of a student's predisposition to truancy. We are also aware that it bears an unflattering kinship to the method used among pupils in high school whose mental age cannot be imputed to our law students without serious outrage. We believe, however, that until our students exhibit a maturity comparable with the reputed maturity of European students, the method, notwithstanding its defects, is for the present the best.

From our Supreme Court's point of view, legal education in the Philippines has greatly deteriorated. Again, from the Supreme Court's point of view, this deterioration is manifested by the high mortality in the annual bar examinations. Last year the mortality was 81% of those who took the examination. I must hasten to add that our Supreme Court blames not so much the law schools but the lower schools which supply them with students.

In the light of the seeming helplessness of the Bureau of Private Schools to remedy the situation, our Supreme Court has been constrained to take a hand in the matter. By a resolution promulated on December 20, 1957, the Supreme Court ordered the requirement of a four-year, instead of a two-year pre-law beginning with the school year 1960-1961. Again, by a resolution of December 5, 1961, the Supreme Court named the subjects which have to be studied in a law school as a prerequisite to admission to the bar examination.

There are valid insights behind these resolutions, especially the first. Failures in the bar examinations are not so much due to poor teaching as to the low quality of the students admitted to the law schools. For the most part, they are destitute of even the basic linguistic skills. Distinctly in the minority are the students who are not deficient in vocabulary, ignorant of grammar, inept in verbal communication and worse when it comes to the written word. There is a point in the hope that an additional two years of college work might remedy these shortcomings. In addition, the requirement may dissuade many from proceeding to a law career.

The preoccupation in our country with the problem of standards has obscured an equally serious deficiency of our law schools. I refer to an almost total absence of creative investigation in Philippine Law. The confession must be made that our legal rules are of foreign importations from Spain and America and have continued to prevail notwithstanding our independence and regardless of their divergence with the facts of our social and economic life. There is absolutely wanting any body of refined native law. The formulation of such law has been neglected and apart from the works of some foreigners, notably Barton who wrote on Ifugao law in 1919, we find no native law in our legal literature.

Pioneering work has been made and is being made through law reviews but achievement has been meagre for a wide variety of reasons. Most of those who teach law in the Philippines are too busy elsewhere, in their regular employment, and have neither the time, nor the energy, nor the finances, nor the requisite skills in a good many cases, to undertake work of the nature indicated. Philippine legal literature, accordingly, consists principally of textbooks, digests, decision surveys, and occasional treatises.

In this connection, allow me to speak briefly of the Law Review of the U.P. College of Law — the *Philippine Law Journal*. It is now in its 37th year of publication. It is financed with annual assessments from the students and is administered by them through a student editorial board assisted by a faculty editor. There are five issues a year, the first two being devoted to surveys of appellate decisions for the preceding year. In the remaining three issues, preference is given to articles which critically examine current legal problems. Scholarliness, current validity, and cogency of arguments are the principal criteria in the evaluation of material for publication. Most of the articles are contributions from the faculty and alumni in the judiciary and other branches of the government. Student contributions are limited to brief papers by way of comment on current legal problems.

All the deficiencies of Philippine legal education do not, of course, obscure its achievements. It has contributed many able, even gifted men, to the judiciary, to the bar, to other departments of the government and to business enterprise. When the U.P. College of Law celebrated its Golden Jubilee last year, Dean Malcolm exulted that its alumni have become largely responsible for the destiny of the Republic of the Philippines.

It is largely to such offsprings that our constitutional system has proved viable, that our judiciary is independent, that for the most part justice is not denied to those who seek it in our courts. Their role has been primary in the preservation of our democratic institutions. Without the lawyer class, we should be experiencing greater difficulties in maintaining adherence to the Rule of Law or in bringing about peaceful accommodation of urgent interests.

Accordingly, my criticisms of Philippine legal education should be taken as proceeding not from a spirit of condemnation but from a desire to see it improve and thus realize its purposes.

Jose Rizal, our foremost national hero, in dedicating to his Fatherland his first novel, *The Social Cancer*, said: " Desiring thy welfare, which is our own, and seeking the best treatment, I will do with thee what the ancients did with their sick, exposing them on the steps of the temple so that everyone who came to invoke the Divinity might offer them a remedy ".

Perhaps, with this, my awkward confession, you can help us and in helping us, help yourselves also.

8. Legal Education in Thailand

by

TANIN KRAIVIXIEN *

Historical Background

Legal education in Thailand, like the Thai legal system, has had a development of its own. In early times, the law could, it is believed, be learnt only at temples, which were then the centre of culture and learning, and those who wished to be trained in it sought advice from people in the legal circle.[1] Academic training was then unknown. The practice of law was the practice of a trade rather than of a profession.

In the later half of the nineteenth century, however, the treaties Thailand made with foreign powers together with radical changes in the economic and social life of the country made the existing legal system unfit for the new conditions. Hence, to fulfill the obligations under the treaties and to meet the growing needs of the community, Thai law was reformed on western jurisprudence. As to the system of law to be adopted, it was decided that the Civil law system would best suit the needs of Thailand.[2] A Ministry of Justice was estab-

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[1] Luang Saranai Prasart, *the Development of Legal Education in Thailand* (in Thai version) (Bangkok: Thammasat University Press, 1956), p. 2.

[2] In modernizing the law, Thailand would have preferred to adapt English law because many distinguished members of the legal profession had already been trained in England and become well acquainted with English law. They had seen how well merited that system had been and what it had achieved in its motherland and in other parts of its Empire. On the other hand, it is equally true that however sound the English system may be, it is peculiar to English circumstances in which it originated and developed; and it seems impractical for any country to adopt a system of law that cannot be found in any accessible form. With this disadvantage in view, save in certain branches of the Thai law such as Bills of Exchange and Bankruptcy, over which English influence was and still is strong, Thailand, for its general law reform, turned to the Civil law system. It should also be noted that while some of our Codes profited from western concepts, especially from its French, German, Swiss, Indian and Japanese counterparts, they preserved much that was praiseworthy in the institutions and customs of the country, predominently in such matters as matrimony and inheritance. Being a combined system of eastern and western legal wisdom, it is noteworthy that the codifiers succeeded in avoiding anything that would prevent harmony and free flow of ideas and concepts among various provisions in individual Codes and from one Code to another.

lished in the year 1892 with a view to reforming the judicial system and the law of the land. The work of codification was completed in 1935, almost half a century after the time it was started. In 1897, side by side with the judicial and legal reforms, the first law school was established. Here the Thai laws, which were then in force, together with the principles of western jurisprudence were taught. The school was under the Directorship of King Chulalongkorn's son, Prince Rabi of Rajburi, a graduate of Oxford. He was then Minister of Justice. He did much to stimulate the legal education of the day. In the first few years the school was nothing more than what might now be called a small tutorial class. Prince Rabi taught almost all subjects. He devoted himself to teaching at the law school and to serving the country as Minister of Justice; at the same time he wrote several pioneering works on Thai laws for its transitional periods. The works, which dealt with both former and modern laws, remained standard works for decades; the Rajburi Laws, the Penal Code and the Land Law are good examples. Students were trained by lecture and text. The subjects taught were criminal law, the law of contract, the law of succession, torts, the law of husband and wife, practice and procedure and international law.[1] On passing oral and written examinations in these subjects, students were awarded the degree of " Barrister-at-Law " and were qualified to practise.

Under the leadership of Prince Rabi of Rajburi (1897-1910) and with the assistance of Mr. G. Rolin Jaequemyns,[2] General Adviser to the King, the law school developed steadily. Expansion of the school was rendered imperative by the increasing number of students. Many new lectureships in various subjects were created and taken by former students of Prince Rabi of Rajburi. The law school produced a good number of barristers, out of which some became prominent judges and lawyers. These lawyers were to shape the law of the later periods.

In the year 1911, the law school was reorganized and placed under the direction and control of a Board of Legal Education, the President of which was the Minister of Justice. The school, though essentially professional in character, was recognized as being on the university level. It assumed many features in its early days which remained as characteristic of it. It is interesting to note that a school for pre-legal education set up by the Ministry of Justice was modelled after the English Public School pattern.[3]

During this period, a few young men of talent, some granted with King's Scholarships, went to study law at the Inns of Court in London; they later returned to serve on the Bench or practise at the Bar.

[1] Luang Saranai Prasart, *op. cit.*, pp. 3, 4.

[2] Mr. Rolin Jaequemyns was an outstanding statesman of Belgium, and a great authority on International Law.

[3] This school later became the present Vachiravudhi College.

Most of these Barristers also came to hold lectureships at the law school.

In the year 1913, there was, in some quarters, serious dissatisfaction with the method of teaching at the law school. Much criticism centred around the fact that apart from the teaching of Thai laws, the principles of English law and its techniques alone were taught. It was suggested that as Thailand had adopted the Civil Law system, Roman jurisprudence and its techniques should be applied, that at least a Chair in law should be created; for this appointment, a degree of Doctor of Laws obtained from a Civil Law country should be required.[1] However, since the work of codification, especially that of the Civil and Commercial Code, had not yet been completed, and since in practice Thailand then applied English law where there was no Thai law applicable to any problem before the court, the system that was used by Prince Rabi of Rajburi prevailed.

The Thai Bar was founded in 1914. It was designed *(a)* to promote legal education, *(b)* to supervise the conduct of practising lawyers, and *(c)* to promote mutual understanding and cooperation among its members and uphold the best traditions of the legal profession. From the very beginning the Bar became the centre of the legal profession. But as far as the legal education was concerned, the Bar in its early days was responsible merely for the admission of students to the course at the law school whereas the Ministry of Justice, and later the Council of Legal Education, provided the courses of instruction and conducted the examinations.

The Law School was further reorganized in the year 1919 when a two-year course was introduced. The admission to the course was limited to those holding Certificates of Education for Standard VI from secondary schools. Jurisprudence, criminal and civil procedure, laws of agency, of partnership, of bankruptcy, bills, sales, bailment and conflict of laws were included among the subjects taught. The passing of two examinations, one within each year, was required for admission to the profession.[2]

When the first two books of the Civil and Commercial Code were promulgated in the year 1925, the legal education was reorganized accordingly. The Ministry of Justice handed over the responsibilities for the organization of training and examinations to a Council of Legal Education, the President of which being the Minister of Justice. Soon a three-year course became the basis for the new Barrister-at-Law degree. Various branches of the law in the Civil and Commercial Code were made subjects in the course and a Certificate of Education for Standard VIII was required for the admission to the course.[3]

[1] Luang Saranai Prasart, *ibid.*, pp. 21-26

[2] Luang Saranai Prasart, *ibid.*, pp. 36-38.

[3] Luang Saranai Prasart, *ibid.*, pp. 39-43.

A two-year postgraduate course of research for the LL.B. degree was established in 1926 and modified in 1930. The requirements for obtaining the LL.B. were (i) satisfactory completion of a legal essay on a subject approved by the Council and (ii) the passing of an oral examination on the subject of the essay.[1] The scope of law teaching was indeed widened with the establishment of a few lectureships in the field of Comparative Law. A number of French and English jurists were appointed to these posts.[2] But the majority of the teaching staff remained part-time lecturers.

By this time it became a practice of the Thai Government to send a number of lawyers and law students abroad to further their legal education every year. Some went to study at the Inns of Court in England, others took law degrees on the Continent, mostly at leading universities in France and Germany. Apart from this, quite a few other young people went as private students to study law in these countries.

In the year 1933 came a development which was to change the course of the history of legal education in Thailand. Law was for the first time made a university education. The teaching of law was transferred from the law school, a professional institution, to the Faculty of Law and Political Science, Chulalongkorn University. But only a year later that Faculty handed over the teaching of law to a newly established university i.e. Thammasat University.

Legal Education at the Present Day

A. LAW SCHOOLS

At the present day there are three Institutions where legal training is given. For a university law degree: the Faculty of Law, Thammasat University and the Faculty of Political Science, Chulalongkorn University. For advanced professional training: Institution of Legal Education, the Thai Bar.

It should be noted that a graduate from a university is not eligible for admission to practise at the Bar until he has obtained a degree of Barrister-at-Law from the Institute of Legal Education.

The Faculty of Law, Thammasat University

The Faculty of Law, Thammasat University, was established in 1934. This Faculty provides complete courses for the degrees of LL.B., LL.M., and LL.D. The teaching staff consists of seven full-time and 34 part-time law teachers. The Faculty has an enrolment of 15,793 students for the LL.B.

[1] Luang Saranai Prasart, *ibid.*, p. 47.

[2] Luang Saranai Prasart, *ibid.*, p. 48.

The Faculty of Political Science, Chulalongkorn University

A law school was established within the Faculty of Political Science, Chulalongkorn University in 1951. So far the only law course available is for the degree of LL.B. The School has seven full-time and 41 part-time law teachers with 136 candidates for the course.

The Institute of Legal Education, The Thai Bar

In the year 1948, the Bar resumed one of its former main functions, i.e. the teaching of law. For this purpose, the Institute of Legal Education was founded. An advanced course for professional training is given. Successful candidates qualify to practise as barristers. The number of students enrolled at the Institute is 569. The course is conducted by a staff of 12 part-time teachers.

B. PRE-LEGAL EDUCATION

Before anyone can be admitted as a student for the LL.B. degree, he must, as a minimum requirement, have obtained a Certificate of Education Examination for Standard VIII. This means that he must have completed fourteen years of general education prior to his legal education (i.e. six years in a primary school, six years in a secondary school and two more years at a pre-university school.) He is, as a rule, nineteen or twenty years of age. However, persons who seek admission to the professional training course at the Institute of Legal Education must have passed the examinations for the third year of the four-year course for the LL.B. degree, either at the Faculty of Law, Thammasat University, or at the Faculty of Political Science, Chulalongkorn University, or passed the examinations required for an approved diploma in law in any approved educational institution in Thailand or elsewhere. This means that the applicant will at least have finished 17 years of general and university education before he can be enrolled as a student at the Bar.

The question whether special courses in Sociology, Natural Sciences, Political Science and Economics should be established as requirements for pre-legal education has been a subject of controversy in Thailand. Recently, a Faculty of Liberal Arts has, however, been established at the University of Thammasat to provide courses in Natural Sciences, Social Sciences, Humanities and Foreign Languages. This liberal education is *inter alia* designed to ensure a thorough learning in cultural fields and a full understanding of responsibilities toward society. There is much to be said for this concept; and it is so true that the aims of legal education should not be confined to training in philosophy, science and methods of the law, emphasis should also be placed upon the economic, political and sociological aspects of the law and its administration. This course is intended to be a prerequisite for admission to the LL.B. course at Thammasat University. The questions as to how long the LL.B. course should

then be and what liberal arts subjects which are at present taught should be excluded from the law course proper are under consideration.

C. LAW SCHOOL CURRICULA

The LL.B. Degree Curriculum

This course, which is a four-year course, is designed to provide training in the basic fields of the law. Among the subjects taught at both Universities are jurisprudence, Thai Legal History, Constitutional Law, Criminal Law, Administrative Law, Law of Persons, Law of Property, Specific Contracts, Criminal Procedure, Civil Procedure, Law of Evidence, Law of Bankruptcy, Conflict of Laws, International Law, Law of Succession, Law of Family, Criminology, Penology and English Language. No selection among the subjects is open to the student. The total number of class hours range from 24 to 37 a week. There are 32 weeks of classes in the academic year at Thammasat University and 37 at Chulalongkorn University. English classes are more numerous than others.

Post-graduate Studies

(a) A two-year course for the LL.M. degree is offered at the Faculty of Law, Thammasat University. The aim of the course is to enable the candidate to pursue a more intensive study of certain selected branches of law than that of the LL.B. degree. Only law graduates are eligible. The LL.M. examination includes (i) a thesis on an approved subject, (ii) a written examination on prescribed subjects, and (iii) an oral examination especially on the subject of the thesis. It is, however, open to the examiners to reject the candidate without holding an oral examination. The thesis must be a record of original work or other contribution to knowledge in some branch of law.

(b) A course for the LL.D. degree is also offered at the Faculty of Law, Thammasat University. The course is directed to a more intensive and more creative study than that of the LL.M. degree. The thesis must form a distinct contribution to the knowledge of some branch of law and afford evidence of originality. Only those having obtained an LL.M. degree are eligible. So far no candidate has been registered for the degree of LL.D.

Advanced Professional Training

A one-year advanced course for professional training is provided by the Institute of Legal Education, the Thai Bar. The training is designed to concentrate more specifically on courses of a professional character. The subjects taught are Civil Procedure, Criminal Procedure, Law of Evidence, Organization of Courts of Justice, Criminal Law, the Civil and Commercial Code Land Law and the Law of Bankruptcy. The total number of class hours is 15 a week; there are 24 weeks of classes in the academic year.

Methods of Teaching and Examination

The pattern of legal education has remained much the same since the first law school was established at the end of the last century. The study of law from text books and from lectures has continued unbroken in law schools. However, the lecture method is now often coupled with teaching by way of discussion i.e. the teacher will encourage the students to join in a discussion. The materials for discussion include current legal problems and past examination questions. This combined method of teaching greatly helps to develop the student's capacity for independent thought and his critical faculty. But at present the benefits of this method cannot be fully achieved at the Faculty of Law, Thammasat University and at the Institute of Legal Education, partly because of a very large number of students in classes, approximately 300 to 400, and partly because attendance at these courses is not compulsory, though strongly recommended. The situation at Chulalongkorn University is quite different. Students enjoy the full benefit of this combined system as attendance is compulsory and the number of students in each class ranges from 20 to 50 only. In addition, two seminars are held for the fourth year students each week.

It is submitted that the " case method " followed in the United States may not be suitable as a method of law teaching in Thailand. This is due in part to the absence of doctrine of precedent in the Thai judicial system, and in part to the fact that there may not be sufficient material for discussion as Thai Courts' decisions are comparatively terse.

However, as far as the law teaching of undergraduates and teaching at the Institute of Legal Education are concerned, the tutorial system may be adopted with advantage as a teaching method complementary to the lecture method, provided that classes are small and attendance is compulsory. This combined method has been tried and proved satisfactory at the Faculty of Commerce and Accountancy at Chulalongkorn University where all branches of Commercial Law are included in their courses.

As regards examinations, in order to test whether a student has acquired sufficient knowledge of the principles of the law, in which he is examined, and in order to judge his intelligence and skill in the legal techniques, written and oral examinations are set up in all law courses. Written examination questions take the form either of essay or of practical problems that might arise in court or in everyday life. None of the questions set is in the nature of an objective test.

Teachers of Law and Their Recruitment

Law Teachers have always been recruited from lawyers with Thai and foreign legal qualifications or from prominent lawyers of long standing.

Despite the fact that law schools have tried their best to secure as many full-time law teachers as possible, there is at present a serious shortage. The part-time teachers of law still remain the backbone of the legal education. They have indeed carried out their teaching tasks admirably notwithstanding the pressure of their own professional work. It may be added that even when we have more full-time teachers, we cannot dispense with the service of part-time teachers altogether. They will always be needed to give courses in which long professional experience is of special value, such as Civil Procedure and Law of Bankruptcy.

Law Libraries

There are at present four main law libraries in Thailand, i.e. the Central Library of Thammasat University (62,000 volumes), The Central Library Chulalongkorn University (60,000 volumes), the Bar Law Library (4,000 volumes) and The Central Library of Ministry of Justice (3,500 volumes). These libraries are open to law students and other scholars and investigators. Every effort is made to establish in these libraries complete collections of the statutes, law reports and legal periodicals in the Thai legal system and to have extensive collections of comparative law literature with emphasis on the sources of the present Thai legal system. Arrangements for a unified catalogue system among these and other technical libraries have been made by Thammasat University. An arrangement is also made between some of these libraries to avoid unnecessary duplication of individual items.

Research

At present there is no research proper organized at any law school.

Each law school should indeed be a centre of research in certain fields of law, and arrangements should be made for regular consultation among them to avoid, as far as possible, unnecessary overlapping of fields of research. The law schools should seek to provide adequate research facilities both for members of the academic staff and for students.

It is also recommended that research in ever-growing fields of law should be organized by law schools and undertaken by members of the teaching staff, especially by full-time teachers.

Legal Writings

Despite the fact that a great majority of law teachers are part-time, the output of legal publications has been quite impressive. As a rule, there are a few standard works on every subject taught in the universities and at the Bar. But treatises and practitioner's text-books on other branches of law are scarce.

So far as the characteristics of the legal literature are concerned it is somewhat remarkable to find that the legal thought as well as the style of presenting materials vary greatly among legal writers, especially those trained abroad. Perhaps this is largely due to their differing training backgrounds. To students, it seems, however, that where there are several works available on the same topic, it is an advantage to see how problems are presented and solved in a variety of ways.

Law Journals

At present, there are four law journals proper published in Thailand, namely, *Bot Bundit*, a quarterly journal published by the Thai Bar, having a circulation of 4,000; *Dulapaha*, a monthly journal published by the Ministry of Justice with a circulation of 800; *Lawyers Journal*, a bi-monthly journal published by the Lawyers Association of Thailand, its circulation being 1,000; *Aiyakarn Nitet*, a quarterly journal of the Public Prosecution Department with a circulation of 800.

In addition, a number of scientific periodicals publish legal articles and problems from time to time. Among these are *Thammasat Journal* published quarterly by Thammasat University, and *Journal of Land Registry Department*, a bi-monthly publication.

The common aims of these law journals are (i) to enable members of the legal profession to keep abreast of the changes and development of the law and its administration and (ii) to keep them informed of the activities of their institutions. Among the main features of these journals are: results of legal research presented in the form of articles, academic discussion of important topics of the law, current legal problems, recent statutes, recent cases and comment, legal news. These journals play an important role in shaping legal thought and in improving the standards of the administration of the law.

Conclusion

It may be said in conclusion that the system of legal education in Thailand has developed side by side with the Thai legal system. It has raised the standards and prestige of the profession so much that the legal profession of the present day ranks high among the major professions in the country. Yet we are still trying to the best of our ability to improve the system of legal education, realising that it is still far from perfect; in other words, improvement is our spirit, perfection is our aim. We shall always strive for that aim.

III. STANDARDS OF ADMISSION AND GRADUATION; CURRICULUM; MINIMUM STANDARDS FOR LAW SCHOOLS; OPTIMUM NUMBER OF STUDENTS; TEACHING METHODS; EXAMINATIONS AND MEDIUM OF TEACHING

WEDNESDAY AUGUST 29 1962 (MORNING SESSION)

Chairman: G. W. Bartholomew
Rapporteur: T. Nadaraja

1. The Problem of Selected Student Body in Indian Law Schools

by

DR. ANANDJEE *

I. Principal Problems

The principal tasks facing Indian Law Schools are in three areas. First, the teaching staff must be developed and maintained at a high standard of excellence, in the face of competition with numerous schools which are just as earnestly seeking excellence. Second, to have a " selected student body ", the Law School must attract highly qualified applicants from among the growing number of college graduates who, in many cases, need financial assistance to enter a professional school. Third, while broadening the base of legal education, training in law must be intensified. Emphasis must be laid on small classes, individual research and frequent informal consultations between students and professors. These require not only physical facilities (such as library, both the books themselves and the space to store and use them, seminar rooms, lecture rooms and, among other things, rooms for members of the teaching staff and research students) but also opportunities for development of individual potentialities.

The task is stupendous.

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Whether we look to the Radhakrishnan Report, or to the Law Commission Report, or to the deliberations of the All India Law Teachers' Conferences, or to the proceedings of the various State Lawyers' Conferences, or to the expressions of opinion of eminent judges, lawyers, law teachers and, even, politicians, or to the Report of the (Inter-University Board) Committee on Legal Education, the inadequacy of training in law and the low standard of legal education in India is stressed everywhere.

Nevertheless, it is imperative to attain our goal of excellence: to improve and continue to improve the standard of legal education.

During recent years, the role of law graduates has been much misunderstood, criticised and even maligned. While there is some truth in the assertions that the lawyers-of-the-day are " obstructionists ", " technical interpretationists " and " impediments in the establishment of a socialistic pattern of society ", it has rarely been realised that the remedy lies not in decrying the profession but in providing a system of legal education that will produce men adept in tailoring traditional legal prescriptions to the needs of present-day India and making our law a tool of social engineering. Moreover, if we are to have a successful democracy or even to achieve our socio-politico-economic objectives within the framework of our Constitution, the importance of legal education cannot be minimised. (It is, certainly, no less important than the study of scientific and technological subjects). Indeed, the need for adequately trained law graduates was at no time in the history of human civilisation greater than in the case of a colonial country which has, on independence, adopted the parliamentary form of government, guaranteed certain fundamental rights, and pooled all her resources for the economic emancipation of her people.

II. Selected Student Body

It must be conceded, at the very outset, that the problem of selecting students is exceedingly difficult. There are three major difficulties. First, the general standard of students seeking admission to law schools is very low. Second, an appreciable number of good students who do come to the law schools are really not interested in the study of law courses; their basic aim is the acquisition of an LL.B. degree which they think would help them in their promotion. Third, another segment of good students who come to law schools and are keen on law studies have not the financial resources to proceed with higher studies in law.

Sir Henry Maine wrote that legal studies were given highest priority in Rome because " Law was the doorway to wealth, to fame, to status, to the Council Chamber, nay to the very throne itself ". Obviously he was speaking in terms of the utility of the knowledge of law to the individual for success in life. Unfortunately, in this

respect, our syllabus of courses falls short of desired levels. The result is that, as a means to economic security and prosperity, our young men prefer Engineering, Technology, Medicine, Science, or even Education and Library Science courses. And, it is only when they have failed to pursue these courses that they come to the study of law.

The impact of this preference cannot be over-emphasised. The position in the 1960s is totally different from that which prevailed, say, in the 1940s. The proportionate increase in the total number of seats in Engineering, Technology, Medicine, Science, Education and Library Science courses is greater than the proportionate increase in number of students passing qualifying examinations for these courses. As a result of this, students who had no chance of getting admitted in these courses in the 1940s are now able to secure admissions and the standard of the students not admitted to these courses is lower today than it was in the earlier days. Independence, democracy, industrialization, attempts to develop a socialistic pattern of society and generally the changed outlook of the 1960s has also affected the intake of a good class of students that was available to us in former days. These used to be a segment of the society that was averse to business and industry or employment in the private sector, whether as an engineer or administrator or in any other capacity. Young men, often brilliant, from these families came to study law. However, today not only the aversion has been whittled down but the needs of economic security compel these students to enter into business and industry or professional employments therein. They are, therefore, no more available to us. Another feature to be noted is that, in early days, because of the comparative high costs, students coming from lower economic brackets, though brilliant in studies, could not afford courses of study in science, medicine and technology. Today, however, there are any number of scholarships for these courses and a student is seldom denied education in these branches because of economic reasons. Thus, even these good students are not now available for law courses. The standard of students seeking admission to law courses is further affected by the fact that postgraduate study in science, education and even in arts carries not only " certain " and better economic prospects but more scholarships to help the needy students at the post-graduate level. Law courses are conspicuous by the absence of appropriate scholarships.

This is not all. Law students cannot even be selected on the basis of marks obtained. There is quite a good proportion of students who utilise the duration of legal studies as a waiting period either for appearing at various competitive examinations or for getting suitable jobs and the moment they get an appropriate employment they either quit the study or, if they have already completed their courses in law, forget about it. Further, since the law classes are held on a part-time basis either in the mornings or evenings, a number of employees offer

law courses merely with a hope that the acquisition of the additional degree of LL.B. would, one day, help them in their promotions. Thus if we are to admit students merely on the basis of marks, it is certain that we would be admitting a number of students who are not really serious about law courses and we would be eliminating many who, though they have lower percentage of marks, are, nevertheless, serious to study law.

I am of the opinion that the problem of having a " select body of students " can be best tackled by eliminating the causes of apathy for legal studies. It needs a three-pronged approach: 1) putting legal education on a full-time basis. This would, it is believed, while giving sufficient time for adequate training in law, eliminate those who join law classes only for the sake of a degree; 2) altering the courses of studies in a manner that would ensure adequate training in law, both principles and application, for the diverse careers that are pre-eminently suited to law graduates. This would, it is believed, while raising the standard of legal education, open new job opportunities and attract a better calibre of students; and 3) making available sufficient number of scholarships at all levels of legal education. This would enable those deserving students, who are unable to pursue legal studies because of financial reasons, to study law.

(1) Three-Year Full-time Course

Merely putting the law classes on a full-time basis will not solve the problem. With the growing complexities of society, laws are not only multiplying but have also become complex. It is well-nigh impossible today to do full justice to the law courses in two years of full-time instruction, far less to train law graduates for the various careers that are open to them. This fact was recognised as early as in 1948 by the Radhakrishnan Commission and, ever since then, there is complete unanimity of the view that a three-year period is the minimum required. Of course, there is a sharp division of opinion on the question whether the third year should be at the disposal of the University or at the disposal of the Bar Council. However, in my view, those who stress that the third year should be at the disposal of the Bar Council, fail to recognise that the legal profession is not the only career which is open to a law graduate; and two years' duration is as insufficient to train students for the legal profession as for the other careers.

Recently, a Committee consisting of:

(1) Sri N. H. Bhagwati, Vice-Chancellor, Benaras Hindu University (Chairman)
(2) Sri M. C. Mahajan, retired Chief Justice of India
(3) The Honourable the Chief Justice, Allahabad High Court, Allahabad
(4) The Advocate-General, Uttar Pradesh, Allahabad

(5) The Dean, Faculty of Law, Agra University, Agra
(6) The Dean, Faculty of Law, Aligarh Muslin University, Aligarh
(7) The Dean, Faculty of Law, Allahabad University, Allahabad
(8) The Dean, Faculty of Law, Delhi University, Delhi
(9) The Dean, Faculty of Law, Gorakhpur University, Gorakhpur
(10) The Dean, Faculty of Law, Lucknow University, Lucknow
(11) The Dean, Faculty of Law, Rajasthan University, Jaipur
(12) Dr. A. T. Markose, Research Director, Indian Law Institute, New Delhi
(13) Dean Anandjee, Benaras Hindu University (Convener)

considered the problem of the duration of courses and resolved to recommend the introduction of a three-year six-term LL.B. degree course in the Banaras Hindu University.

This, as already indicated, would, while giving ample time for adequate training in law, eliminate those students who pursue legal studies only for the sake of a degree, as also those students who utilise the duration of legal studies as a waiting period either for appearing at various competitive examinations or for getting suitable jobs. The Law School, it is believed, will have, under the new scheme, students who are dedicated to the study of law.

(2) Courses of Study

The problem of courses of study in law is intimately connected with the problem of determinig the objective of legal education.

The traditional view that University law courses are a part of liberal education, though generally accepted by Indian educationists, is, to my mind, hardly applicable to Indian conditions. At least, it has not been so thus far.

First: the liberalising effect of legal studies lie in the dynamism of the policy-oriented approach of the common law and, in particular, in the study of the conditions which led to the modification and refinement of prevailing legal concepts as well as of the processes by which those modifications and refinements were brought into effect to meet the needs of the changing society. We are, however, mostly, if not wholly, concerned in India with statutory law which, by itself, is static. The view that a judge is to interpret the law and not to legislate, further restricts the scope for a policy-oriented approach to our legal problems. The result is that we have, generally speaking, not developed the art of co-ordinating the law to the needs of society and our perspective is unduly restricted.

It is interesting to note the ever-increasing legislative activity in this country and the lack of any effort to utilise the existing body of Law and the corollaries flowing therefrom. Indeed, very often

it is difficult to reconcile different pieces of legislation in the same area. And, even where different pieces of legislation can be reconciled to give a wholesome view of the law, a preference to treat the various pieces as altogether different entities is often discernable. Further, teaching of statutory law, particularly as done in India, tends to avoid not only the surrounding socio-politico-economic background and factual problems but also the evolutionary process of the law. This results in neglecting the study of law as a tool of social engineering and over-emphasizing rights which, far from having a liberalizing effect, narrow the perspective. (To a considerable extent case-law methods offset this particular drawback though, of course, it relegates statutory law into a secondary position.)

Second: Modern legal education in India was started by the British and one wonders if they wanted to add to the numbers of Ranade, Tilak, Mahatma Gandhi, Moti Lal Nehru, C. R. Das, Bhulabhai Desai and others. If we look into the syllabus of courses, it becomes apparent that the purpose was primarily to acquaint Indians with the Rule of Law which would help the British in the administration of the country. The liberal views of some of our outstanding men were exceptions and, perhaps, not the result of legal education in the Indian Universities. Indeed, a good number of our outstanding leaders, who enthused Indian public opinion with liberal ideas, were educated in Great Britain.

Third: The LL.B. degree in India is not merely an academic degree but also an essential prerequisite for entering the Bar (cf. England). Indeed, some of the High Courts did not, until recently, require anything, other than a LL.B. degree for enrolment.

There is also an underlying current of opinion which apparently believes that all those who enter the portals of a Law School take up the legal profession. This view, obviously, emphasises the professional character of legal education and is based on:

(1) the fact that most of the High Courts did not, until recently, prescribe any distinct examination for entering the Bar;

(2) the fact that, in an era first marked by paucity of lawyers and later by acute educated unemployment, a good many of our law graduates loitered in Court precincts; and

(3) the fact that, until recently, law graduates had no distinct opening other than the legal profession.

However, it is doubtful if more than 30% of our law graduates stick to the legal profession. Moreover, our curriculum is hardly designed to fully train students even for the profession of law.

I accept that legal education has a liberalizing effect and that quite a few law graduates join the profession. But, I assert that Indian Law Schools have singularly failed both in imparting liberal education as well as in training students for the profession of law. Moreover, they have failed to keep pace with the changing times.

The syllabus of courses, introduced some 60 years ago, continue, with slight modifications, to be prescribed even today. Neither the method of teaching nor the materials used in the classrooms have undergone appreciable change. How can we produce men who are trained in the techniques of policy-making decisions, of co-ordinating law in the books with the law in practice, and of tailoring traditional legal prescriptions to meet the demands of modern society? The Austinian concepts of sovereignty, property and contract have no place in the present-day context of modern India. Sir Henry Maine observed that the progress of society was from status to contract. But, we know only too well that, after reaching a certain stage in the evolution of civilisation, the pendulum has swung back. We are now moving from contract to status. How can a student trained in the outmoded and factually untenable legal concepts be expected to meet the problems of modern India and produce a prescription that would be conducive to the attainment of the socio-politico-economic objectives of a socialistic pattern of society?

There is another way of looking at the problem. Even though the emphasis has been, and shall remain, on preparing our students for the profession of law, it is important to remember that the legal profession is not the only career open to a law graduate. Today, more than ever, law graduates are needed in public services, industry, business, legislative bodies and, among other things, for international assignments, research and law teaching. However, as already pointed out, our syllabus of courses do not take notice of these openings and do little to train the students for the diverse careers that are open to them.

It appears to me that, in the present materialistic world, liberal education cannot be the sole objective of law courses in the universities. The perspective requires re-adjustment. We have as much to prepare our students to meet the economic challenge of life that awaits them on the corner as to impart liberal education. Further, a student should be prepared not only for playing a role in the traditional legal profession but also in the diverse other fields that are pre-eminently suited to him. Our syllabus of studies should be so framed as to enable our students to make use of their training to a greater extent than has been possible hitherto and, thereby, secure economic stability and prosperity. Unless we adopt this perspective, we have a feeling, we can neither attract the best brains to the law schools nor make appreciable progress in raising the standard of legal education.

The aforesaid Bhagwati Committee, after a full and detailed discussion, resolved to recommend the introduction of a career-oriented LL.B. degree course in the Benaras Hindu University.

This broadening of the perspective of legal education, it is believed, would have a salutory effect on the quality of students who would now be seeking admission to the Law School.

A Committee consisting of:

(1) The Honourable the Chief Justice of India (Chairman)
(2) The Law Minister, Government of India, New Delhi
(3) The Attorney-General of India, New Delhi
(4) The Honourable the Chief Justice of Uttar Pradesh, Allahabad
(5) The Advocate-General, Uttar Pradesh, Allahabad
(6) Dean G. S. Sharma, Rajasthan University, Jaipur
(7) Dean V. N. Shukla, Lucknow University, Lucknow
(8) Dean V. V. Deshpande, Patna University, Patna
(9) Dr. A. T. Markose, Research Director, Indian Law Institute, New Delhi
(10) Dr. M. P. Jain, Reader in Law, Delhi University, Delhi
(11) Dr. Krishna Rao, Ministry of Foreign Affairs, New Delhi
(12) Sri W. L. Mazumdar, Ministry of Commerce & Industry, New Delhi
(13) Dean Anandjee, Benaras Hindu University (Convener)

met at New Delhi on August 11, and resolved to recommend the introduction of the following course of study:

A. Any one of the following groups of papers shall be offered, with the permission of the Dean, as papers IV and V in the 4th, 5th & 6th terms.

Group I **Procedure**

Paper I Limitation, Prescription, Court Fees, Stamp Fees, Suits Valuation and Small Causes Court
Paper II Pleadings, High Court and Supreme Court Rules, and Land Laws

Group II **Mercantile Transactions**

Paper I Bailment, Pledge, Guarantee, Sale of Goods & Negotiable Instruments
Paper II Transport of Goods

Group III **Business Organization**

Paper I Business Organization
Paper II Business Organization
Paper III Banking
Paper IV Insurance

Group IV **Regulated Industries**

Paper I Public Corporations
Paper II Public Control of Private Enterprise

Group V **Labour**

Paper I Law relating to Labour-Management Relations
Paper II Social Security Legislation

Group VI **Taxation**

Paper I Constitutional and Administrative Problems relating to Taxation and selected Union Taxation Statutes
Paper II Selected State Taxation Statutes and Legal Accounting

Group VII **International Relations**

Paper I International Institutions
Paper II India and International Law

Group VIII **International Trade**

Paper I International Trade
Paper II International Transport of Goods

Group IX **Private International Law**

Paper I Private International Law
Paper II Comparative Law

Group X **Constitutional Law**

Paper I Federal Constitutions
Paper II Civil and Political Rights

Group XI **Legislative Process**

Paper I Current Problems of Constitutional Government in Asia
Paper II Legislative Process in India

B. *Any one of the following papers shall be offered, with the permission of the Dean, as paper III in the 5th and the 6th terms.*

Group XII **Miscellaneous**

(1) Trusts, Charitable Endowment and Wakfs
(2) Comparative Ancient Law
(3) Labour Law III — Minimum Standard Statutes
(4) Arbitration and Insolvency
(5) Copyright, Patents and Trade-mark
(6) Military Law
(7) Local Self Government
(8) Law relating to Communications
(9) Tax Structure of South East Asian Countries

(10) Roman Law

(11) Any of the papers falling in Groups I to XI

It thus envisages extensive as well as intensive study and is designed to prepare students for the various careers that are open to law graduates.

The new courses of studies, when enforced, would restore the importance which rightly belongs to the legal education. It will, it is believed, help such training in law as is needed in the country. Further, the emphasis on career-orientation would prepare our students for gainful employment and their gainful employment, in its turn, would attract a better calibre of students, to the Benaras Law School.

(3) **Scholarships**

The University Grants Commission, India, have instituted a few scholarships. These are tremendous improvements over the past but, nevertheless, they are not sufficient. We shall have to make efforts to have more scholarships, and not merely freeship or merit scholarships, at all the levels of legal education. Research fellowships and financial assistance to post-graduate students are absolutely imperative if research in law by competent students is to be encouraged.

We contemplate a two-pronged solution: (1) requesting the University for the institution of appropriate scholarships and research fellowships; and (2) creation of private endowments for the help of needy students. Part-time employment in matters connected with legal education may offer yet another avenue.

APPENDIX A

A Note on the Courses of Study

1. *The syllabus of studies has been framed on the following basic assumptions:*

   (a) There shall be two terms of 100 working days in each academic year and at least 60 lectures will be delivered in each of the papers;

   (b) The class shall consist of not more than 60 students in compulsory papers and 20 in optional papers, including Languages, Moot Court and Legal Writing etc.;

   (c) Compulsory papers will be taught at the present level of LL.B. standard with this difference that there will be more reliance on cases and discussions than on lectures;

   (d) Optional papers will be taught at a level higher than the present LL.B. standard but lower than present LL.M. standard. These classes will be conducted on seminar basis and will be policy-oriented;

   (e) The Course on Legal Research is designed to introduce students to the problems relating to factual analysis of collection of materials, application of statutory material, determining ratio *decidindi* of decided cases and their applications;

   (f) Moots will be conducted on the basis of paper-books of cases decided by High Courts and Supreme Court. Effort will be made that a member of the judiciary presides over at least one session, in which a student participates. Trial cases may be introduced at a later stage.

   (g) The Course on study of selected problems is intended to help those students who do not want to enter the legal profession. Such study, it is expected, will provide them with greater opportunity to equip themselves with the knowledge that will be required of them in their chosen career;

   (h) It has been our experience that our students, even the best ones, are generally unaware of current legal problems which do not specifically fit in their prescribed courses. The idea here is to introduce students to current legal problems so that they may be better enabled to decide about their post-graduate career and also be better-informed graduates;

(i) The courses on Languages consist of two years of English and one year of Hindi. These courses will have for their object a language rather than literature bias.

(j) There shall be no examination in Legal Writing, Legal Research, Moot Court, Current Legal Problems and Languages (Papers 6 and 7 in each term). These courses will be conducted on a seminar basis and students will have to obtain pass marks in sessionals.

(k) Hindu Law and Mohammedan Law have been treated as one subject and the course spread over into two papers: Family Law I and Family Law II. These papers deal with specific topics such as Sonship, Marriage, Inheritance etc., and run across the barriers of specific personal laws. Indeed, it includes Hindu Law, Mohammedan Law, Parsi Law and Civil Law. It has been done on the assumption that, with the implementation of the " Directive Principles of State Policy " relating to uniform Civil Code, the subject is bound to be arranged, according to topics as envisaged in this paper. Moreover, a comparative study of the law would be helpful in better appreciation of the usefulness of specific personal laws in meeting problems of domestic relations, which appreciation would be conducive in determining the norms of uniform Civil Code.

The jurisprudential aspect of Hindu Law has been separated and made a compulsory subject. Further, comparative Ancient Law, which is an optional paper, would give opportunities for the treatment of the jurisprudential aspects of Hindu Law as well as Mohammedan Law.

(l) Certain papers such as Constitutional Law, Business Organization and International Law are too heavy to be treated in one course. They have accordingly been split into two or more papers. While the core of these subjects has been included in compulsory papers, special papers offer an opportunity for further detailed study of the subjects.

(m) The basic laws relating to liability and procedure have been put together in the first two terms so that, during the ensuing summer vacations, students may be in a position to get practical training.

(n) The course for the third year is so designed as to permit students, who have obtained their LL.B. degree from Universities having a two-year course, to join LL.M. in the Benaras Hindu University. These students will be required to pass the third year course of LL.B. degree before being admitted to the LL.M. course.

THREE-YEAR SIX-TERM LL.B. DEGREE COURSE OF STUDY

First Year		Second Year		Third Year	
I Term	II Term	III Term	IV Term	V Term	VI Term
1. Legal History of India	1. Constitutional Law — I	1. Constitutional Law — II	1. Public International Law	1. Jurisprudence — I	1. Jurisprudence — II
2. Family Law — I	2. Family Law — II	2. Law of Evidence	2. Administrative Law	2. Interpretation of Deeds & Statutes & Drafting of Statutes	2. Hindu Jurisprudence
3. Law of Crimes	3. Law of Civil Procedure	3. Property — I	3. Property — II	3. One of the subjects in group XII	3. One of the subjects in group XII
4. Law of Contracts	4. Law of Criminal Procedure	4. Business Organization — I	4. One of the optional	4. One of the optional	4. One of the optional
5. Law of Torts	5. Legal Remedies	5. Business Organization — II	5. groups I-XI	5. groups I-XI	5. groups I-XI
6. Legal Research	6. Moot Court	6. Legal Writing	6. Moot Court or Study of selected Legal Problems	6. Moot Court or Study of selected Legal Problems	6. Current Legal Problems
7. English	7. English	7. English	7. English	7. Hindi	7. Hindi
PRACTICAL TRAINING		PRACTICAL TRAINING		PRACTICAL TRAINING	

Note : Each term shall comprise of 100 working days at least 60 lectures per paper.

2. Examinations and Medium of Teaching

by

A. T. MARKOSE *

Examination, the testing of candidates, which should be a personalized and unpaid responsibility and which should form a part of every teacher's work for the year, is now an impersonalized paid job. This process of the commercializing of human nature without very much humanizing commerce is, it is suggested, completely to be reversed. A brief examination of the entire problem is needed to appreciate this suggestion.

The object of examination in law as, I suppose, in other branches of knowledge, is to know whether the candidates who have completed the prescribed course of instruction have attained the desired efficiency in the subjects in which they were instructed. The converse of this proposition would be that an examination is a device to see that the undeserving are not allowed to have the degree for which the examination is held. All thoughts regarding the examination system revolve around these two principles.

But a point which is usually not noticed in discussions on the examination systems is the excellent use that one can make of it as a policy-implementing device to regulate the inflow of new entrants into a professional group. Proficiency in any discipline being a relative term, the sluice of success in the law examination could slide down or up according to the glut or scarcity of lawyers in a community, so that if one talks in terms of economics—the consumer's surplus in integrity and monetary compensation—the entrance to the profession is preserved at a high level. In many countries it is really the other way round. Instead of keeping the standard of test for declaring successful candidates geared to the demand of the community, the percentage of passes is more or less fixed. Under such a scheme the annual output of successful candidates fluctuates only according to the number of candidates who take the examination, which in its turn depends mainly on the pressure of admissions. It is suggested that more attention should be given by legal educationalists, bar associations and governments to the possibility of the use of examinations as a machinery to control the supply of lawyers in a given society. This device has its own disadvantages and practical

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difficulties of implementation. Being the result of an approach that is only beginning to be noticed it will also appear more objectionable than it actually is. Probably in actual practice it is already in operation even though subconsciously.

This paper is with particular reference to the LL.B. degree examinations. Considerations of space and time prevent a discussion of the problem in relation to the post-graduate courses in law.

There is a great deal of variety in details in the system of examinations conducted in India in law. The following only tries to highlight the more important points which deserve attention.

In at least one university the LL.B. course which is spread over three years is so arranged that a person who has failed in the public examination of the first year can attend the second year classes and sit for both the examinations in the second year, and one who has failed in both the years can still continue his course in the third year. The LL.B. course is of three years' duration in another university, but here, unless a candidate passes the first year examination, he cannot sit in the next year class at all. Barring these exceptions, the teaching of law courses is divided into two years in India and at the end of each year there is a public examination and attending the second year LL.B. is possible only after passing the examinations in the first LL.B.

In some law schools like Delhi, the first division and the second division are decided on the total marks of both the years while in law Schools like Benares, a candidate who gets a first division in LL.B. preliminary examination and fails to get first division in the LL.B. final is not affected as far as his first division in the preliminary examination is concerned and vice versa.

The question paper all over the country is of three hours duration and for a maximum of a hundred marks. Usually six questions are to be answered. In the South Indian Universities of Kerala, Madras, Andhra and Mysore—there are no optional questions and all the questions are to be answered, while in the other universities out of about nine questions six are to be answered. Other things being equal, it is evident that this one difference alone makes the first group of examinations about 50% more tough than the second group.

The South Indian Universities classify the successful candidates into three divisions: Those who secure 60% and above of the total number of marks are placed in the first division and those who secure 50% or above in the aggregate marks of all papers in the second division and those who get 35% or more, but less than 50% average, in the third division. The others fail. In the other universities there are only two divisions. Those who get 60% or more are placed in the first division (Delhi has 65% and Benaras has 66% of marks as requisites for a first division). Those who get 50% or more but

less than 60% of the aggregate marks are placed in the second division. All others are declared to have failed. All universities prescribe a special minimum for each paper. One would think that this difference should make the standard of those law schools having the system of two divisions higher but actually, as a person who has experiences of both systems and who owes allegiance to both, I would say that it practically works out only in the complete elimination of a first division law student in South Indian Universities. Indeed, unjustifiable disadvantages follow this phenomenon in getting foreign scholarships, University Grants Commission, research fellowships and scholarships and employment, because almost 80% of the successful candidates in the Southern Universities hold third class degrees.

The form of the question paper is more or less uniform for the entire sub-continent. The exceptions are only because of individual question paper setters. The questions in the majority of cases are couched in single sentences and demand an essay type of answer. Problems if put are taken from the illustrations printed in the particular statute concerned. The simple explanation of this is the time element which is involved in the setting of the two types of question papers. No law or even convention prevents any examiner in India from putting a problem type of question paper. Sometimes there is a happy combination which, as was stated, is because of the individual who sets that question paper. A problem-dominated question paper needs almost five times the time for marking while six questions of one sentence each can be marked, after a few years of experience, in so many minutes. It is the general consensus of all progressive law teachers that the problem type of question is a better medium to test the lawyer's equipment of a law student. The general interest that is now evinced by the Indian law teachers in the advancement of academic standards is sufficient to suggest that in the near future the problem type of question paper will certainly predominate.

In North India the examinations are held in the morning between seven and ten and only one paper is given per day and generally there is a gap of one day after three papers. In South India two papers are given in one day and the examination is finished in as short a period as possible by having two papers on each day, and the examination conducted on successive days until the whole examination is over. This is not a problem peculiar to law examinations. Educationalists and teachers have been anxiously thinking about the effect of a prolonged examination, with the effect of an examination that is finished in the quickest time possible, on the general performance of the candidate. In my first LL.B. examination the seven papers took twenty-four days to finish so that by the time the last paper was to be written my only prayer was that the ordeal should end somehow without a nervous breakdown and the thought of

securing a division or rank had long ago fled from my mind. On the other hand when I sat for my LL.M. examination of the Bombay University the six papers were completed in three days. Writing for six hours each day I was so much exhausted that it took forty-two days for recovery from a cold that I caught on the last day. Indeed the examination hall of that University is known among the students as the "slaughter house" and one could consider the appelation as more appropriate than in a merely figurative sense. The optimum period and spreading of the law examination requires the attention of law teachers and is a point on which more than a moral hangs.

It is now a practice universally accepted in India never to give to the teacher who teaches a particular subject the duty of setting the question paper on that subject.[1] Further, the general rule is that 50% of the examiners in all public examinations in law should be from outside of the teaching staff of that university. The object of these rules, according to its supporters, are obvious: to see that uniformity of standards are kept all over the country, that no university makes an unduly preferential treatment towards its own candidates and that all teachers are protected from their own possible human weaknesses. But there is another view about these rules which is fundamental to the entire idea of this semi-external annual public examination system practised in the country. According to this view the present practice is found on two-fold distrust and a fallacy: distrust of university faculties as such, distrust of its individual law teachers and on the fallacy that by the above rules uniformity of standards is maintainable and even more fundamentally that the maintenance of any such dead uniformity is desirable.

The supporters of the existing system elaborate the advantages of the double check through the introduction of fifty per cent of external examiners and the prohibition of question paper setting on a subject by the teacher who teaches that subject. No teacher will be lazy because, not knowing from what part of the prescribed course the questions will be put, he will have to teach the whole of the prescribed course. He cannot pick and choose only those areas of the subject on which he would put the questions were he to put them. Secondly, he will not be able to favour his pet students if he ever has some (and who has not got one or two of such) but under the above dispensation all will have an equal chance. Mastery of the subject alone could give success and rank for a student, not the proper cultivation of the master. Thirdly, no university can get an undue preference by the unscrupulous boosting of the average marks of its successful candidates in All-India competitions, the getting of jobs, foreign scholarships, Indian research fellowships, etc.

[1] The Benares University is said to be the only exception.

The critics of this system,[1] on the other hand, point out that it deadens initiative of the particular teacher and completely discourages specialization. Further, they add that it destroys students' co-operation in the classrooms and, worst of all, it undermines discipline in class. It makes paper valuation a mechanical-impersonal affair. Where actual securing of pass-marks is concerned this may make the moods and the pressure of work of the examiner a decisive factor in the success or failure of candidates. In contrast, to the teacher who has taught those candidates and has had close contact with them for a full year and who has therefore a clear image of their faces in his mind, the valuation of each paper is a matter of lively and personal interest. A teacher who is worthy of his salt will not give undue credence for worthless candidates but he will at the same time be able to appreciate those special angularities of each candidate more than anybody else. To him each paper has an individual significance and a significant individuality. It makes the whole system of examination meaningful.

It is very difficult to give a clear-cut verdict between these two points of view. Probably it is not only the distrust at the law teacher that motivates the system of external examiners but the anxiety that no good candidates should suffer or no really incompetent candidate allowed to pass because of the absence of a second thought which is exercised by another equally competent mind. Therefore a compromise may be recommended under which the second examiner may be another member of the same faculty or college as the case may be—but not external to that university. When well-known scholars on a particular subject are invited to act as external examiners by a university it no doubt adds to the efficiency and reputation of that university and it becomes difficult to cavil against such a system. It has only to be mentioned that at the graduate or LL.B. level such an external examinership could be used only along with a testing or grading system which obviates disadvantages of the unfamiliarity of that examiner with the peculiar conditions of a local nature existing in the candidates' university. However, grading by external examiners could be used more at the LL.M. and higher levels. At the LL.B. level the giving to the teacher who has to give course a large amount of discretion to develop his own subjects in his own way and to grade the students with the help of another faculty member is preferable. This will keep up healthy institutional and individual competition in legal academic life, create scope for experiment in teaching methods, supply avenues for pioneering spirits to devise teaching tools and examination systems that will respond to the changing needs of legal education.

[1] The critics want complete freedom to be given to the teacher who gives a course to decide the methods through which he will grade his students. In U.S.A. the teacher who sets a term paper has to grade it, and give it to the other teacher for independent grading.

The next question is how far the existing system is adequate as a test to weed out the unfit. It is now generally accepted that the present system of the three-hour paper with a 100-marks maximum taken at the end of the academic year is more a test of successful guessing of the probable questions and more or less mechanical memorising of the answers of those questions rather than of all round competence to use the lawyers' skills. While this criticism is not entirely true and while a complete substitute for the written examination is yet to be devised, the need is admitted for the supplementing of the above type of written examination by other tests. The usual devices discussed are term papers for which separate marks are assigned, tutorials where a certain percentage of marks may be set apart for readiness of comprehension and tactical discussions and performance at moot courts, etc. In certain subjects, instead of one paper, two or three bi-monthly papers may be introduced. This system of testing will have the advantage of keeping a candidate continuously at work on the subject and giving him the advantage of knowing his deficiencies at a stage in the course where he has all the time to remedy them. As it now happens the one jump of the student is the final one with no chance of knowing his faults and remedying them without the loss of one year.

II

Another area on which I am asked to write is the medium of teaching. From the learned speakers at the first general discussion in this house on Tuesday, August 28, we have found that in the region of South and South-east Asia various methods have been adopted by various countries. In India today, in a few universities option is given to the students to answer the law examinations in Hindi. To my knowledge no universities provide for instruction to be given in Hindi—English is still the medium of teaching.

Ceylon has decided to have the national language as a medium of examination and instruction. Burma is adhering to its time schedule for the introduction of the national language (India has shown more adaptability in this matter) while Thailand from the very beginning had been teaching law in their own mother tongue. Without entering into the substance of this controversy, it may be sufficient for the present purpose to state that considering the fact that both the primary and the secondary materials of law are almost entirely in the English language, it is desirable to continue the present arrangement until satisfactory conditions are created for the change-over.

I hope it is only the above point that is involved in the phrase " the medium of teaching ". I imagine that audio-visual equipments or recorded lectures played on a microphone to classes and matters of that type are not expected to be discussed.

3. Minimum Standards for Law Schools

by

R. C. HINGORANI *

It is indeed heartening to note that the First Regional Conference on Legal Education in free Asia is seized of the problems facing legal education in various countries coming within its region. I imagine that every State is conscious of the fact that with the advent of dawn of independence on its horizon, the problems relating to legal education must come in the forefront if it has to discharge its responsibilities as an independent nation within as well as beyond its frontiers. Perhaps, the present Conference is the result of this consciousness.

The foremost problem facing legal education today, according to me, is to fix some minimum standards for law schools. The reason is obvious. Prior to independence in this region, many of the persons who intended to graduate in law had their education in the United Kingdom, France, Germany or some other Western country. This was the practice even in the independent countries like Thailand, Japan and China. However, the times have changed. States have begun to open their own Law Schools. How far these institutions are comparable to the Western ones and whether they fulfil the basic needs of a law student of an independent nation are the pertinent questions which should engage our minds here.

Aims of Legal Education

In order to determine the minimum requirements of a law school, one has necessarily to know the aims and functions of legal education. The aim of legal education, it is said, is to produce lawyers. However, this is only the half-truth. Elsewhere, it is contended that there are two objectives of legal education, professional and academic. This is also only partly true.

Legal education, according to me, should aim at developing the thinking faculty and capacity of the student in order to train him to become a responsible citizen of his country. He should be able to discharge his functions properly in a free and democratic society where he should be the champion of Rule of Law and peaceful order.

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It is my conviction that people hardly realize the potentialities of an ideal law graduate. Statistics reveal that the legal course is an omnibus course whose graduates guide the destinies of almost all the countries; they form the cream of diplomatic corps and administrators and maintain the Rule of Law in the judicial and professional capacity. Besides, they represent the conscience of people. The function of legal education is, therefore, not only professional or academic but also administrative, political and social training. This is sufficiently borne out by the Report of the Bombay Legal Education Committee when it said in 1949:

> " If society is to be adapted to the profound changes in the basis of social and economic life, resulting from changes in world conditions after the war, and in India, particularly after 1947, we feel that it is mainly the lawyers that India must look to. The legal profession is called upon to take stock of this situation and to contribute to wide social adjustments. If it fails to do it, it will ultimately be eliminated from the revolutionary scene. ..... We feel that lawyers cannot remain aloof from these processes of evolution and legal education cannot wait until all other problems of the nation are solved. On the contrary, lawyers will be called upon to play an important part in these evolutionary processes. Their education, therefore, is of vital importance. This, therefore, is the right time for setting legal education on a sound basis " [1].

It is thus clear from what has been said above that the legal education is a multi-purpose course which should be taught in such a way as to satisfy the aspirants in their particular vocation. This can only be achieved if we were to emphasize the essential constituents of law school comprising staff, students, library, journal, building, and finances.

Staff

For a good law school, it is but essential that its teaching staff should be competent and respect-inspiring. No law school can possibly survive without efficient staff. Teachers are the spirit around which the institution moves. Reputation of the institution depends upon its teachers who are associated with it. Harvard, Yale or Columbia would not have enjoyed the same reputation but for the teachers who have made these institutions famous centres of legal training.

What are the qualities of a good teacher and how is he drawn to a particular law school?

A good teacher is not necessarily a law graduate having a bright academic career, although it is very much desirable. He must

[1] Report of the Bombay Legal Education Committee, 1949, p. 5.

rather be an original thinker capable of making his own contribution to a particular field of law. He must be a potential researcher having an aptitude for research. Here lies the basic difference between the teachers in the American or Continental law schools on the one hand and the teachers in the Asian law schools on the other hand. I am not trying to run down the law schools in our region. It is a candid confession which is supported by no less a person than Dr. Radhakrishnan, present President of the Republic of India, in his famous report on education associated with his name. Thus, he said:—

> " We have no internationally known expounders of jurisprudence and legal studies. Our colleges of law do not hold a place of high esteem either at home or abroad, nor has law become an area of profound scholarship and enlightened research " [1].

His remarks have been amply reinforced by facts. In the post-independent era in Asia, we have been engaged in a number of legal controversies on an international plane. Yet our interests were represented by professors like Waldock, Guggenheim, Berber and others from the Western hemisphere. We had no experts or jurists to offer to our governments to represent our cases. We need to fill up that gap by manning our law schools with eminent teachers and jurists.

Part-Time Teaching

The problem of efficient teachers would raise another pertinent question of part-time teaching. I would say that this is a crucial question, solution of which will greatly determine the success or failure of our system of legal education. However, since the question involves some aspects of misconceived rivalry between the lawyer and professor, it should be our endeavour to treat it objectively and dispassionately.

By discussing this problem, I do not mean to rule out part-time teaching completely. But it is my considered opinion that in the interests of better legal education, it is very essential that law teaching should not be entrusted to part-time teachers. The reasons are not far to seek. The practising lawyers who have lucrative practice at the bar will not come forward to teach as they would have hardly any time to spare for teaching. Others who would like to teach may not be so worthy of the job that may be entrusted to them. Part-time teaching necessarily restricts the choice to local lawyers who may not be specialists in a particular field of law.

Besides, there are many branches of law which are theoretical subjects which have no relation or very little connection with practice. For example, Jurisprudence, International Law, Roman Law and

[1] Report of the University Education Commission, Vol. I, p. 257.

Legal History are few among such subjects with which the lawyers have no contact. How can they then teach the subjects which they have only read long time back during their student career?

This is also an age of specialization. A law teacher should have, therefore, a thorough knowledge of the subject that has been entrusted to him. It would require of him some research and original contribution by him. Where has the lawyer that much time to do research in the subject for the purpose of teaching? All this requires a full-time professor.

It is, therefore, my humble submission that part-time teaching should be abandoned as a rule in the interests of better legal education. However, practising lawyers may be employed to teach procedural subjects with which they remain in contact everyday. In this context, I only need to reaffirm what the Indian Law Commission observed some time back on the problem of part-time teaching:—

> " It has been and is the practice at most of the universities to have the teaching of law in the hands of junior practising lawyers who seek appointment as lecturers with a view to supplement their income at the Bar during the initial waiting period. It may be that the practising lawyers may be useful and even essential as teachers at the stage of teaching the practical side of the law as part of professional training. But it is obvious that for the teaching of law in its scientific, cultural and educational aspects we need full-time teachers, and as far as possible, men of outstanding distinction in law and legal research " [1].

Staff Increase

A good law school should have an adequate number of teachers on its staff. Opinion persists in some quarters, and I would say in responsible quarters, that not many teachers are required for running a law school. As a result, law schools are opened with little forethought or planning as to number of teachers that may be required to do the job. Legal education suffers greatly on this account.

According to me, teacher strength should be increased in each law school within our region. It will serve a two-fold purpose: it will improve teacher-student ratio which in turn will bring personal contact between the teacher and the taught, and secondly, work load on the teacher will decrease and thus his efficiency will be accelerated.

Staff increase will also enable us to fulfill the ends of modern legal education. Today's emphasis is on specialization. Employment of more teachers will be conducive to specialization by them. This system of employment of more and more teachers with consequent efficiency among them has succeeded in the United States

[1] Fourteenth Report, Law Commission of India, Vol. I, p. 535.

where good law schools employ so many teachers that they have a specialist almost in many conceivable branches of law. The teacher there is not given more than one subject with the result that he can very well concentrate on the subject of his choice.

Students

A law school cannot possibly prosper intellectually unless it has a bunch of good students. It is painful to say in this regard that so far we have not given proper attention to this problem. It is a common practice that many law schools remain overcrowded due to indiscriminate admission. We may have tried to decrease the number of students in some cases but that is all. We have not comprehended the problem, much less tackled it.

As far as my information goes, law schools admit students without limit. The result is that there is no selective or screening system for admission. Whosoever seeks admission is enrolled as a law student. Even in cases where the number is fixed, admission is unrestrained until that limit is achieved. Perhaps, there may be some requirement in very rare cases that the prospective entrant should have obtained at least a second division in the preceding examination.

This chaos in student admission is the result of the belief that there should be no restriction on admission to the law course. Some administrators are of the view, particularly in India, that unemployed graduates should be admitted to the law course without restraint so that they may not feel the pangs of unemployment. I have had the occasion to receive an application for grant of affiliation in law on the ground that there are many unemployed youths in a particular town.

What is the solution to this problem? A good law school should see that students are not admitted indiscriminately. Some minimum criteria should be fixed to regulate admission to law. Whether it should be an aptitude test or interview or some percentage of marks obtained at the last examination is left to this august body to determine.

Allow me to digress here a little when I talk about pre-legal education. I am conscious of the fact that I am treading on a controversial path but I venture to do so in the cause of legal education.

In the United States, a lot of literature has been written on pre-legal education. *Journal of Legal Education* is full of this literature. I imagine the effort is worth taking.

Whenever we think in terms of restricting admission to law course by any test or criteria, the question of pre-legal education automatically crops up. Just as no admission can be had to Engineering or Medical courses without minimum prior education, similarly

no student should be admitted to the law course without his having undergone a pre-legal course adapted for the purpose. It is asserted that pre-legal education is a raw-material while the law course is the " finished goods ". The quality of " finished goods " will definitely depend upon the supply of " raw-material ". This is quite a convincing argument which should be considered in its proper perspective.

Part-Time Studentship

Law schools should avoid to enrol part-time students. A Law School, according to me, is like a worshipping place which can only prosper with proper atmosphere in it. Due to lack of adequate interest in legal studies which is inherent in part-time studentship as well as teaching, it is desirable that a law student should be a full-time student devoted to the study of law just to prepare himself for his future vocation. Students' interest in the teaching of law inspires the teachers also. Therefore, law-studentship should be a full-time affair. No student who offers law should, as such, be permitted to serve or prosecute a double course along with law.

Some law schools, however, may exclusively cater to service people who seek admission to law. But such schools should run and be open for at least six hours in the evening so that employee-students may benefit during their off-duty hours. Nevertheless, teachers of such law schools should be full-time.

Post-Graduate Studies

Law school should not be opened for imparting undergraduate instructions in law alone. While undergraduate teaching is one of the functions of the law school, the emphasis should rather be on post-graduate teaching. The law school, therefore, should encourage post-graduate studies in law which alone can bring name to the school.

Library and Research Facilities

One can hardly visualize a law school without adequate library facilities. But the practices are quite to the contrary. It has been found that many law schools, particularly the ones which are not an integral part of the university, are poorly equipped. Administrators of law schools hardly feel the necessity of equipping the law school with library facilities. It is their belief, and indeed a very misconceived one, that a law school can run without proper library facilities so long as it has acquired a few copies of text-books prescribed for various subjects. No attention is paid by them to the supply of various law school journals and law reports to its library. The result is horrifying. The teachers have no library facilities to do research and specialize and the students cannot read beyond the text-books, much less the original reports. This creates an un-

academic atmosphere in the schools, thus resulting in the degeneration of teachers as well as students.

Library facilities should be adequate not only from the students' view-point but also for the benefit of law teachers. A modern law teacher has a multifarious role as to that of an instructor, expert advisor and social reformer. The role of the law school in the modern world was aptly described by Dean Griswold when he said:

> " The challenge which I think is being put to the law schools by our times is that, in addition to being effective teaching agencies, they should become, on a scale far greater than has heretofore been the case, centres for the carrying on of research into the law and its development and its application to the solution of current problems encountered in the adjustment of human relations "[1].

The teacher and the law school cannot faithfully discharge their responsibilities without adequate library facilities. The same are necessary for post-graduate studies. Some minimum volumes and a recurring library grant should be fixed for sanctioning the running of a law school. The library should equip itself with modern as well as past literature in law along with case reports and journals of repute. As far as possible, attempts should be made to acquire back volumes of the case reports and law journals so that reading and research facilities should be adequate.

Journal

A law school needs to have its own journal. Publication of a research journal by the law school does not only inspire research but also facilitates the same. Teachers as well as students can utilize the opportunity to publish their research papers in the journal. My information is that almost every law school in the United States, big or small, has its own journal today. Why not in Asia then, particularly for the reason that there is no dearth of talent in this region. Any research so done will be a distinct contribution to the legal problems of social engineering in a modern welfare state. There have been instances where research papers have been approvingly cited by the courts, particularly in the United States.

Undoubtedly, publication of the journal will be a financial drain on the shool management but this can be brought to a minimum by issuing a quarterly or an annual volume depending upon the size and talent of the school. Perhaps, even the financial aspect of the journal can be met by entering into mutual exchange agreements with other law schools throughout the world. As a result, the amount spent on publication can be recovered by exchange of journals, subscription to which otherwise would perhaps cost more than the publication cost.

[1] Griswold, Erwin N., Educating Lawyers for a Changing World, 1951, *Am. Bar. Ass. Journal 805 at p. 806.*

Buildings

A law school should have its own building to fulfill the accommodation needs of law teaching and research. It should have an adequate number of lecture theatres, seminar rooms, library, moot court and separate chambers for each teacher, apart from administrative offices.

I am stressing the need for a separate law school building keeping in view my experience in Indian universities. In India, it is very usual that law classes are held by courtesy in the building of some other department. As a result, the law department remains at the mercy of the host department. Besides, this part-time use of the other's premises vitiates the academic and research atmosphere in law studies. Actually, I would like to see the disappearance of the word " part-time " in everything from the vocabulary of legal studies.

Finance

Every law school should have a sound financial position. The management should be ready to spend handsomely on the projected law school. For this, law schools should be treated at par with any other professional school. Its teachers should get such remuneration that would attract the best talent that is now being sifted away to other more lucrative jobs. Selective system of admissions will decrease the student strength, thus resulting in loss of fees. Building up of a modern law library will cause a further financial drain on the resources of the law school. Law school building will be an additional expense. The cost of creating some fellowships to attract good students for post-graduate studies will also fall on the school exchequer.

All these expenses will require advance planning for the opening of an ideal law school. Hitherto the practice has been that the law schools have been considered as money-making institutions whose income does not only support the law school but also some other departments of the college or university. As Dean Harno has rightly said that " legal education has never been able to dispel the widespread impression that it provides a relatively inexpensive type of institution "[1]. His remarks were just an echo of what Dean Griswold had said in 1951 that the Harvard Law School's budget was only 3% of the total University budget although it is considered to be a well-financed school in the United States.[2]

The facts and ideals show a great disparity which needs to be narrowed if we have to achieve the objectives of modern legal education. We do not have Foundations like Ford, Rockefeller or Carnegie to finance our reforms in legal education. We have neces-

[1] Harno, Albert J., Legal Education in the United States (1953), p. 133.
[2] Griswold, supra, p. 808.

sarily to depend upon our government which is not yet convinced that legal education is also a subject of science which should be taught like any other science subject. Once this is achieved, our task will become comparatively easier.

Conclusion

To conclude, I must say that we should not open any law school without pre-planning. We should provide a handsome budget for the law school which should be able to construct its own building, recruit eminent scholars as full-time teachers, build a nice library and admit only such students who intend to prosecute their legal studies without divided thought. Then alone we will be able to do justice to legal education.

4. Report of the Proceedings on August 29, 1962

Professor Markose, Research Director of the Indian Law Institute, New Delhi, addressed the Conference on " Examinations and Medium of Teaching ". Under the topic of Examinations, he brought under review the scheme of examinations and of grading successful candidates adopted in various Indian Universities. He considered, among other things, such questions as whether university law schools and professional bodies should use their examinations as a means of controlling the supply of lawyers in a given society at a particular time according to the needs of that society; whether examinations should be conducted on successive days or with intervals in the time table; whether the teacher in a subject should be the examiner in it; and whether the three-hour written test, carrying a maximum of 100 marks and taken at the end of the academic year, should solely determine a candidate's performance. Under the second topic of Medium of Teaching, he dealt briefly with the position in various Asian countries and expressed the view that " since both the primary and the secondary materials of law are almost entirely in the English language, it is desirable to continue the present arrangement until satisfactorily conditions are created for the change-over " (i.e., from English to the native languages).

Dean Anandjee of the Faculty of Law of the Benares Hindu University, India, spoke on " The Problem of Selecting the Student Body for Law School Training ". He pointed out that there were three difficulties in the way of selecting satisfactory students for training in law: first, that the standard of general education of students admitted to law courses was low and most of them turned to law only as a last resort; secondly, most law students, especially where they were part-time students, were not interested in the law as a subject of study but merely in the acquisition of a law degree as a qualification for employment; and thirdly, many of those students who were keenly interested in legal studies could not proceed to higher studies owing to financial difficulties. To meet these three difficulties he suggested that legal education should be made a three-year full-time discipline, that the courses of study should be altered so as to take account of changing social and economic needs and to insure better training in law not merely for practice but also for the variety of careers that are now open to law graduates, and that more scholarships and bursaries should be made available at all levels of legal education. He then explained the main outlines of the new degree course for the LL.B. of the Benares Hindu University

which had been drafted in consultation with a Committee of distinguished academic and practising lawyers and judges.

Dean Hingorani of the Faculty of Law of the University of Gorakhpur, India, spoke on " Minimum Standards for Law Schools " in the matter of staff, students, post-graduate studies, library facilities, journals and law school buildings.

After Dean Hingorani's paper, the subjects of the three papers read were thrown open for discussion. The lively discussion that followed related almost entirely to the suggestion made by Professor Markose in his paper that University law schools and professional bodies should use their examinations as a device to control the supply of lawyers in a given society at a particular time.

A few speakers supported Professor Markose's suggestion, at least in its application to admission to the profession, on the ground that it was undesirable to have any considerable number of lawyers unemployed in a country (especially in the large towns) since this would lead to a grave deterioration in professional standards. On the other hand, the majority of the speakers were opposed to Professor Markose's suggestion. They pointed out that (1) it would be difficult to find out how many lawyers a particular society needed at a given time, especially since there was a diversity of careers open to lawyers in modern society; that (2) it would be unfair to draw a distinction between law and other disciplines in the matter of restricting the number of those graduated by the law schools; that (3) it would be incorrect to assume that all those who entered law schools, specially university schools, were going to practise law; and that (4) even if the profession in a given country was over-crowded, admission to it should not be restricted since persons with a training in law had an important role to fulfil in modern societies.

The general consensus of opinion among the delegates was to the effect that the law school course should be regarded as a type of liberal education and that, while physical limitations and those based on the standard of pre-legal education would naturally determine the numbers admitted to law schools, it would be undesirable to use examinations to limit the numbers at any later stage of legal education.

IV. METHODS OF TEACHING INTERNATIONAL LAW AND JURISPRUDENCE

WEDNESDAY AUGUST 29 1962 (AFTERNOON SESSION)

Chairman: Professor L. C. Green
Rapporteur: U Hla Aung

1. A Note on Methods of Teaching International Law and Jurisprudence

by

R. C. HINGORANI *

It is appropriate that we, who have assembled here, should devote some time to examine the various methods of teaching law and decide for ourselves as to which methods would better serve the ends of legal education. This particular group has been entrusted with the exploration of these methods in the field of International Law and Jurisprudence. Undoubtedly, the subjects are inter-related in so far as the basic concept of law is concerned. But the methods and approach to their study are so diverse that I am tempted to deal with them separately.

International Law

Lecture Method: Method of teaching any subject would necessarily have to depend upon the objectives it has to achieve. International law is (or should be) taught today with a view to educate the would-be public leaders, lawyers, diplomats, administrators and citizens of a free democratic country to know its principles and concepts and their application to factual situations as they may arise in world community. International law, therefore, should be taught as a branch of an applied science.

For this, initial instructions in international law need to be imparted by a series of lectures that would emphasize the established

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principles and customary rules of the law of nations. I prefer lecture method to the case method at the initial stage because the lectures will give to the students a clear picture as to the various concepts and principles of international law, including the basic question whether international law is really law.

Undoubtedly, lecture method suffers from the inherent lacuna of making the student only a passive participant but it is my experience that at LL.B. level, where students have yet to learn basic principles of international law, lecture method would best serve the purpose. However, the instructor should see that the case law is also cited in support of the established rules of international law during the course of his lectures.

It should be the constant endeavour of the instructor to discuss contemporary developments in world community in the context of prevalent rules of international law. For example, the topic of recognition of states or government could be better taught by illustrating the recent recognition of the Free Algerian State; of State sovereignty in airspace may be taught by citing the protests which States often file with respect to aerial intrusions.

The teacher should also emphasize on the students that international law is a dynamic law which grows like any other law. The doctrine of " continental shelf " or attempts at extending the maritime belt would illustrate the growing nature of international law.

There is an opinion operating in some circles to the effect that instructions in international law should be partly devoted to the concept of regional international law. Although I do not subscribe fully to the idea of regional orientation yet I must admit there is some conflict in outlook between the Western and Afro-Asian writers. Some writers like Hyde and Judge Alavarez have tended to overstress the existence of such law. (There is already a Soviet view of international law.) Others label the present law as Christian or Imperial international law. Efforts should be made to end these narrow regional attitudes and thus universalize international law. For this, Asian jurists should be encouraged to write treatises in international law to end European bias in present text-books.

International law can hardly be taught properly in isolation from international relations and world history. An instructor in international law, therefore, should refer to relevant portions of international relations and world history during the course of his lectures.

Tutorials

Lectures should be supplemented by tutorials. The tutorials will naturally be conducted among small groups of students who have already had the benefit of attending the lectures and know the basic principles. The case method would be better utilized at this level. The tutors would analyse the rules of international law in the light

of cases decided on each point. Resort should also be made to the Socratic method at this level. This will activize the student who has hitherto been only a passive participant in the learning process. Hereafter, he would know the techniques of independent inquiry which would enable him to perceive the problems in their proper perspective and thus reach right conclusions.

The student's mental faculty may be further activated by posing hypothetical problems to him. The tutor should set such problems which may not be found in texts or case books. This would foster in the student a spirit of independent investigation and application of principles to a given fact situation. System of essay writing may also be adopted to give the student the chance of practice in writing.

Teaching at Post-Graduate Level

Case method would be best suited for imparting instructions at post-graduate level. Here, the student has already acquainted himself with the basic rules of international law. Now is the time to acquaint him with the intricacies and complexities that arise in the domain of international law. The student strength will naturally be small that can be organized into a seminar.

At post-graduate level, the process of imparting instruction should be reversed. Instead of the teacher explaining the implications of a given case, the students should be asked in turns to write a paper for discussion at the next meeting. The given student would initiate the discussion and the other students would participate in the discussion and thus analyse the problems threadbare. The teacher's role in such a seminar would be that of an adviser who would remove any doubts that may occur in the course of discussion. The student's writing of a paper and discussion thereon will give him the chance of research as well as self-confidence. Perhaps, if he is a prospective teacher, it will give him the technique of lecturing also.

Jurisprudence

It is my impression that Jurisprudence is not being taught in the right manner. Partly, it is due to lack of personnel who may be considered as capable of teaching Jurisprudence. Efforts must be made by each law school to entrust the subject to such a teacher who has some grasp of the subject.

Then comes the question as to how it should be taught. The nature of the subject suggests that the best way to teach Jurisprudence would be by a series of lectures. The subject is so philosophical that it requires an inspiring lecture to bring the teacher and the taught into an intellectual communion. Else, the students consider the subject as the most dreadful course. Some orientation is necessary for the students to appreciate the teaching of Jurisprudence.

For better teaching of Jurisprudence, it is my conviction that each teacher, entrusted with the subject, should himself be a philosopher-cum-jurist having some ideas of his own. He can develop these ideas in the course of his lectures and compare the same with the established theories in law.

Lectures in large classrooms should be supplemented by tutorials in small groups. These small gatherings should be utilized to enable the students to discuss the various aspects of a given topic and remove their doubts, if any. Case law may also be referred to in support of any theory on the subject. Students may be encouraged to write essays or critical notes on the topics of study.

Here, I may be excused for encroaching upon the jurisdiction of the Curriculum Committee but I feel that the most important thing in the teaching of Jurisprudence is its contents and boundaries. Formerly, there was an emphasis on the teaching of analytical jurisprudence through Salmond. Today, of course, there is an urge to deviate from the traditional teaching and make some important changes in the same.

Some assert that national orientation is desirable in the teaching of Jurisprudence. Stress on national jurisprudence is more visible in the newly independent countries. For example, there is a demand for teaching ancient jurisprudence in these countries. Elsewhere, it is asserted that there should be an academic discussion of the legal theories of the main political movements of our time and their implications on the society. There is also present-day stress on sociology and philosophy of law.

However, my conclusions are quite to the contrary. I would still stress the teaching of analytical jurisprudence at LL.B. level. There may, of course, be a few modifications here and there but not any revolutionary changes. The students at this level may be given some idea of different schools of jurisprudence and basic differences between them. Else the teacher should confine himself mainly to topics of analytical jurisprudence. I would suggest that Paton's *Text Book of Jurisprudence* would be preferable to that of Salmond's on the ground of its comprehensiveness.

The process may be different at post-graduate level. Here different schools of Jurisprudence should be taught in greater detail. Ancient or national jurisprudence should be taught here as part of historical jurisprudence or even as part of philosophy of law if it is a living organism.

Unfortunately, the present practices show that although Jurisprudence is a compulsory paper at LL.M. level also, at least in India, little research is done on the subject. Research should be encouraged in Jurisprudence at LL.M. level and the student should be permitted to write a paper in lieu of examination so that it may be possible to bring out some original thoughts in the paper. This method will help to develop some useful penetration in the domain of Jurisprudence.

2. Report of the Proceedings on Methods of Teaching International Law and Jurisprudence

Discussion was divided into two parts, namely, Methods of Teaching International Law and Methods of Teaching Jurisprudence.

Dr. Hingorani initiated the discussion. He said that for the undergraduates the Lecturer Method was more suitable for teaching International Law and that on the post-graduate level the students should participate in discussions, write papers and do research into the subjects concerned. For the post-graduate level the role of the Professor should be restricted to supervision only, Dr. Hingorani observed. (Please see his paper.)

Dr. Lin Wo-chiang of Nanyang University pointed out that in his University international law was taught as part of the Department of Political Science. He expressed the view that the division of International Law regionally or otherwise was undesirable. He said that at the undergraduate level text-books were prescribed and taught by the teachers and that as the students were rather weak in English, explanations had to be made by the lecturer by way of lectures. On the post-graduate level, however, students were divided into groups and discussion was carried on along the lines of a seminar, Dr. Lin said.

Professor C. J. Chacko of the Indian Society of International Law said that at the University where he taught, both the lecture system and the seminar system were adopted. The students were divided into groups and cases were discussed under the guidance of the teacher, he said. He expressed the view that post-graduate students should be encouraged to read journals and legal periodicals dealing with international law. He said that international Law should be taught not only as a legal subject but as part of Political Science as well.

Professor V. A. Santos of the University of the Philippines said that although 15 hours a week were assigned to the teaching of international law, it was found to be inadequate even at the undergraduate level in his University. The method used was first to ask the students to read Brierly and then the case method was adopted along the lines of the Harvard system.

Dean Sivasubramanian of the University of Delhi said that International Law was more appropriate to be an independent subject.

He pointed out that in his University International Law was taught in the Political Science Department as well as in the LL.B. course.

Dr. Anandjee of Benares Hindu University said that in the Law Faculty of his University, there would be three Papers prescribed for International Law, namely, Paper I dealing with " Peace ", Paper II dealing with " International Institutions " and Paper III dealing with " India and International Law ". He pointed out that the syllabus was intended to be changed to suit the times.

Dr. U. C. Sarkar of the University of the Punjab expressed the view that International Law should be studied as a legal subject exclusively by the law faculties. He said that Public International Law was a compulsory subject for the LL.B. course in his University.

Dr. Lin Wo-Chiang explained that he did not exclude the possibility of teaching international law as a purely legal subject.

Professor L. C. Green of the University of Singapore expressed the view that International Law was a proper legal subject and that international relations was just an adjunct to International Law. He pointed out that at the University of London, students studying for the B.Sc. (Econ.) attended the regular law course in International Law and that the approach to the subject must be that of the legal mind. He pointed out that International Law was as much a specialized subject as Criminal Law or Evidence was. He took exception to Dr. Hingorani's suggestion made in his Paper that Asian jurists should be encouraged to write treatises in International Law " to end European bias in present text-books ". He said that the tendency to emphasize the regional aspect of International Law should be put to an end. Professor Green pointed out that at the University of Singapore, International Law was available to the students as an optional subject, but that International Law would in future be developed and offered as a principal course.

Professor B. C. Ambion of the University of the Philippines said that at his University, only the principles of International Law were taught at the undergraduate level and that at the graduate level, seminars were used. The graduate students were required to write papers. There was also a course on World Organization and World Law. He expressed agreement with what Professor Green said. He posed the question whether there should be international Procedural Law as well as International Substantive Law.

Professor Hingorani thought that it would be impossible to make International Law an exclusively legal subject. He said that the legal aspect might have to be emphasized in the law course, but that it would be necessary to deal with it from the point of view of International Relations also. He was of the opinion that some kind of European bias could be found in the books on International Law written by European authors.

Professor L. C. Green was of the view that there might be minor variations as to on what particular aspect of International Law emphasis should be placed. But as far as the methods of teaching are concerned, teachers of International Law are quite happy with what each of them are doing, he said. Professor Green pointed out that at the University of Singapore and most other law schools of the Commonwealth, cases were used only as illustrative examples and not for the purpose of inductive teaching as in the case of the American universities.

Jurisprudence

Dr. Hingorani, initiating the discussion, said that there were different schools of Jurisprudence and that normally analytical Jurisprudence was taught. He suggested that some attention should also be given to Sociological Jurisprudence. At the post-graduate level there should be more emphasis upon theory and it was desirable to stimulate original thinking on the theories, he observed. He deplored the fact that there was little original research in Jurisprudence. He pointed out that in his University Jurisprudence was a compulsory paper both for LL.B. and the LL.M. students.

Mr. R. K. W. Goonesekere of the University of Ceylon expressed general agreement with the views of Dr. Hingorani. But he differed as regards the so-called national theory. Regarding the method of teaching he did not agree with the view that the lecture method was the best. He thought that reading assignments and discussions were a better way of teaching Jurisprudence. He said that the aim of such a method should be to sharpen the intellect of the student and to see the law as a whole.

Professor L. C. Green expressed his disagreement with the view that the lecture method should not or could not be used. He said that the function of a lecture was to help the student understand the text book better and that one of the basic functions of a teacher of Jurisprudence was to enable the students to apply the juridical concepts to the surrounding situation.

Professor Sivasubramanian said that he did not understand what was meant when one said that a teacher of jurisprudence should have his own contribution to make. His experience of teaching Jurisprudence for thirty-five years had shown that it was very difficult to teach the meaning of law, he said. In his view, it was equally difficult to apply the concepts to living situations. He disagreed with the view that the LL.M. students should be required to make original contribution to Jurisprudence. If the teacher could get across the various concepts to the minds of his pupils, he would be more than satisfied, Dean Sivasubramanian observed.

V. RELATIONS OF LAW SCHOOLS WITH BENCH AND BAR; ADMISSION INTO THE PROFESSION; OTHER CAREERS

THURSDAY AUGUST 30 1962 (MORNING SESSION)

Chairman: Professor L. A. Sheridan

1. Admission Into the Profession, Bar and Careers

by

S. R. WIJAYATILAKE

At the outset let me on behalf of the Council of Legal Education of Ceylon thank the University of Singapore most sincerely for its kind invitation to us to participate in this Conference on Legal Education.

The subject that has been assigned to me is rather wide in its scope for a short paper and I therefore do not propose to burden you with too many facts and figures but would deal with the subject in general so that our experience in our own country may be of some use to you in reaching the ideal to which we all aspire.

Ceylon, traditionally known as Lanka, is an island with an ancient civilization. In the epic *Ramayana* composed some twelve centuries before Christ, Valmiki sings of this island in picturesque verse thus—

> Rich in blossoms many-tinted, grateful to the ravished eye,
> Gay and green and glorious Lanka was like garden of the sky,
> Rich in fruit and laden creeper and in beauteous bush and tree,
> Flower-bespangled golden Lanka was like gem-bespangled sea.

It is significant that the first Renaissance in Ceylon coincided with the efflorescence of civilization in the Empire of the great Asoka of India. As would appear from the rock edicts of Asoka, after his conversion by Mogalliputtatissa to the Way of the Buddha, truth and justice motivated his every action. Asoka's envoys—his son Mahinda and daughter Sanghamitta—brought his message to Lanka and since then through various vicissitudes our people have been

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greatly enriched by the various religions such as Buddhism, Hinduism, Islam and Christianity which have all contributed in no small measure to the evolution of justice in the island.

Our people are essentially democratic and they have vigilantly and valiantly preserved the spirit of justice, so much so that even the farmer at his plough or the mechanic at his lathe would consider it sacrilege to see the Rule of Law violated. It is therefore not strange to see Robert Knox in his account of Ceylon written in the 17th century remarking that he knew of no nation in the world which so exactly resembled the Sinhalese as the people of Europe. On a comparative investigation of the social and legal institutions of England and Ceylon one notices remarkable similarities. As Dr. Hayley observes in his book on the *Laws and Customs of the Kandyan Sinhalese*, an English lawyer in the time of Glanville would have found himself familiar with a large portion of the legal system which existed under Parakrama Bahu the First (1153-1186 A.D.). I might mention that our Buddhist Ecclesiastical Law was based on certain principles which recognised the Rule of Law.

The invasions by the Portuguese in the 16th century and by the Dutch in the 17th century resulted in an upheaval in the social structure of the Sinhalese in the maritime Provinces. The Dutch have left an indelible impression by leaving behind a very advanced and equitable system of laws known as the Roman-Dutch Law which even today is the common law of the land. The British, who succeeded them at the close of the 18th century and ruled till we gained our Independence in 1948, have contributed very largely to the high standard of the administration of justice in the country. The British have now left our country but the spirit of justice we have inherited has influenced us so deeply that whether in our Houses of Parliament or in the courts ranging from the Supreme Court to the most minor rural court in the country, the Rule of Law as understood by the British is being maintained with a religious fervour. Whatever the verdict of history may be on the colonial policy of the Portuguese, the Dutch and the British, it cannot be gainsaid that the laws of the land have been greatly enriched by the Dutch and the British and the present standard of the administration of justice and respect for the Rule of Law are mainly due to the unremitting devotion of the Dutch and the British to the spirit of justice.

I need hardly stress the fact that the basis of all civilised existence is the Rule of Law. Without it, society would be a sorry mess. However it should not be forgotten that society changes with the effluxion of time. From the Agrarian Age we advanced to the Machine Age and now we are quickly coming to the Space-Travel Age. The law which was adequate for a predominantly agrarian society would hardly be adequate today. Law has to change to keep pace with the changing pattern of society but the golden thread of the Rule of Law should continue unbroken. In other words, while

the people of a country should adapt themselves to a changing world, yet their legal system has to maintain its continuity, and this can only be ensured by their respect for the three legal institutions which form the tripod supporting the crucible containing the very precious liquid—the Rule of Law—namely:

— an Independent Judiciary
— an Independent Bar
— an Independent Law School.

Remove one of them—the tripod collapses and the precious liquid may be spilt, leading ultimately to confusion and tyranny. These three institutions are dependent on one another for the integrity of their independence. The independence of the law schools is possible only in a climate where they are not dependent on State policy. They have to be institutions of learning where the spirit of free inquiry is encouraged, uncurbed and uninfluenced by the trends of the executive. The legal profession is not a mere trade and those who aspire to this calling have to equip themselves physically, intellectually and morally so as to be able to maintain the Rule of Law. I may have strayed from the subject to some extent but I felt that in trying to understand the problem of admission to the Legal Profession, Bar and Careers in Ceylon it is necessary to appreciate the general background.

The purpose of legal education is twofold. It is either academic or professional. Academic education is mainly the responsibility of the University of Ceylon and I do not think this facet of legal education comes strictly within the purview of this paper. In the Commonwealth of Nations there is no uniformity in the conditions for admission to the legal profession. The system of legal education in the United States is distinctive—so is it in Great Britain, Australia and Japan. Be that as it may, it should be the purpose of this Conference to explore the possibility of advocating a general pattern of admission with a view to setting a reasonably high standard in the profession. To my mind if our law schools fail in this responsibility the standards of our profession will be lowered not only in the art of advocacy but also in respect of the character and integrity of our lawyers.

Conditions for admission vary from country to country and from territory to territory but the overall pattern is the same. I propose to examine in fair detail the conditions for admission in Ceylon and thereafter touch on allied problems in general so that we may observe our local scene in the proper perspective.

In Ceylon admission to the legal profession is through the Law College of which the governing body is the Incorporated Council of Legal Education, which consists of the Chief Justice, and the other Judges of the Supreme Court, the Attorney-General, the Solicitor-General, and such other persons of standing in the profession as the

Judges of the Supreme Court may appoint. It is the duty of the Council to supervise and control the legal education of students desiring to qualify themselves as Advocates or Proctors. The Council is not in receipt of a grant from the Government.

The Council of Legal Education was incorporated by Statute in 1900. The Law College is situated at Hulfsdorp in Colombo adjacent to the Law Courts. The lecturers are lawyers in active practice and the college timetable is so drawn up that most of the lectures are over in the forenoon before the Courts sit. This enables the Council to employ lawyers of standing who are familiar with Court procedure. It also encourages the student to visit the Courts and familiarize themselves with practice and procedure. It is undoubtedly an advantage that the students have an opportunity of seeing the law in action before they qualify as lawyers and set up on their own.

In our country the legal profession is divided into two branches —Proctors and Advocates. This approximates to the division of the profession into Solicitors and Barristers obtaining in England or like divisions obtaining in other countries such as Scotland. An examination of the provisions relating to the training and admission to the bar shows that though the bulk of the provisions apply equally to both branches of the profession the provisions are so designed as to fulfil the requirements of each branch of the profession and hence show a significant distinction. The provisions relating to the training, admission to the profession and practice therein in our country are the following:—

No person shall be admitted to qualify himself as an Advocate unless he has completed his seventeenth year and produces a satisfactory certificate of good character and furnishes proof that he has one of the following qualifications:

(a) that he is a Graduate in Arts, Science, Law, Economics or Commerce of any recognized University in the British Commonwealth;

(b) that he has passed the Intermediate Examination in Arts, Science or Economics of the University of London or the General Certificate of Education (Advanced Level) Examination of the University of London or their local equivalent;

and that he has passed, reaching credit standard, in English Language and in either Sinhala, Tamil or Latin at least at the Ceylon Senior School Certificate Examination or the Ceylon General Certificate of Education (Ordinary Level) Examination.

No person shall be admitted to qualify himself as a Proctor of the Supreme Court unless he has completed his seventeenth year, and produces a satisfactory certificate of good character, and furnishes proof that he has one of the following qualifications:

(a) that he is entitled to be admitted to qualify himself as an Advocate;

(b) that he has passed—

(i) the Intermediate Examination in Arts or Science of any recognized University of India or Pakistan, or

(ii) the Matriculation Examination of the University of London, or

(iii) the Senior Local Examination of the University of Cambridge, or

(iv) the Cambridge Senior School Certificate Examination —with a pass in English Language and in either Sinhalese, Tamil or Latin.

(c) that he has passed the General Certificate of Education (Ordinary Level) Examination of the University of London or the General Certificate Examination of the Oxford and Cambridge Schools' Examinations Board, or their local equivalent—the Ceylon Senior School Certificate Examination, the Ceylon General Certificate of Education (Ordinary Level) Examination in English Language, and in either Sinhalese, Tamil or Latin, and in three other subjects approved by the Council, reaching credit standard.

There are three examinations, the Preliminary, the Intermediate and Final for the admission of Advocates and Proctors. Candidates failing to obtain at least 40 per cent of the maximum marks in each subject and 50 per cent of the aggregate of the maximum marks in all the subjects are not entitled to pass in any examination. Each question paper consists of not less than ten questions and bears a full value of 100 marks. The examination is conducted by means of written questions and answers. The desirability and feasibility of conducting *viva-voce* tests merits consideration. I think that the prospects of facing a *viva-voce* test at the Preliminary examination will stimulate the students to train themselves in the art of clear expression. Much attention has recently been focussed on the inability of many college students to write correctly and effectively. The deficiency in the use of oral communication is even more conspicuous. The time of the Court is often wasted owing to this deficiency. I think that a programme to remedy this situation should be launched in our Law Schools by inaugurating courses in speech-training and oral argument. At our Law College the students have their own Union and they organise regular debates without any restriction by the College authorities as to the subject, but invariably only a limited number of students participate, the others being content to be mere listeners. The Union's contribution towards the creation of good speech habits would thus seem to be very limited.

After passing the Intermediate Examination for the admission of Proctors a Proctor student has to serve for a period of two years as a clerk under a proctor of ten years' standing approved by the Council, and prepare and submit to the lecturer in Conveyancing during the first year at least two deeds a week. An Advocate student after passing the Final Examination has to attend for a period of six months the chambers of an Advocate of ten years' standing practising in Colombo and familiarize himself with the ordinary business of an Advocate in chambers and he has also to attend the District Court of Colombo and the Supreme Court and record at least two cases every week.

In the case of Proctors the question has arisen whether it is premature for them to commence their apprenticeship before they complete their Final year lectures, the subjects for the Final examination being the Law of Property, Civil Procedure and Pleadings, and Criminal Procedure. A student who has gone through the Final year course of lectures should be able to make better use of his apprenticeship and he will be less embarrassed at his conferences with the lawyers under whom they are articled. I think that a student should be aware of the fundamental and the basic principles of the Law before he seeks to draft Pleadings, Bonds, Assignments, Transfer Deeds etc. I do not think the analogy of the training of a Doctor is relevant as the system of training is quite different.

It is recognised that an apprenticeship is essential. In practice it has its problems. There are lawyers who take a genuine interest in their apprentices and give them a thorough grounding but there are others who are not so enthusiastic. In the result there are many students who benefit very little. The necessity for a system of internship has been stressed by some, the object being to bridge the gap between the law students' theoretical knowledge and the practical application in the Law Office and the Court.

Every person who intends to apply for admission as a Proctor or Advocate of the Supreme Court is required to give six weeks' notice of his intention to the Registrar of the Supreme Court and the Registrar of the Council of Legal Education. Such notice has to be posted up at the Registry of the Supreme Court, and at the Court House and it should be published in the Ceylon Government Gazette or some English newspaper published in Colombo. On an application being received by the Supreme Court the Registrar is directed to report whether the applicant is of good repute and whether there exists any impediment or objection to his enrolment as a Proctor or Advocate, as the case may be. Thereafter upon such report the Supreme Court will either direct the applicant to be sworn, admitted and enrolled, or make such other order as it may deem proper. The Courts in Ceylon have jealously guarded the integrity of the profession and the Supreme Court has not been slow to reject applicants who are unworthy of being admitted to the profession. A

Proctor who has practised his profession for not less than five years is entitled upon passing the examinations for the admission of Advocates, to be admitted as an advocate. There is a fair number of such Advocates doing exceptionally well in the profession. Conversely, an Advocate may be admitted as a Proctor on his passing an examination in Conveyancing. A Solicitor, Attorney, Writer to the Signet, or Proctor, in any of the Superior Courts of Record in Great Britain or Ireland or a Law Agent admitted to practise in Scotland may at any time after the expiration of five years since his admission as such be enrolled as Advocate upon passing the examinations for the admission of Advocates.

Any person who has been duly called to the Bar in England, Scotland or Ireland may be admitted and enrolled an Advocate provided that either he has been in actual practice for at least three years in England, Scotland or Ireland or he passes the examination for Advocate students in the following subjects:

(i) Civil Procedure and Pleadings, and

(ii) Law of Property.

The examinations are held twice annually in December and August. The examinations are conducted by a Board of Examiners appointed by the Council of Legal Education. Lecturers are eligible for appointment as Examiners. Judges, Crown Counsel and Advocates of the Metropolitan Bar sit on this Board. I must say that we have right through maintained a high standard and the students treat these examinations seriously. A graduate of the Faculty of Law of the University of Ceylon is exempted from the Preliminary and Intermediate examinations in such subjects as he has already passed. Attendance at lectures is not a prerequisite for admission of a graduate of the Faculty of Law in the University of Ceylon to any of these examinations for Advocates and Proctors. This concession was granted recently and its desirability is being watched by the Council as the question arises whether it is satisfactory for a student who has had the benefit of only an academic training to set up in practice without having acquired the necessary familiarity with practice and procedure on which due emphasis is laid by the lecturers in the Final year at the Law College.

During the period in which he is qualifying for admission a student is not permitted to engage himself in any occupation other than the study of the Law. The Council has the discretion to grant relief but it actually grants such relief only in exceptional circumstances when it is satisfied that the student's occupation will not in any way hinder his studies. The Ceylon Law College does not have afternoon or evening sessions so that a person who seeks to join the profession has ordinarily to devote his whole time to the study of the law. In a small country such as ours I do not think there is the necessity for evening classes for persons who are otherwise

occupied during the day as there is a danger of overcrowding the profession.

Once an Advocate is sworn he is entitled to practise his profession. However, he can appear in Court only if he is duly instructed by a Proctor. A Proctor when he is sworn in is entitled to appear as a Pleader and also apply for a warrant to practise as a Notary Public. As a Pleader he has all the privileges of an advocate except that he is not entitled to appear in the Appeal Court. He is even entitled to appear in the Supreme Court on Assize. I must say this system has been working satisfactorily and there has been no clamour for a complete fusion of the two professions. Having functioned as a judicial officer in various parts of the island I can say with conviction that the sense of non-attachment to the client promotes the independence of the Advocate in the conduct of his case. An Advocate who is burdened with the work of a Solicitor in the preparation of a case cannot take the detached view of the facts which is very necessary before he can put his case across to the Judge. While a Solicitor is worried and harried by the spade work involved in the preparation of a case, an Advocate should have the time to study the facts and bring his mind to bear on the legal principles underlying them from a plane which is not easy to reach in a Solicitor's office.

The question has arisen whether the minimum standard for admission should be raised to counteract the problem of overcrowding and in the interest of greater efficiency, particularly in the case of Proctors. Considering the responsible nature of a Proctor's functions in modern society a student who aspires to fulfil such functions without exception should, I think, be better equipped intellectually before he seeks to join the profession. The Senior School Certificate or the General Certificate of Education (Ordinary Level) which has now replaced it appears to be hardly adequate. In Great Britain a University degree is not a prerequisite for admission to the Inns of Court. The Matriculation equivalent is sufficient. According to Lord Denning's Report on Legal Education for students from South Africa, even this minimum qualification has rather generously been dispensed with. The question does arise whether for qualification as an Advocate a degree of a University should be a prerequisite. This requirement will certainly restrict the admissions but so far as our country is concerned our experience has been that a large number of Advocates though not possessing a University degree, have done remarkably well in the profession.

Pre-legal education has been the subject of conflicting views. If we take a cross section of the students their educational backgrounds will be found to vary to a surprisingly wide extent. While most students enter from liberal arts courses many others come from other courses. For instance in the U.S.A. the pre-legal studies of large numbers of law students seem to have been in the field of Business Administration. This is being viewed with some concern.

There is a complaint that there have been no moves to synthesize the substance of the pre-legal work taken by the applicants with the law programme. There are some who advocate a substantive understanding of selected subjects in social studies. To my mind a broad understanding of the Humanities is the best form of pre-legal education for a lawyer, who has to be a cultivated man. Justice Felix Frankfurter writes of law and men thus: " No less important for a lawyer is the cultivation of the imaginative faculties by reading poetry, seeing great paintings in the original or in easily available reproductions and listening to great music. Stock your mind with the deposit of much good reading and widen and deepen your feelings by experiencing vicariously as much as possible the wonderful mystery of the universe, and forget all about your future career. "

Latin is no longer a compulsory subject for admission to the Ceylon Law College but at the Preliminary Examination for Advocates there is a paper on the Latin Texts which requires a knowledge of Latin grammar and syntax. At the Faculty of Law in the University of Ceylon a student, if he does not already have the minimum qualification in that subject has to sit for a paper in Latin. In England, where so much stress has been laid on the Classics, Latin is no longer a compulsory subject for admission to the profession. Be that as it may, in Ceylon our legal principles being based on the Roman and Roman-Dutch Law, can we do without a knowledge of this language? I am inclined to think that a grounding in Latin helps a student to appreciate the niceties and nuances of legal principles as set out by the ancient jurists. A translation, however good it may be, is hardly a substitute. I do not think that Latin should be a compulsory subject for admission to the Law School but this subject may well be taught to the students in the first year.

A more important question has arisen with regard to the national languages and the medium of instruction. At present the medium of instruction both at the Law College and at the Law Faculty is English. The majority of the students are Sinhalese but there is a fair proportion of Tamil-speaking students. There is a very small number of Burghers, the descendants of the Portuguese and the Dutch, whose home language is English. The official language is Sinhala but the language of the Courts continues to be English until such time as the Minister of Justice nominates a particular Court as one in which the entire proceedings should be in Sinhala. So far only twenty-five Rural Courts have been so nominated. Thus it will be seen that the necessity for a greater stress on the Official Language in the education of the Law Student has become imminent. How this is to be worked out satisfactorily without prejudice to the minorities is a problem which has to be faced soberly and objectively. The absence of legal literature in the official language is a serious handicap but both the Commissioner of National Languages and the Legal Draftman's Department are forging ahead

with a series of translations of the statutes. Two of our Law Journals, the *Ceylon Law Recorder* and the *Ceylon Law Weekly*, have already started reporting cases in Sinhala.

The number of women students has increased conspicuously in recent years and it is noteworthy that they have set a very high standard in their work—their forte being method, precision and elegance.

Student discipline at the Law College has been excellent. The students have shown a maturity of outlook which is most reassuring.

The Law Society of Ceylon has made a signal contribution towards improving the status of the Proctor and it is engaged at the moment in streamlining this branch of the profession. The Bar Council, which is the disciplinary body of the Advocates, is continuing to wield its influence in seeing that the administration of justice is in no way tainted by political trends.

In Ceylon the Courts are graded in the following order:

The Supreme Court

Civil	*Criminal*
The District Court	The District Court
The Court of Requests	The Magistrate's Court
The Rural Court	The Rural Court.

Lawyers are not entitled to appear in the Rural Court.

All Judges and Magistrates, except the Judges of the Supreme Court, are appointed by the Judicial Service Commission consisting of the Chief Justice and two Judges of the Supreme Court. All such judicial officers are lawyers who have been in practice for over six years. The majority of them are Advocates. The Judges of the Rural Courts (who by the way are designated Presidents) are also appointed by the Judicial Service Commission. There is no requirement that they should have been in practice for a particular period but actually in the selection lawyers who have been in practice for over three years are chosen. With the exception of one or two Advocates, the rest are all Proctors.

Apart from the Judiciary the careers open to lawyers are the following:

- Posts in the Attorney-General's Department (Attorney-General, Solicitor-General and Crown Counsel)
- Posts in the Legal Draftman's Department
- Permanent Secretary to the Ministry of Justice, and Assistant Secretaries
- Registrar, Supreme Court, and Deputy Registrars
- The Law College—Principal and Lecturers
- The Faculty of Law of the University of Ceylon

- As members or Chairmen of quasi-judicial bodies such as the Land Acquisition Board, the Labour Tribunal, the Industrial Courts, etc.

Lawyers are qualified for appointment and are preferred to graduates in respect of certain Government posts such as those in the:

- Department of Inland Revenue
- Department of National Housing
- Department of the Registrar of Patents, Trade-marks, Companies, etc.
- Public Corporations
- Public and Private Companies (as executive officers and legal advisers)
- Local Authorities such as Municipal Councils and Urban Councils (as Secretaries).

In a recent judgment of the Supreme Court in the case of *Senadhira v. The Bribery Commission* 63 New Law Reports 313 it was held that all appointments to Judicial Office as defined in the Constitution, have to be made by the Judicial Service Commission. Therefore it is very likely that the Commission would prefer lawyers for such appointments.

The legal profession in Ceylon during the last one hundred years and more has contributed very largely to the political emancipation of the people throughout the country. In Colombo as well as in the provinces it is the lawyer who has been at the fore-front in most movements of a progressive nature. It is the lawyer who has sacrificed his career in fighting for the freedom of his country. The spirit of public service displayed by the lawyer will not be easily forgotten. The Welfare State has not only brought with it a social revolution but also a legal revolution not a whit less in importance. Another phenomenon of the Welfare State is the growth of Departmental and Administrative Tribunals. The lawyer is thus called upon to play an important part in guiding the citizen in his affairs. Although when superficially looked at the Bar would seem to be overcrowded, a careful analysis makes it evident that more than ever before the careers open to lawyers are at a premium. With the increasing unionization of labour and the resultant increase in the number of labour unions, there is a tendency for such unions to have paid legal advisers on their regular staff. Women students who qualify for admission to the Bar have no difficulty in finding suitable employment. There are several in active practice. Some firms prefer women as Administrative Secretaries and if such women were qualified lawyers their efficiency and usefulness would be enhanced.

It is axiomatic that a sound system of legal education must be based on the co-operation of the Law School, the University's Law Faculty, the Courts, and individual practitioners.

I venture to presume that other countries too have problems analogous to those we are faced with in Ceylon. I have attempted to spotlight our own problems with a view to suggesting some topics for discussion. The main questions which arise are:

(a) What sort of education should a student have before he commences to study law ?

(b) Should a University degree be a prerequisite for admission to the law school ?

(c) The desirability of conducting *viva-voce* tests.

(d) Should speech-training and oral argument be a subject in the curriculum ?

(e) The place of Latin in legal studies.

(f) Apprenticeship and a system of internship.

(g) Is a fusion of the professions necessary?

(h) Careers open to the lawyers—what are the prospects?

(i) Women—their prospects.

The field for the use of one's legal talents is steadily enlarging as society and the law develop with the growth of the concept of the Welfare State. Unlike any other service the profession itself is charged with the responsibility of maintaining the efficiency, competency and integrity of its members. In discharging this responsibility the regulation of admissions to the Bar is of primary importance. In Ceylon our Courts and the profession have been fully alive to this responsibility and thereby the Rule of Law and Democracy have been well established.

2. Relations of Law Schools with Bench and Bar

by

U. C. SARKAR *

It requires very little reflection to see that the relation between the Law Schools on the one hand and the Bench and the Bar on the other is very intimate—the principal connecting link between them being the legal training or education imparted by the Law Schools. It is the Law Schools that prepare persons to qualify themselves for becoming members of the Bar from which generally speaking again members of the Bench are selected. Thus both for the member of the Bar and the Bench, the academic training is imparted by the Law Schools. Though it is generally true of some countries to say that the law has been given either by the Bar or by the Bench, still such an exclusive achievement is not always quite possible. Sometimes the Bench might appear to announce a very illuminating and original judgment which might have been more or less really explained, elaborated and emphasized in course of the argument by the Bar. Both of them (Bar and Bench) in their turn might have owed their inspiration to some speculation and contribution made by some eminent jurists. In such cases specially, the exact contribution may be accurately apportioned only by a very thorough and careful scrutiny and analysis; or in other words the contribution of the three above agencies act and react upon one another.

Law Schools

What should be the pattern of the legal education to be imparted by the Law Schools to fulfil their mission? Should it be exclusively academic and theoretical or should it be exclusively practical and procedural? It readily appears that a blending of the two is the golden rule. Legal training to be imparted by the law schools must necessarily combine the academic as well as the practical aspects. There is no gainsaying the fact that the training imparted by the Law School invariably forms the nucleus of the wit and resources of the Advocates and the Judges. In the course of his address in the Third All India Law Conference, held recently in New Delhi, the

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Law Minister, Government of India, made the following pertinent observation:

" It is in the fitness of things that this, the Third All India Conference, has been convened under the joint auspices of the Indian Law Institute and the Bar Association of India. The Indian Law Institute, if I may say so, devotes itself to the academic study of law, whereas the Bar Association of India is a body whose members are, by and large, engaged in the practice and profession of law. This Conference, therefore, of academic and practising lawyers is, I conceive, a welcome event. Savigny observed:

> 'The study of law is of its very nature exposed to a double danger; that of soaring through theory into empty abstractions... and that of sinking through practice into a soul-less unsatisfying handicraft.'

It is my sincere hope that the labour of this Conference would produce a balance between the theory and the practice of law." This balance again is to be translated into action through the medium of the Law Schools.

The Law School is meant not only for imparting theoretical and practical training of the lawyers, it is also meant for research in law. On the utility of research in law I again crave your indulgence to quote the Law Minister of India:

" It may be asked what is the utility of research in Law and higher study of law. The ordinary lawyer in his day to day practice of law need not pursue higher study of law or research in law. He has neither the time nor the inclination and nor, I suppose, the qualification. He may justly be called the legal workman whose main concern is with the technical rules and regulations of law and who does not understand the ultimate forces of law. We may compare such a skilful lawyer with a skilful brick-layer. We may have skilful and successful lawyers, who know nothing and seek nothing beyond a traditional and astute application of the legal rules and regulations, just as we may have useful, skilful and successful brick-layers who are not burdened with any knowledge of the science of engineering beyond the proper laying of the bricks. And yet he may be hailed as a great lawyer if he merely succeeds in building up a heavy and lucrative practice in the courts without making any contribution to the development of the science or purposes of law. But that does not render valueless or dispensable a knowledge of the organic unity of the world, the effects of which are stated by science and explained by philosophy and the superstructure that shapes the destiny of man. "

Such useful research in law can be and has to be undertaken by the Law Schools. They must not be superficial and unconnected with the society and its problems. Each country has got its own problems specially in a constantly changing state of things. Legal

researches must be so conducted as to shorten the gap between the social needs on the one hand and the existing law on the other.

In India there has been a great impetus to legal researches and higher studies in law. More or less in every Indian University, we have got arrangements for LL.M. studies and research works leading to doctorate degrees in law like Ph.D. and LL.D. The Indian Law Institute was established with a view to encouraging researches in law in its various branches. This Indian Law Institute is like a Law School engaged in researches by scholars of India in collaboration with Indian and foreign Professors of distinction. The principal objects of this Law Institute are: " To study the science of law, to promote advanced studies and research in law and its administration, to promote reform in the administration of law and justice and to give an impetus to the healthy development of law suitable to the economic, social and other needs of the community. It will also seek to recommend the simplification and systematisation of law and law reports and arrange for the publication of treatises, journals and periodicals, etc. The Institute will endeavour to enlist the co-operation of legal bodies with similar objectives in other parts of the world. It will also invite co-operation from the Universities not only in this country but in other countries as well, by exchanging notes on such subjects in law as are of common interest to other countries. "

In his inaugural address of the above Institute, Dr. Rajendra Prasad, the then President of India, made these very significant observations:

" In a country where we have decided to have a welfare state, legislation on many subjects is an absolute necessity and when we think of the various problems which confront us and of the ways in which many of these problems will have to be solved, when we think of the leading part which law still plays in many of them, the necessity of an Institute which will devote itself to the cultivation of law in a scientific spirit, to its study, to the comparative study of the various branches and aspects of law and also with a view to suggesting reforms not only in the body of the law but also in the procedure and in the administration of it, we can realise the importance of such an institute like this.

" It is necessary that there should be a body which works quietly in an atmosphere which is free from the din of courts and also away from the controversy of the legislatures where attention is paid to the various implications of a particular kind of legislation and where legislation which has already been adopted is studied for the objects it has achieved and for the way in which it has been worked... A tremendous amount of legislative activity has been going on in this country since we attained independence... It becomes necessary for a body like yours to keep pace with the law, to study its implication, and from time to time to draw the attention of the legislatures,

judges and the people and specially of the government to any shortcomings that there may be and any good points you may come across in them. It is only in this way that we can really keep on the right path."

As I have said, in a Welfare State we have to pass laws on many subjects. But more laws mean two things. More laws on the one hand mean more litigation; more laws on the other hand mean more restriction on the liberty of the individual. We can probably control litigation to some extent and we would probably be in a position to so arrange and administer that it may not prove as big a burden as it has been so far. But so far as restriction on the freedom of the individual is concerned, we have to consider it from a different aspect altogether. While on the one side, we recognise that the greatest amount of freedom should be assured to the individual, on the other side, we also have to recognise that in a Welfare State, the individual's liberty to deal with himself and to deal with others has to be restricted more and more. The best government has to find out the best means by which these two more or less conflicting ideas can be reconciled.

The middle course has to be found, and in finding that middle course, an Institute like this which works, as I said, outside the din of courts and beyond the controversy of legislature can be of immense help. What is true of the Indian Law Institute is equally true of the Law School generally.

All India Law Conference

The Indian Law Institute has so far organised three All India Law Conferences comprising the judges, the legislators, the lawyers, the law teachers and administrators. The first of these Conferences was held in 1959, the second Conference was held in 1960 and third Conference was held recently in New Delhi in this very month. The last Conference had this characteristic that is was organised jointly by the Indian Law Institute and the Indian Bar Association. As the Judges of the Supreme Court of India and the various High Courts joined the Conference along with the law teachers, among others, it was an ideal combination of the different categories of persons differently interested in law. The Law School, the Bench and the Bar were fully represented in the Conference and the deliberations of the different Committees has yielded the maximum results from all aspects of the legal pursuit. The Committee on Legal Education formulated certain principles in connection with the study of law including higher studies and research. The Bar Association on the other hand had enumerated certain principles for the guidance of the lawyers in view of the service that is expected of them. So far as legal education is concerned, we have also certain results formulated by the Law Commission after its thorough investigation

of the different aspects of the country's problems in connection with the legal education and administration of law in the country.

Law Schools and Legal Education

The Law Commission referred to above owes its genesis to the following resolution of the Lok Sabha moved on the 19th November, 1954:

" This House resolves that a Law Commission be appointed to recommend revision and modernization of the laws, criminal, civil and revenue, substantive, procedural and otherwise and in particular the Civil and Criminal Procedure Codes and the Indian Penal Code, to reduce the quantum of case law and to resolve the conflicts in the decisions of the High Courts on many points with a view to realise that justice is simple, speedy, cheap, effective and substantial. " The terms of reference of the Commission were:

Firstly, to review the system of judicial administration in all its aspects and suggest ways and means for imposing it and making it speedy and less expensive;

Secondly, to examine the Central Acts of general application and importance and recommend the line on which they should be amended, revised, consolidated or otherwise brought up-to-date.

The question of legal education which was one of the most important points referred to the Law Commission was investigated by several commissions and committees such as the Calcutta University Commission (1917-19), the University Commission (1948-49), the Bombay Legal Education Committee (1949), All India Bar Committee (1953), the Rajasthan Legal Education Committee (1935). All of them are of the view that the prevailing system of legal education in the country requires improvement in various directions. The result of the working of the system of legal education in India was very aptly contrasted with the systems functioning in Europe and America by the Radha krishan Commission headed by the present President of India:

" In Europe and America, legal education has occupied a high niche among the learned curricula. Products of study of law have frequently risen to position of distinction in public service or have amassed fortunes in the private practice of law or have acquired wide reputation as scholars even without entering practice. Legal education is on an elevated plane and teachers of law enjoy a high respect, perhaps as high or higher than those of any other field of instruction... ... In our country, we have eminent practitioners and excellent judges... The law has also given us great leaders of men consecrated to public service. Most conspicuous of these is Gandhiji. Here the comparison ends. We have no internationally known expounders of

jurisprudence and legal studies. Our colleges of law do not hold a place of high esteem either at home or abroad nor has law become an area of profound scholarship and enlightened research."

The following are the recommendations of the Law Commission on Legal Education:

Only graduates should be eligible for legal studies. The theory and principles of law should be taught in the law schools and the procedural law and the law of practical character should be taught by the Bar Council. The University course should be for two years and the Bar Council training should be for one year. Legal education should be imparted by full-time institutions with the help of full-time teachers only to full-time students, the principal method of teaching being lecture, to be supplemented by tutorials, seminars, moot courts and case methods. The standard of examination should be improved to eliminate every shade of suspicion. For the benefit of the persons in employment, a Diploma Course could be provided on condition that such Diploma holders will not be eligible for practice. Admission to Law Schools should be restricted on merit and seriousness. (At present, practically speaking, students seek admission to the Law College only when there is no other course open to them. This naturally leads to the deterioration of the Law Schools and legal education.) Research should be encouraged and financial assistance from the Government should be available for attaining and maintaining the proper standard of legal education and research. "The All India Bar Council should be empowered to ascertain whether law colleges maintain the requisite minimum standards and should be empowered to refuse recognition for the purpose of entry into the profession of degrees conferred by institutions which do not conform to the minimum standards." This question will be discussed again in connection with The Advocates Act (XXV) of 1961. The Bar Councils also should arrange lectures for the apprentices who want to join the profession after getting the degrees from the Universities. The apprentices also should be required to work in the Chambers of senior lawyers and maintain diaries showing the work done by them, subject again to a very stiff practical test for the purpose of enrolment.

All the above recommendations of the Law Commission were generally accepted by the All India Law Conference (1959) and also the All India Law Teachers' Association.

The aims and objects of legal education were enumerated as follows by the First All India Law Conference organized by the Indian Law Institute:

(a) Education in law for citizens necessary for participating in the life of a democracy

(b) Knowledge and training in theory and practice that are required for the legal profession and judicial and administrative work

(c) Specialised legal studies in relation to business and public affairs and

(d) Training in research in law.

Regarding the courses of studies, some basic subjects like jurisprudence and constitutional law were to be regarded as compulsory and some other subjects to be regarded as optional. The qualifications for law teachers were recommended as follows:

(i) Ordinarily a first class LL.B., preferably an LL.M., for lecturership

(ii) Ordinarily an LL.M. with research experience, preferably a doctor of laws, for Readership

(iii) Ordinarily, a Doctor of laws with research publications for the post of Professor.

The law teachers should be remunerated in the same way and on a par with teachers in technical and other professional subjects like medicine and engineering.

As it has already been observed, more or less all the Universities in India have arranged for higher studies and research in law. There is also a tendency that some persons choose to become teachers in law, for which purpose they receive post-graduate education in law in India as well as abroad. The law teachers are now invariably being appointed from amongst those having post-graduate and research degrees in law. This is practically encouraging students to take up higher studies in law with the main prospect of being in the profession of law teachers. Real encouragment will be forthcoming only when really qualified and competent persons are appointed as law teachers without any other extraneous consideration whatsoever. Nepotism of any sort or any narrow consideration of provincialism etc. will spell a disaster to legal education.

The Advocates Act and the Bar Councils

The Advocates Act (XXV) of 1961 has to be hailed as a legislative measure which has achieved not only the long-cherished unification of the Bar in India but also its autonomy at the same time. As its Preamble says, the Act was passed to amend and consolidate the law relating to legal practitioners and to provide for the constitution of Bar Councils and an All India Bar. The State Bar Councils and the Bar Council of India are autonomous bodies. The cases of professional misconduct will now be tried by the State Bar Council concerned at the first instance; an appeal from the decision of the Bar Council of the State will lie to the Bar Council of India and from the decision of the Bar Council of India, an appeal will lie to the Supreme Court. The High Courts are not there in the picture.

The Advocates Act provides for the constitution of two kinds of Bar Councils, one (generally) for each state to be known as the State

Bar Council and the other for the whole of India to be designated as the Bar Council of India. The standard of legal education in the country has to be determined by the Bar Council of India. Thus Section 7 (h) (i) provides that the functions of the Bar Council of India shall be *inter alia* to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils and to recognise Universities whose degree in law shall be a qualification for enrolment as an Advocate and for that purpose to visit and inspect Universities. The enrolment of Advocates has been entrusted to the State Bar Councils subject to the conditions and qualifications enumerated by Section 24 of the Advocates Act. The Universities have got nothing to do with the enrolments of Advocates. Still it is for the larger interest of the country and the profession of law itself that the standard of legal education and training in the country must be sufficiently high and the Universities can ill-afford to be indifferent to it. Hence pending the prescription of the additional legal training and examinations by the State Bar Councils, the Universities should prescribe a three-year course for the LL.B. Degree so that all the necessary subjects including those of the practical and procedural nature may be covered by it. It may be mentioned here that in India, at present, the LL.B. Degree is conferred after two years in some universities and after three years in some others.

The Bar Association of India

The Statutory Bar Councils of India under the Advocates Act have got only some limited objects and functions—which have been much widened by the Bar Association of India as follows:

(i) to uphold the Constitution of India and promote the Rule of Law

(ii) to promote the science of jurisprudence and research in law

(iii) to promote the reform of the administration of justice and of law in consonance with the social, economic and other needs of the country, in the context of democracy and social welfare

(iv) to promote uniformity of legal decision and legislation throughout the country

(v) to provide for free legal aid to the poor

(vi) to make provision for financial assistance to the members of the Bar in distress

Among other things, the Bar Association of India will also endeavour to secure world peace through the Rule of Law and solve international disputes without resort to violence.

The question of legal aid to the poor by the Bar Association engaged the attention of the Third All India Law Conference. It was decided by the Conference that pending the arrangement of

legal aid to be given by the Government whose primary responsibility it is, the Bar Associations at different levels should be offering legal aid and advice *gratis* to the poor.

The Judiciary

For appointment to the Bench—be it the Supreme Court or the High Courts—the only criterion should be merit and integrity. No communal or regional consideration should be there. The Judges should be judged by the quality and not by the quantity of work. Hence it is important that the appointment of Judges must be always commensurate with the work. There should be no arrears of judicial work for want of the Judges. This means hardship to the litigants, who begin to lose faith in ultimate justice due to inordinate delay. The Judges being the guardian of the peoples' rights should be properly remunerated with other facilities. Nothing should be done by the Judges while in office or even thereafter to raise any suspicion in the minds of the people which might tend to have even the slightest reflection against their integrity, impartiality and uprightness. These are the only things that are expected of the Judges. The members of the Bar Council render services to the people in the form of legal aid etc. but the Judges can render service to the people only by doing justice strictly according to law—regardless of the pleasure or displeasure of any other body including the Executive. Detailed recommendations were made by the Law Commission, regarding the selection, remuneration, promotion, pension and other facilities to be given to the judiciary, including the members of the Bench of the Supreme Court and the High Courts. It is not necessary for our immediate purpose to go into those details excepting the broad points referred to above.

Concluding Remarks

The relation between the Law Schools on the one hand and the Bench and the Bar on the other should be as cordial and harmonious as possible inasmuch as their functional areas are more or less inter-changeable though not strictly identical. If the Law Schools are properly constituted and manned, the Bar and the Bench can legitimately look to them for some original contribution, learned research, constructive comments, judicious review of case laws and legislative enactments over and above the routine work of instructing the students. The Law Schools must be equipped and manned with these ideals in view. The pivotal function of the Law School for supplying lawyers and judges to the country cannot be minimised. Hence all-out efforts should be made to improve the status, standard and quality of the Law School and its teachers. Appointment of jurists and teachers of law to the highest judiciary of the country will necessarily mean some objective impetus for the academic

jurists to devote more time and energy to the cultivation of science and philosophy of law. The Constitution of India has provided for appointment of eminent jurists as Judges of the Supreme Court.

Almost in every country the Bar has supplied the political and social leaders. India is not an exception. The political independence of the country was mainly due to the movements organized and led mostly by the lawyers. Similarly, in the case of American independence as well, according to Edmund Burke, legal study by the Americans was one of the most important factors. By their legal studies, the members of the Bar could very well understand in advance the implication of any measure that was or was to be taken by the British Parliament. The Bar in its modern conception is a recent introduction into the India society and it is expected to play a very important role, especially in a democratic welfare state. The Bar in its public activities can educate the people at large about their legal and constitutional rights and duties on the exercise of which will greatly depend the character of the Government of the country to be based on universal adult suffrage. Though the conception of the Bar is recent to be traceable from the British administration in India still she can legitimately boast of a very effective and competent judicial system in the country even from a very early time. In this connection reference can be made only to two concepts, namely, Rule of Law and welfare conception of the State.

As regards the recognition and application of the Rule of Law, it was quite clear that nobody was held to be above the law. The King himself, not to speak of the other members of his family, was equally subject to the law of the realm, along with the ordinary subjects. According to the story of the King Bimbisara, as recorded by Hiuen Tsiang, it is said that in order to prevent fire which became rather frequent at that time, the King passed a law that anybody in whose house fire broke out would be banished. One day, fire broke out in the capital itself whereon the King said to his Ministers, " I wish to maintain the laws of the country; I myself must be banished, hence I am going into exile. " With these words, the King gave up the Government to his eldest son and retired to the forest. According to another story, concerning Sudatta, a rich and religious-minded merchant and the Prince Jaita, it is said that on one occasion Sudatta offered to purchase a pleasure-garden belonging to the Prince Jaita for dedicating the same to the Lord Buddha. The Prince replied by saying that it was not for sale, unless it was laid over with crores of coins. Sudatta indicated his willingness to purchase the garden even at the price mentioned by the Prince—who was, however, taken aback by the unexpected acceptance by the merchant. Realising that he was going to be deprived of his garden, the Prince wanted to rescind the contract by holding that there was no actual sale of the garden. The merchant had to sue the Prince in the court, which gave a decree in favour of the merchant,

as it was clearly found by the court that the sale in question had already been concluded by the legal offer and acceptance. After the decree, when Sudatta had actually covered a portion of the garden with coins, the Prince relinquished the remaining land without further coins. These stories indicate that even Kings and Princes were equally subject to the Rule of Law.

The Emperor Ashoka conceived and administered a welfare state even several centuries before the birth of Christ. Thus the social welfare state which was conceived by the West only in the 20th Century was already fully working in the Indian soil. It is thus no wonder that Ashoka with his social welfare conceptions, achievements and performances has largely inspired the model of the present Indian leaders for remoulding the present Indian society as a socialistic welfare one. We know that Ashoka was great not so much as a warrior or a politician, but he was really great as he gained the hearts of his subjects by service and love. He established hospitals and other charitable institutions not only for men but also for beasts and birds. Many kings could be named after Ashoka, such as Kaniska and Harshavardhan who would, at intervals, empty the entire royal treasury for the people of the country and they would choose to put on rags. What could be more conducive to and indicative of the welfare state of which we hear and talk so much today? We talk of welfare state, as contrasted with police State, which was the ideal in vogue in the West even up to the last century. The administration—legal or otherwise—in ancient India was based on this social welfare. After her independence, India now advocates this rich heritage of her culture for the whole world. India is striving not only for an Indian welfare state, she is also striving for a World Welfare State in which all nations and individuals will live as members of the selfsame family fraternised by love, peace, tolerance and co-existence as implied by the discipline of Pancha Shila.

3. Educating Lawyers for Changing Conditions

(An Appraisal of Legal Education in the Philippines)

by

JORGE R. COQUIA *

Legal circles in several states have been discussing in the past few years the question as to whether legal education is effectively meeting the needs of present day conditions. The question has been: "Is legal education doing its job?" The American Bar Association in its past annual Conventions created special Committees to make a thorough survey of all law schools in order to adequately answer this question.[1]

The same question might as well be asked in the Philippines. It is of public knowledge that conditions have greatly changed while the pattern of legal education has not met these changes. Even as

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[1] For thorough discussion of the problem in the United States, see J. Connor, "Education for What? A Lawyer's View of the Law Schools", 37 *American Bar Association Journal*, 119 (1951); A. Cutler, "Inadequate Law School Training: A Plan to Give Students Actual Practice", 37 *American Bar Association Journal*, 1203 (1951); "W. Embree, How Should Lawyers be Educated?" A Report on the Yale Law Curriculum 37 *American Bar Association Journal*, 655 (1951); Criswold, "A Challenge to Our Law Schools" 37 *American Bar Association Journal*, 1955 (1951); H. Levi, "A Graduate Legal Clinic, Restoring Lawyers Research Responsibilities", 38 *American Bar Association Journal*, 189 (1952); R. Pound, "A Ministry of Justice, The New Role of the Law School", 38 *American Bar Association Law Journal* 1637 (1952); A. Ballantine, "The Work of the Practicing Law Institute; A Lawyer's Education Never Stops" 38 *American Bar Association Journal*, 907 (1952); Ballantine, "Presenting the Law: Different Approach" 5 *Journal of Education*, 345; H. Cortty, "Character and the Law School: Profes-, sional Conduct Should be Emphasized", 39 *American Bar Association Journal*, 385 (1953); Stasson, (Dean of the University of Michigan Law School), "Legal Education: Post Graduate Internship", 39 *American Bar Association Journal*, 463 (1953); "Pre-Legal Education: A Statement Policy" A Statement of the Association of American Law Schools in its meeting in 1952 at Chicago, 39 *American Bar Association Journal* 889 (1953; A. Orchel, "Is Legal Education Doing its Job? Brief of Amicus Curiae" 40 *American Bar Association Journal*, 121 (1954); G. Stevens, "Legal Education for Practice: What the Law Schools can Do and are Doing" 40 *American Bar Association Journal* 211 (1954); A. Ballantine, "Legal Education of the Future", 42 *American Bar Association Journal*, 599 (1954).

the number of lawyers and law schools has grown tremendously, there have been very little effort to adjust legal education to the changing circumstances. Bar Associations have practically neglected this important phase of legal education and of educating lawyers after admission to the Bar.

The law profession is now the most popular among the Filipino students today. It is attracting the bigger percentage of the more intelligent high school students. Before World War II there were only about a dozen law schools most of which were located in Manila, while at present there are about 71 schools scattered all over the country. These schools graduate an average of about 1,000 every year and less than one half of whom usually pass the Bar examinations given annually by the Supreme Court of the Philippines.[1]

In the recent years, however, the Supreme Court has conducted very rigid Bar examinations in an effort to raise the standards of the legal profession and to improve the quality of candidates for the practice of law. In 1957, only 19% out of a total number of 3,110 candidates passed the examinations. In 1959 only 21.26% out of 3,810 passed. In 1960, 40% out of 4,158 candidates passed. In 1961, out of 4,397 Bar candidates, only 19.41% successfully passed. The low percentage of successful candidates has indicated that either the law schools have lower standards in recent years or the Supreme Court is determined to elevate the quality of prospective lawyers.

Although there has been much talk that the country is now producing too many lawyers, comparative statistics with the profession in the United States from which our legal pattern has been adopted show that it is not really overcrowded. Perhaps, if there are too many at all, it is because most lawyers are crowded in the cities and bigger towns. Furthermore, too many have been ill-prepared for their tasks as lawyers, and eventually become job-seekers.

The census of the United States listed 223,500 lawyers, 5,000 of whom are women. The Philippines has now an estimated 22,000 admitted to the practice of law of whom about 2,000 are women. These statistics readily show that there are about 1,000 persons for every lawyer in the Philippines today. In the United States, the ratio is about 583 persons for every lawyer. The ratio is bigger if we consider that in the Philippines most successful Bar candidates do not actually practice their profession. In 1962, there were only about 25% of the lawyers who were in active practice. All the others were either in the government service or were engaged in private industry. In the United States, the proportion of legal practitioners is much bigger than that in the Philippines.

[1] In the 1954 Bar examinations, the biggest number of Bar candidates passed the examination. Of the 3,188 that took the examinations, 2,422 were successful. The percentage of passing was 74%.

The changing social and economic conditions and the increase of more law schools turning out bigger number of law graduates call for a re-examination of legal education in this country. Though the law provides that the Supreme Court is empowered to prescribe rules for the admission to the Bar [1], the main job of educating these future lawyers is in the law schools. The sudden increase of the law schools now operating in the Philippines with the consequent economic competition among themselves are some of the problems of the job of legal education today. Some have resorted to cheap commercialism, which certainly belittles the legal profession. The present increase in law schools and consequently law students has made the Bureau of Private Schools too small to handle this job of supervision and control. The Bureau of Private Schools especially becomes helpless with regard to stopping or curtailing unethical (though legal) practice of law schools in trying to attract law students.

An integrated Bar Association should come in to put to a stop pernicious practices such as resorting to cheap propaganda. Also in order to help the Bureau in its campaign to weed out sub-standard law schools, an accrediting organization like the Association of American Law Schools can control the practices of the less respectable law schools. Of the 170 law schools in the United States only 121 have been accredited.[2] As of January 1952, work in about 23 law schools was not recognized by the American Bar Association.

In the Philippines, the Supreme Court, being entrusted with the power of determining the qualifications of persons seeking admission to practice law, has shown and declared that it is of public interest that such selection be guarded jealously. An adequate legal profession is one of the vital requisites for the practice of law that should be developed constantly and maintained firmly. In the recent case that involved the admission of about 1,094 law graduates, who, though having failed to make the general average in the past Bar examinations, insisted that they be admitted to the Bar by virtue of a special statute [3] lowering the passing averages for corresponding years, the Supreme Court declared: "To the legal profession is entrusted the protection of property, life, honour and civil liberties. To approve of these inadequately prepared individuals, to dedicate themselves to such a delicate mission is to create a social danger ".[4]

In declaring the statute unconstitutional, hence, the petition of applicants for admission to the Bar was denied, the Court, speaking

[1] Art. VIII, Sec. 13 of the Philippine Constitution as supplemented by Rule 127 of the Rules of Court.

[2] The University of the Philippines, a member long before World War II, is still an accredited school.

[3] Republic Act 972, enacted June 21, 1953.

[4] In the Matter of the Petitions for Admission to the Bar of Unsuccessful Candidates of 1946 to 1950, prom., March 18, 1954.

through Mr. Justice Diokno, declared that the authority and responsibility over the admission, suspension, disbarment and reinstatement of Attorneys at law remain vested in the Supreme Court. The statute was in fact an attempt of Congress to diminish the qualities of who should be a lawyer. The legislature may, by means of repeal, amendment or supplemental rules, fill up any deficiency, but the judicial power, which has the inherent responsibility for good and efficient administration of justice and the supervision of the practice of the legal profession, should see to it that with these reforms, the lofty objectives that are desired in the exercise of its traditional duty of admitting Attorneys are realized.

Actually, much of the criterion in determining who is fit to practice law in the Philippines is the ability to pass Bar examinations. The curricula of law schools, one from the Far Eastern University, a non-sectarian school, and the Ateneo University Law School, a sectarian college, and the proposed revised curriculum for law schools are attached. Most, if not all law schools then stress Bar review courses, which necessarily relegates to the background other important subjects which must be known by the lawyer not only in his practice but in entering other fields of endeavour. This is where legal education is lagging behind other professional courses such as Medicine, Engineering and Business when it comes to preparation for the exercise of the profession. The medical student is already confronted while in college with actual patients and bodies in the morgue. Engineering and business students are already performing the very work they are to do after leaving school. The law student, however, has to be contented with mock trials and imaginary facts. On this score, the suggestion made several years ago of requiring law students to pass through a sort of graduate legal clinic is in order. The practice in some states in the United States requiring law graduates to undergo apprentice work in reputable law firms before they are permitted to practice law might be advantageous. The young law graduate must be competent enough to examine a title, write a contract, institute suits, prepare income tax returns, work out an estate plan or prepare a will. He must be well versed in forming business organizations. Since a good part of law practice today consists of settling cases out of court, the lawyer of today must be a good conciliator. The graduate legal clinic can very well train the student how to manage a law office, take care of clients and most of all collect legal fees properly.

As it is, formal legal education in the Philippines is now practically stereotyped. Although the student has to undergo a four-year study in a recognized law school learning codal provisions and principles enunciated in cases, the tendency of legal education now is towards streamlining the subjects. This situation is due to the fact that more than two thirds of law students in the Philippines are working at day-time, using only the spare hours at night for their

studies. Only a handful are attending morning classes.[1] This part-time basis of study has been one of the biggest handicaps of legal education in the Philippines. Coming from their full-time jobs, students go direct to their classrooms without being adequately prepared in their lessons. Most students expect their professors to dish out principles and philosophy of law. Under these circumstances, the professor is often forced to streamline his subject to suit the needs of the students, sacrificing quality in instruction. Recently, the Supreme Court has required a Bachelor's degree as a prerequisite for the admission to a law school.[2]

In the United States, such a situation is remedied by having a programme arranged for the working students while a different schedule is given for students on a full-time basis. Students having full-time jobs are given a four-year curriculum while students studying full-time are expected to finish the course in three years.[3] And it is within this four-year regular law course that the future lawyer should be educated to amply prepare him for his manifold tasks as a lawyer. The work of lawyers is constantly changing. It is the obligation of the law schools to keep up with these changes. All lawyers, be they country lawyers or city lawyers, recognize the altered conditions taken by law relating to taxation, labour, the control of business practices, the rise of administrative law and the increased specialization in law practice. But these facts are actually being obscured by the determination of law students and law schools to prepare for the Bar examinations and by the failure of the Bar examinations to keep up with the times and reflect the relative importance to the lawyer of the several theories, disciplines and skills which he must master. Two of the leading lawyers in the Philippines have recognized this phenomenon. The late Senator Claro M. Recto has said that the profession of law is undergoing an era of change. This is now the era indicated to piecing together the shares of our legal structures and " setting its pillar deep into the hearts of men " that the law may fulfill its manifold functions in modern society with that adaptibility. Senator Recto admonished that laws are not merely enacted for the punishment of crimes or to provide rules to govern the conduct of men. They are also aimed at bringing about the desired changes in social conditions. Dean Vicente J. Francisco had the realistic approach to law when he said that law is the study of events and of people.[4]

[1] Among the law schools offering morning classes are the University of Santo Tomas, Lyceum of the Philippines, Manuel L. Quezon University Law School, Far Eastern University and the University of the Philippines.

[2] Sec. 6, Rule 127, Rules of Court, as amended by Resolution of the Supreme Court of December 20, 1957.

[3] Harno, J., *Legal Education in the United States, New York: Lawyers Co-operative Publishing Co.*

[4] " The Imperatives of Legal Education " XVII *The Lawyers Journal* 325 (1952).

FAR EASTERN UNIVERSITY LAW CURRICULUM

FIRST YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Persons & Family Relations	4	Criminal Law	5
Philippine Political Law	3	Obligations & Contracts	5
Roman Law I	3	Roman Law II	2
Introduction to Law	2	Legal History	2
Legal Bibliography	1	Spanish 7	3
Spanish 6	3		
Total	16	*Total*	17

SECOND YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Torts & Damages	2	Constitutional Law	3
Property	4	Credit Transactions	3
Agency	2	Mercantile Law	3
Labour & Industrial Laws	2	Criminal Procedure	2
Sales	2	Law on Natural Resources	2
Insurance	2	Partnership	2
Statutes & their Construction	1	Spanish 9	3
Military Law and Justice (Optional)	(1)		
Spanish 8	3		
Total	19	*Total*	18

THIRD YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Civil Procedure	5	Adm. & Election Laws	3
Private Corporations	4	Evidence	3
Wills and Succession	4	Taxation & Legal Acctg.	3
Public Corporations	2	Transportation	2
Practice Court I	1	Jurisprudence	2
Legal Control of Business (Optional)	(1)	Special Proceedings	2
Legal Medicine	1	Legal Forms	2
Total	17	*Total*	17

FOURTH YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Criminal Law Review	4	Civil Law Review II	3
Private International Law	2	Commercial Law Review	4
Civil Law Review I	3	Remedial Law Review	4
Public International Law	3	Political Law Review	3
Thesis & Legal Research	1	Practice Court II	1
Trial Technique	2	Practice Court III	1
Land Titles	3	Legal & Judicial Ethics	1
Total	18	*Total*	17

Note: Students who have completed 24 units of Spanish do not have to take the 12 units of Spanish in the Institute of Law.

ATENEO DE MANILA UNIVERSITY
LAW CURRICULUM

FIRST YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Persons & Family Relations	4	Criminal Law	6
Philippine Political Law **	3	Obligations & Contracts	5
Roman Law I	3	Roman Law II	2
Introduction to Law	2	Legal History **	1
Legal Bibliography	1	Junior Senate	1
Junior House	1	Seminar II	1
Seminar I	1	Apologetics II *	1
Apologetics I *	1		
Total	16	*Total*	17

SECOND YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Property	4	Mercantile Law	4
Torts & Damages	2	Constitutional Law **	3
Labour & Industrial Laws	3	Credit Transactions	3
Agency	2	Criminal Procedure	2
Sales	2	Law on Natural Resources	2
Insurance	2	Partnership	2
Statutes & their Construction	1	Seminar IV	1
Seminar III	1		
Total	17	*Total*	17

THIRD YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Civil Procedure	5	Administrative and Election Laws	3
Private Corporations	4	Transportation	2
Succession & Administration	4	Evidence	4
Public Corporations	2	Jurisprudence **	2
Office Practice and Practice Court I	1	Special Proceedings	2
Legal Medicine	1	Taxation	3
Legal Accounting	1	Legal Forms & Brief Making	2
Seminar V	1	Office Practice and Practice Court II	1
		Seminar VI	1
Total	19	*Total*	20

FOURTH YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Civil Law Review I	4	Civil Law Review II	4
Criminal Law Review	5	Commercial Law Review	5
Land Titles & Deeds	3	Remedial Law Review	5
Trial Technique	2	Political Law Review	4
Public International Law	3	Conflict of Laws	2
Practice Court III	2		
Legal & Judicial Ethics	1		
Thesis & Legal Research	1		
Total	21	*Total*	20

* Students who do not have credits for at least 4 semesters of college religion are required to enroll for an Apologetics course, which is held for one hour a week in each semester.

** Rizel Course is integrated in these courses.

REVISED LAW CURRICULUM

FIRST YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Persons and Family Relations	4	Criminal Law II	3
Philippine Political Law	3	Obligations & Contracts	5
Roman Law	3	Constitutional Law	3
Criminal Law I	3	Statutory Construction and Legislative Drafting	2
Legal Bibliography	1	Legal Accounting	1*
Total	14	*Total*	14

SECOND YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Property	4	Agency	1
Torts and Damages	2	Credit Transactions	3
Labour & Social Legislations	4	Mercantile Law	4
Sales	2	Law on Natural Resources	1
Criminal Procedure	2	Partnership	2
Public Corporations	2	Insurance	2
		Legal Philosophy	2
Total	16	*Total*	15

THIRD YEAR

First Semester		Secons Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Civil Procedure	5	Administrative Law	3
Private Corporations	5	Evidence	3
Wills and Successions	4	Transportation & Pub. Serv.	2
Legal Control of Business	2	Special Proceedings	2
Legal Forms	1	Taxation	3
		Practice Court I	2
		Practice Court II	2
Total	17	*Total*	17

FOURTH YEAR

First Semester		Second Semester	
Subjects	*Credits*	*Subjects*	*Credits*
Civil Review I	4	Civil Law Review II	4
Criminal Law Review	4	Mercantile Law Review . . .	5
Political Law Review	4	Remedial Law Review	5
Land Titles, Deeds & Mortgages	3	International Law & World Organizations	3
Conflict of Laws	2	Legal Ethics	1
Legal Medicine	1		
Total	18	*Total*	18

* Legal Accounting is optional for those who have completed a collegiate course in Accounting.

VI. LIBRARY ORGANIZATION AND DEVELOPMENT; RESEARCH, PUBLICATION OF JOURNALS AND OTHER WRITINGS

THURSDAY AUGUST 30 1962 (AFTERNOON SESSION)

Chairman: Dr. Bashir A. Mallal

1. Library Organization and Development

by

E. SRINIVASAGAM *

Although law books are recognized as indispensable tools of legal education, it is surprising what little emphasis has been placed in the past on the role of the law library in the development of legal education. Even in the U.S., where libraries and librarianship have made considerable progress, little or no mention was made of libraries in any of the major surveys on legal education during the last 50 years. Professor W. R. Roalfe suggests possible explanations for this in his *The Law Library — Facts and Fancies.* To begin with, there is the widespread conception of the library as a function made up entirely of routine clerical operations, and many law teachers dispose of the library by assuming that this is a matter which will take care of itself. Then there is the law school teacher who makes little or no use of the library in preparation for class or in research. To such a teacher the library is naturally of little or no use. Another factor which contributes to the lack of understanding is the tendency to regard the role of the library as a largely static one—the repository conception, with very little appreciation of the difficulties involved in even a modest rate of growth, involving as it does the careful selection of certain books from among the quantity that is currently published, the processing operations and the physical readjustment of the books on the shelves. Then again there is the expense that is involved. Maintenance of an effective library service requires substantial funds.

* M.S.; of Middle Temple, Barrister-at-Law; Assistant Librarian in the University of Singapore.

Fortunately, the more experimental atmosphere which prevails today is leading towards the realization that the library can and should play a vital part in the work of a law school. Once this fact is accepted, the first important step is to draw up some kind of policy for proper law library administration.

Administration

The legal basis of a University Law Library depends on the legal status of the University. This is usually determined by charters granted by special acts of the legislature, or by the educational or corporation laws of the State under which provision is made for the establishment of institutions of higher learning. Although this legislation as the basic governing document is the source of authority, beyond an occasional reference to the Council or trustees or the library committee, most Charters and articles of reference have little or nothing to say specifically about the library. It is evident that the library, involving as it does a considerable measure of administrative responsibility, the handling of substantial funds, relationships with other university offices and faculties, etc., should have a clearly expressed code of library policy or government. This code of library administration is usually incorporated in the by-laws of the library or the faculty handbook. It should include the following points:—

(1) A statement on the controlling authority i.e. the library committee, its composition and its powers

(2) A statement on the objectives of the library
   (a) Its functions as an instructional unit
   (b) Its functions as an aid to research
   (c) Its functions with regard to any services that have to be rendered to the community

(3) A statement concerning library finances, as to who is responsible for decisions on budget requirements involving books, equipment, etc.

(4) A statement regarding personnel—the status, tenure and duties of the librarian and the relationship of the librarian to the controlling authorities, and the status, tenure and duties of the other professional and clerical staff

(5) A statement as to the nature and extent of the library buildings and equipment

Once the policy of library administration has been drawn up, the next step is to place the library under the direction of a person with special qualifications for the assignment and to provide him with sufficient authority and supporting staff.

Standards

Opinions vary as to how many books a law library should contain, and what types of publications should be found there. Dean Roscoe Pound is said to have considered 135,000 volumes necessary for a good working collection. Recent catalogues of American law schools say that an adequate Anglo-American law library should contain 100,000 volumes. It is, however, possible to be more or less definite about the number of volumes, but what is more difficult is to be able to estimate the amount of money involved in the establishment of a law school library. The cost of acquisition would vary with the range of the curricula, the knowledge and experience of the person responsible for the purchases, the urgency involved, the generosity of donors and so on.

The American Bar Association standard specifies that " the school shall provide an adequate library for the use of the students ". This has been interpreted as, " an adequate library shall consist of not less than 7,500 well selected usable volumes, not counting obsolete materials or broken sets of reports kept up to date and owned or controlled by the law school or the University with which it is connected. It is required that a five year expenditure of $3,000 (U.S.) per year on library additions be made with a minimum expenditure of $2,000 in any one year.

The standards of the Association of American Law Schools are more specific, more extensive, 20,000 as against 7,500, and more expensive. They call for an annual expenditure of $4,000, exclusive of the cost of reconditioning and binding and an additional $500 for every 50 full-time students (or major fraction thereof) in excess of 100 full-time students, and for every 75 part-time students (or major fraction thereof) in excess of 100 part-time students enrolled. The Association requires 200 complete sets of bound periodicals of recognized worth.

Britain and other common law countries do not have any definite comparable standards to go by yet. The Sub-Committee appointed by the General Committee of the Society of Public Teachers of Law in December, 1957 has submitted a tentative statement on minimum library holdings.

The University of Singapore law library was established with the law department in 1956. Today the collection comprises 20,000 volumes and includes a current subscription and exchange arrangement for 150 journals excluding law reports and other serials. It also includes the purchase of two law firm libraries which would account for about 2,000 of the volumes. The library was started and built up, especially in its early days, by the Dean of the Faculty of Law working in close cooperation with the main library. Total expenditure to date is $300,000 (Malayan). This sum came by way of a Government grant to be spent over a period of five years. About

$20,000 worth of materials came by way of gifts. This sum, according to the terms of the grant, had to be deducted from the main allocation. Current library allocation for 1963 is $15,000.

Basic Collection

Attention should first and foremost be directed towards building up a complete collection of all material pertaining to the local law. This should include the local:

(1) Constitution, statutes, session laws
(2) Court rules and judicial council reports
(3) Court reports
(4) Periodicals
(5) Text books
(6) Materials on taxation and
(7) Administrative law materials.

Local material especially for newly independent countries is not very easy to acquire and it is worthwhile enlisting the help of local law firms, court authorities etc. It might well take many years before a complete collection in this field can be built up. At the same time that this is being done, efforts should be made to acquire relevant material from neighbouring common law countries, and from other Commonwealth countries beginning with England.

A basic English collection should include:

(1) Main and subsidiary legislation together with their Indexes and Guides
(2) General and special series of the law reports
(3) Main Encyclopaedias and Digests
(4) About 30 of the major periodicals.

American materials are becoming increasingly important in law schools. They are more expensive, but with some effort, it is possible to find generous donors for the more essential works. Others should be purchased according to needs and the availability of funds.

Bibliographic Organization

Bibliographic organization of law materials is just as important as their acquisition. This has been described by Roy M. Mersky of Yale law library as " the activity which directs the library user to the material which he needs, indicates its location and provides the means of obtaining it for him ". In order to do this effectively, the law librarian must be able to control the materials that are available. This requires, among other things, a comprehensive catalogue and an intelligible scheme of shelf classification and arrangement of materials.

Bibliographic organization and control in a present day law library is met with not a few problems. To begin with, many types of non-book materials such as microfilm, illustrations, maps and archive materials present new problems and requirements, for the cataloguing of which rules and regulations have yet to be standardized. These non-book materials have grown rapidly in numbers and importance, and it is necessary to have them easily accessible to readers. Then there is the urgency needed in keeping materials up to date. Methods for doing this vary from elaborate noter-up services to pocket supplements to be slipped into back covers of books. Then in circulation routines e.g. the re-shelving of law books require greater time and effort owing to their being referred to a greater extent. There is also a tremendous increase in speed in publication in all areas of law activity. This has made it increasingly difficult for the law librarian to meet the needs of the users of the library. It is not only increase in volume, there is also a wide range of subject area. Thus there is a much greater variety of materials to be included in a law collection.

The larger the collection the more essential the catalogue becomes. It is not uncommon to meet with the view that law books require no cataloguing and classification. But it should be obvious to anyone who has worked in a well ordered library, the advantages to be gained from this kind of organization. A library even with a minimum collection of 7,500 needs classification of some kind.

A. Cataloguing

The main purpose of cataloguing is to make known to the reader all the works available in a library by any particular author or on any particular subject and to give the reader the wherewithal to locating them. The catalogue is the chief means whereby the contents of a library may be known and located: To accomplish this function satisfactorily, the catalogue must be constructed on a scientific basis.

The library catalogue in book form is found in most European countries. This is convenient from the point of view of mobility, but the disadvantages of its inflexibility in not allowing for entries to be added or withdrawn easily override this. The card catalogue, however, provides for this in that entries may very easily be added, withdrawn, rearranged and replaced. In a small library it is often convenient to have a dictionary catalogue, that is, one for authors, subjects, titles and forms of the literature combined in a single alphabetical file. Since the arranging of a large number of cards comprising all types of entries presents many problems, it is necessary here again to adopt a set of standardised filing rules.

In American libraries the standard authorities for making a catalogue are the *ALA Cataloguing rules for Author and Title Entries,*

the *Rules for Descriptive Cataloguing in the Library of Congress* and the *ALA Rules for Filing Catalogue Cards*. These are the codes in use at present in the University of Singapore library, deviating occasionally from individual rules to suit local needs. The library has what is known as a divided catalogue i.e. one part of the catalogue is arranged alphabetically by author and title, the other alphabetically by subject. This type of catalogue is suitable for large collections. The author-title catalogue has entries for books and other materials listed under either the personal author (if there is one) or (and this occurs very frequently with legal materials) under a corporate author e.g. a government, society or institution. Material may even be listed under a convenient phase to denote source e.g. Gt. Brit. *Laws, Statutes, etc.* Copies of the same card are also filed under other appropriate headings such as joint authors, editors, titles and series. The subject catalogue records specific subject entries alphabetically. A third record, the shelf list or stock-record, provides a separate entry for every title in the library which has a distinctive classification number, and records all copies of each book belonging to the library in the order in which they stand on the shelves. It is, in effect, a classified catalogue.

B. Classification

Classification has been defined by librarians as "a systematic scheme for the arrangement of books on the shelves by classes so that books on similar subjects may be found together and books on related subjects found nearby." From a lawyer's point of view, legal literature may be divided into two main sections—primary sources of the law which include statutes, codes, reports and the digests and indexes which form the key to them, and secondary materials including journals, treatises etc. Good classification should maintain this distinction.

Law is not an easy subject to classify as there is a great deal of overlapping of topics. The first decision to make is as to whether the divisions are to be by subject or by countries or by legal systems. Subject divisions seem to be preferred by lawyers, but in practice this does not work well, as it brings in books of widely differing systems of law. Country sub-divisions on the other hand fail to cover books that do not fall within a geographical area—such as works on jurisprudence and comparative law. None of the classification schemes published so far has yet been widely accepted. Class K of the Library of Congress classification is not yet available, and it will probably be many years before this is completed. The Dewey classification is not satisfactory for a specialized library, and less so for non-American countries. The Benyon scheme (compiled by E.V. Benyon of the law library, University of Chicago in 1948) is more suitable, and is the one in use (with modifications) in the

University of Singapore law library. The basis of this scheme is the legal system. Although this scheme has its good points, it has a naturally strong American bias which reduces its usefulness to countries like Singapore. The Los Angeles County law library classification schedule published in 1958 is an adaptation of the Benyon scheme, and is finding increasing favour in law school libraries.

Elizabeth Moys includes an outline of suggested classification for the Ghana Supreme Court library in her *Report on the library of the Supreme Court* in 1960, as follows:

(1) Reference books

(2) Jurisprudence

(3) General and comparative law

(4) International law, Public and Private

(5) Religious legal systems

(6) Ancient and medieval law

(7) Common law
- Primary materials
  - Great Britain
  - Africa
  - America
  - Asia
  - Australasia
  - Europe
- Periodicals
- Treatises
  - General and history
  - Public law
  - Private law

(8) Other modern legal systems
- Africa
- America
- Asia
- Australasia
- Europe

(9) Non-legal materials.

This scheme is intended primarily for an independent law library and contains places for various materials which are not strictly legal. The first stage of classification is by legal systems. For common law countries the second stage is by form, and for non-common law countries the second stage is by country followed by form and subject divisions.

With a little more emphasis on research, this classification scheme could be extended to suit the needs of an academic research library.

Book Selection and Budget

Book selection is affected by many factors as e.g. the nature of the curriculum, the physical aspects of the library building, faculty interests and, not the least, the amount of funds available.

Generally speaking, faculty, students and administration should all be entitled to have their book requests met with. But for practical purposes the library should work in close cooperation with the faculty in this matter, and it is necessary to have a programme here. Members of the faculty should be given the responsibility of selecting materials supporting their teaching and research programmes, and the library should be held responsible for selecting general reference books, bibliographic tools, non-curricula materials, and other general and recreational reading, as well as seeing to the coordination of the different categories, and to the coverage of the whole field. The library should also periodically notify the faculty regarding the annual allocation of funds, and the current status of the fund. Another important function is the routing of information to the faculty e.g. journals containing relevant reviews, bibliographies in books and journals, subject bibliographies, publishers' announcements, second-hand catalogues etc. A faculty book selection committee, meeting at regular intervals together with the librarian, can contribute much towards facilitating an acquisition programme. This can also help maintain faculty interest in the library, and appreciation of its role in the educational programme, and lead towards better understanding of each other's problems.

Law libraries that are an integral part of the university library do not have a separate budget. The allocation for law is prepared in consultation with the Dean of the Faculty and the law librarian. Normally, the librarian would begin budget planning by reviewing expenditures of the previous years, funds budgeted for the current year, gaps in the existing collection which need filling, and future expansion needs, if any, of the faculty. These factors give some idea of needs for the next fiscal year. This formula of course does not work during the early years when the library is in the making, when a considerably larger initial outlay is required. Outside sources of income have also to be taken into consideration. The principal sources are grants and individual gifts which may include gifts for book-endowment, acquisition of materials, buildings, bibliographic activities and general library support. It is preferable to have an established policy here. Sometimes it is necessary to say No when a proposed gift is of no value to the library, and to gifts that come with conditions attached, which may in the long run reduce their value. The librarian must be able to justify the budget estimates,

and must have supporting data and statistics to do this. Another requirement for the librarian here is for him to have at least a rudimentary knowledge of the essentials of an adequate system of financial records.

Buildings and Equipment

It is not every library that starts off with a brand new well-equipped library building. The question of space and equipment is bound to be a problem, especially in view of the rapid expansion that will take place. Law students need to spend more time in the library than students of the other disciplines, and it is important therefore that they be given all possible facilities and maximum inducement to do so. Questions of space, stack arrangement and construction, open and closed access, rooms for discussion, air-conditioning, lighting and equipment all have to be taken into consideration and reviewed from time to time. This should be done from the point of view of comfort and utility first, and appearance later. Planning a new library building is a tremendous task, especially with all the new methods of library construction, new techniques of librarianship and new theories of library design and internal arrangement. Attempts have been made to establish principles of good library planning, and there is sufficient literature on this subject for those who have this project on hand.

Staff

For proper administration it is necessary to have a full-time law librarian whose primary duty should be the development and maintenance of the law library. In the U.S. law librarians are a recognized professional body with a country-wide membership. Standards for their education, membership and for law library service are in the making. There is also an International Association of Law Libraries. To be able to give efficient service, the librarian needs to have a knowledge of both law and librarianship. Universities today expect certain educational standards from librarians, and it is no longer possible to fall back on experience alone. The ideal situation is for the law librarian to have both legal and library training and qualifications so that he is able to develop a scholarly interest and understanding of the educational programme, as well as maintain an effective library service. This training is expensive and time consuming. It is to the advantage of the university and the faculty to offer a position attractive enough to commensurate this, both in status and renumeration, so that candidates with requisite qualifications are interested enough to apply. The librarian should furthermore be given adequate professional and clerical staff, as the day of the one-man law library is fast disappearing.

Interpretation of Services

It is no use having an adequate collection, staff and well equipped buildings without proper interpretation of the services available. The most important aspect of this is interpretation to the students and the faculty. It is not uncommon for the graduating student to say that he never managed to master the catalogue.

The new student is usually introduced to the library through library orientation programmes at the beginning of the academic year. The faculty and the library should co-operate in planning lectures and guided tours of the library for this. The orientation and direction of the students may further be facilitated by the provision of handbooks describing the physical aspects of the library, its rules and regulations and by annotated book-lists relating directly to their studies. Bulletin boards, displays and exhibitions can all play their part as interpretative aids. Nothing, however, can equal personal individual help, and the library staff should always be available and approachable to render this service whenever it is required.

Good working relations have also to be established with the administration, other faculties and outside groups such as professional bodies, prospective donors etc.

Autonomy

In most universities, the law library is an integrated unit of the university library system. It is, however, being increasingly felt that an autonomous law library under the direction of the law faculty would be able to perform more effectively. The Council of the Section of Legal Education and Admissions to the Bar (American Bar Association) recently stated as follows in its pamphlet on educational standards:

" The use of the library is an integral component of the educational process of the law school. To assure maximum contribution to this process, it should be administered by the law school as an autonomous unit free of outside control. Exceptions are permissible only where there is a preponderance of affirmative evidence in a particular school satisfactory to the Council that the advantages of autonomy can be preserved and economy in administration attained through centralizing the responsibility for acquisition and cataloguing."

The library serving the law faculty does occupy a special position among professional libraries. It is " the laboratory " of the law faculty, and its material is highly specialized. It requires close integration with the legal curricula. Its administration should more appropriately fall within the law faculty administration. It should be budgeted according to the specific requirements of the educational programme, and not according to general library standards.

Arguments in favour of an integrated system have also been offered, notably by Dr. Miles O. Price, law librarian of Columbia University for 38 years. Dr. Price is of the opinion that the personalities and capabilities of the Dean of Law, the University Librarian and the Law Librarian have more to do with the efficient working of a law library than the organization within.

There are also the economies to be gained by the non-duplication of many of the administrative services, the daily routines, equipment such as microfilm apparatus, bibliographic and reference tools etc. Autonomy would also have to depend a great deal on the size of the university, the location of the campus and the financial resources available.

The law library of the University of Singapore is now heading towards a compromise. As the collection now comprises only 20,000 volumes, the problem is not urgent. A law librarian with both legal and library qualifications is on the staff. Provisions have been made for one professional assistant, one clerk and one servant in the first instance, with further enlargement of staff in the near future. The legal collection at present housed in the main library will, in the near future, be moved to occupy two whole floors of the south-east wing, with a seating capacity of approximately 150. The law librarian and staff will be accommodated there. It is expected that the major part of the ordering and processing of books, journals, reports etc. will be done by the law library staff.

In conclusion it might be said that in whatever manner a law library is organized, and whatever the merits and demerits of autonomy, in its final analysis the library must be judged by how well it performs the services essential to meet the educational requirements of the University. And when the library is able to meet these requirements, and to give optimum service to students and staff, it is then that it plays its part as an essential tool of legal education.

VII. RECRUITMENT AND SALARY OF TEACHERS; STATUS OF LAWYERS AND LAW TEACHERS

FRIDAY AUGUST 31 1962 (MORNING SESSION)

Chairman: B. L. Chua

1. Recruitment and Salary of Teachers

by

L. C. GREEN *

One of the most important problems affecting recruitment to universities, regardless of department, at the present time is that presented by counter-attractions from outside.

In so far as the law is concerned, the universities must compete with competition from industry, government service and the practising professions. There is little doubt that as business methods become more complex, as companies extend their activities to wider geographic areas and countries enter into international agreements of an economic character, which will be even more involved if accompanied by common market and similar agreements, so the temptation to join commercial firms as legal advisers will become stronger. Similarly, as government planning increases the number of fields in which it operates and as countries become more industrialized and developed, so the demand for government lawyers will become intensified, particularly in those countries where a certain amount of prestige and glamour attaches to government service. It is only to be anticipated that, concomitant with these developments, there is bound to be further openings for practitioners, especially when trained in commercial or industrial law, both international and municipal.

This situation focuses attention primarily on the problem of remuneration, but this in itself is inextricably interwoven with standards and qualifications. It would be of no value to universities or to the legal profession if the law schools were compelled, because of their inability to compete with the outside world, to make do with

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those persons who remained after their competitors had taken off those who would in fact be best qualified to teach.

It is not my intention to offer any detailed salaries scheme, for to a certain extent at least this must be affected by local conditions and the scarcity of teachers in any particular field. Broadly speaking, however, university authorities must recognize that their law schools must be able to offer salaries that are sufficiently attractive to hold their own when faced with local competition. This may mean that, as is so often the case in the field of medicine, it will be necessary for law staff salaries to be out of line with the general run of university salaries, for the income of legal practitioners of legal advisers is usually far higher than of law teachers, although the salary of a university lecturer in, for example, history is invariably in advance of that of a history teacher in a school.

There is a further complication so far as law faculties are concerned. By and large it may be said that law schools may be divided into those that follow the traditions of the civil law or those of the common law, with variations resulting from the significant part played by the local law of status, be it Hindu, Muslim, or what you will. In some ways this is of course an advantage, for where many subjects are concerned this means that the field of recruitment extends beyond national limits, although here linguistic problems may become important. The same difficulty may arise with regard to such subjects as legal philosophy, or where it is taught, Roman law, or subject to the need to introduce matter arising from local state practice, public international law, with regard to all of which it may be said that the field of recruitment is universal.

On the other hand, it must be recognized that if the best people from abroad are to be persuaded to come to a particular university, the local university authorities must be prepared to offer terms that will compete not only with the local counter-attractions, but also with those existing in the country from which it is hoped to entice the particular teacher. This may result in a further deviation from the general salaries policy pursued by the university, necessitating perhaps a special salary measured by the needs to fill a particular post and to fill it by a particular person.

The significance of recruitment on a world scale was emphasised by Professor Sivasubramanian when he drew attention to the need for establishing a universal Rule of Law, for, after all, it is the aim of each law teacher, regardless of his subject, to make his own contribution to the achievement of the Rule of Law, and at the same time instil in his students a passionate devotion to the same cause. To fulfil this task adequately the law teacher must be insulated from external threats to his academic and economic security. At the same time, however, care must be taken to ensure that the protection offered to a particular staff member does not result in disturbance within the law school itself or within the university as such, a situation

that may arise early in universities in newly independent states, for if they are to function adequately, especially in the early days, they may have to rely on recruitment from abroad, and particularly from the territory of the former ruler. In many cases this has meant providing such teachers with a special enticement in the form of a supplement to the established salary, based not on the personal quality of the staff member concerned, but on the mere fact that he comes to the university from abroad.

In a number of cases it is perfectly true that non-nationals may not be prepared to take up local appointments unless the local salaries are augmented. Usually, however, this insistence stems from the fact that the local salaries are not commensurate with either the status or the responsibility of an academic teacher. In some cases, in fact, the basic salary is little better than an insult to anybody qualified to teach in a law school. Even where basic salaries do not merit this condemnation, they tend, like academic salaries in most universities throughout the world, to be completely inadequate with the university financial authorities taking advantage of the fact that people normally enter the teaching profession on any level because they have a certain sense of vocation and a certain idealism. Vocation and idealism, however, do not fill empty stomachs. It is true that most law teachers are qualified to practice, but to be a good teacher does not necessarily mean being a good advocate. If the teacher has to rely on practice to augment his salary to provide an adequate income, it may mean that he becomes more concerned with his practice than his teaching. I am not suggesting that the law teacher should be barred from practice. It must be remembered, however, that, subject to the needs of faculty and departmental administration, the task of the teacher is to teach and he should therefore be permitted to practise only so far as such practice does not interfere in any way with his teaching duties.

At the same time it should be borne in mind that, normally, there is no reciprocal recognition of legal qualifications so that the non-local teacher is probably unqualified for practice and would therefore be unable to secure such augmentation. This means that the salary offered to him must be sufficient to enable him to live on a standard commensurate with his status as well as to recompense him adequately in view of his qualifications. As I have already indicated, it may cause unnecessary jealousy to give him additional payments merely because he comes from abroad. The answer to the situation lies in consolidating such augmenting allowances with the basic salary. This would obviously result in a large number of staff members, namely those who have been locally recruited, receiving large increase in their current salary. But this must not be allowed to constitute a reason for the financial authorities to contend that salaries have now become adequate. In fact, the basic salary plus such allowance is still inadequate as a reasonable salary for university

law teachers, and this is particularly true if there is any hope of attracting those who are best qualified on any subject. An invidious situation would be created if law schools entered into competition with each other, enticing personnel the one from the other, merely because of financial temptation. There must be relative equality of salaries elsewhere, although financial reward is not the only reason why a teacher may wish to serve in one university rather than another. At the same time it should not be thought that it is only the non-national who is interested in financial reward. It is not unknown even for qualified local personnel to take up an appointment abroad, or to go from his local university to one abroad, because the latter's terms of employment more adequately recognize his qualifications or are such as to provide him with a more statisfactory standard of life.

Clearly, closely connected with the issue of salaries is the question of recruitment, as has been appreciated by the First All India Law Conference. *Prima facie* there are attractions for university authorities and the dean of a faculty in filling every available teaching post available and presenting a front that indicates the possession of a plethora of professors. Often, however, this is not a sign of strength but of weakness, because such an appointment policy is motivated not by the need to produce a respected school, nor by the qualities of the field available, but solely by what I may call empire-building. In so far as empire-building has any justification, this is still satisfied if the establishment exists and is known to exist, even if the appointments remain vacant until such time as properly qualified applicants became available. This was in fact the position for many years with the law faculty of the London School of Economics.

The primary consideration in recruiting university teachers should be that of qualification and the contribution that can be made by the individual teacher to the enhancement of his faculty. Unfortunately, because of the need to staff the university, as well as the need of the potential appointee to earn his living as early as possible, we are normally compelled to appoint solely on the basis of paper qualifications. Normally the first class graduate carries an inherent attraction of his own, but it is only after he has been released among the students and these victims of his inexperience have, possibly, failed their first examinations that we can begin to assess his ability as a teacher.

It is of course one of the aims of any law school to become self-perpetuating, providing its junior staff from among its own graduates. By the time a student reaches the second half of his final year, one is able to foretell with a fair amount of certainty whether one would like to recruit him—or her—as a teaching colleague, even though one may not expect such a student to obtain first class honours in his degree. There is no reason why a student should not be permitted to conduct one or two tutorials in the presence of senior members

of the staff to see whether he might have the qualities that ought to be possessed by every university teacher, and the report of such a senior teacher should be available to the selection committee eventually called upon to decide on the appointment. Such experiments could even more easily be conducted with post-graduate students.

In fact, there is much to be said in favour of the argument that no person who does not possess first class honours or does not stand in the first fifth of the academic list should be appointed to an academic teaching post until he has secured a post-graduate qualification, for research is an essential part of a law teacher's functions and no teacher can adequately supervise his students' research activities unless he is himself aware, by reason of his own experience, of the difficulties involved in any problem of legal research. On the other hand, there are dangers inherent in pursuing a blind policy of degree worship as appears to be the case with the All India Law Conference, and is certainly the view of a number of students in their approach to the law, and the collection of letters for their visiting cards. It may happen that a non-graduate from the profession or the Bench is, if he is agreeable, the best person to appoint to teach a particular subject, particularly as a surfeit of doctors of law will tend to bring the LL.D. into disrepute and, rightly or wrongly, cast doubts on its standards.

A recruitment policy like that mentioned above is difficult to operate in a new law school or in a new university. Then the needs of teaching are such that it may not be possible to wait for post-graduates and risks have to be taken in appointing, to the lower echelons of the establishment, new graduates. I might say here that our experience in this direction in Singapore has by no means been discouraging. We have been lucky, but this is a risk that has to be taken.

No law school can be staffed solely by junior teachers and this is particularly true of any young school. Such a school must seek its senior appointments either from the legal profession or from abroad—or both. A good practitioner may be completely incapable of teaching law on any level, and is unlikely, particularly if he is a specialist, to be able to explain anything other than his practical specialization. Even a practitioner who can teach is often limited, not merely by the demands of his profession, but by his inability or lack of interest in subjects like legal history or legal philosophy and those other subjects which he is inclined to regard as peripheral, but which from the point of view of any university are fundamental to academic legal discipline.

If a law school hopes to hold its own in comparison with those who already enjoy universal respect it must ensure that the people holding its senior appointments enjoy international respect regardless of their nationality, provided they can teach in a language that is

generally understood by the students even though it be not the national language.

For some posts it may be wise, even if not strictly necessary, to disregard retirement ages in order to appoint to particular vacancies lawyers who have already retired from active life, either in practice or in or in other fields. There is much to be said in favour of, for example, appointing a retired judge to responsibility for the organization of moots or to impress upon students the importance of ethical professional behaviour.

Care must be taken, however, not to appoint such people merely because of the respect afforded to their names. Such superannuated prima donnas have a tendency to rest on their laurels and feel that both age and dignity preclude their being required to do any research—or for that matter very much teaching. These persons add nothing to a law school but the glamour of their name. Further, there is the grave risk that the poor students who are expected to sit at the feet of a legal luminary of this kind will become experts in the law as it existed in the day of the learned teacher's instructor and nothing could be more dangerous in the field of law. I myself attended lectures in jurisprudence from an aged professor whose favourite comment on any issue was " as Jethro Brown said the other day. " For him Kelsen, Stammler, Duguit, Hohfeld and the rest were the purveyors of untried and unreliable inventions to be avoided like the devil.

An appointments policy must at all times be directed to the ultimate end of the maintenance of existing standards, or where these do not exist, to the establishment of standards that are comparable with those of existing law schools. It is also necessary to secure a situation in which there is some measure of permanency and continuity, for a good law school frequently depends upon the reputation achieved by a particular teacher establishing his own school in his own specialism. Once he has achieved such a reputation the pressures and attractions from outside will become greatly intensified. At the same time, care must be taken not to destroy the initiative and goodwill of junior teachers. A law school must be a vital and developing force offering openings for advancement to its junior staff. Frequently it is essential to bring in an "expert" from outside, but nothing is more destructive of the academic spirit than the military concept of establishment, with promotion conditioned by " dead men's shoes ". The head of a law school must therefore be prepared to fight for the promotion of his own staff provided they are qualified, and must not allow himself to be fobbed off by talk of economy—we are already the poor relation of the academic world as compared with the ' favourite son ' of modern technology. He must also be prepared to assert that just as age is no *open sesame* to appointment, so youth is no barrier to appointment or advancement. In both cases, the operative tests are ability, quality and standards.

Just as one cannot expect to attract staff when salaries are inadequate, so one cannot hope to have freedom of choice among desirable applicants if the standards of the school are not reputable. Any teacher worth his salt as a teacher will only be interested in securing appointment at a school whose reputation is such that he is able to hold his head high among his colleagues from abroad. This may often cause some measure of heartburning, since it may necessitate a law school remaining fairly small somewhat longer than might otherwise be the case and may necessitate large-scale foreign recruitment for a lengthy period. In the long run, however, I have little doubt that such a policy will pay dividends, for whatever be the problems of local idealism involved, there is ample time for these ideals to be satisfied when the law school has had an opportunity to find its feet and secure its reputation. The other alternative is, under the umbrella of such local idealism, to have a school staffed by personnel who are only qualified in the most rudimentary and formal sense, filling chairs in every subject, however esoteric, and producing students who are as unqualified as they are themselves. At the same time the name of such a school will tend, in international university circles, to be received not in polite silence, but with cynical smiles.

No law teacher and no vice-chancellor can view such a situation with equanimity. In all circumstances, therefore, teachers must be appointed on the basis of ability and reputable standards, regardless of extraneous pressures. At the same time, teachers with such standards will be available only so long as the salaries offered are compatible with the qualifications demanded and are sufficiently attractive to enable law schools to compete on proper terms with those other professions that call for the services of legally qualified persons.

2. Reorientation of the Outlook on Legal Studies

by

HAFEEZUL RAHMAN *

What is Wrong with our Legal Education?

No critics have been more articulate in lamenting the failures and inadequacies of legal education than the law teachers themselves [1]—the people who share the major responsibility for training new members of the " public profession " of the law—and yet little has actually been achieved in refashioning old educational policies to serve insistent contemporary needs. The observations of an eminent teacher-jurist, known for his balanced realism, that legal instruction is " blind, inept, factory-ridden, wasteful, defective, and empty, " [2] still remain apt. So far as India is concerned, complaints about deterioration in standards have been mounting and we feel that our law graduates fail, by many degrees, to attain the level expected of them. We have no internationally known expounders of jurisprudence and legal studies. Our law colleges do not hold a place of high esteem either at home or abroad, nor has law become an area of profound scholarship and enlightened research.[3] The absence of juristic thought and standard publications is partly due to our defective legal education which fails to recognize the study of law as a branch of

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[1] The literature on the subject is legion and a complete catalogue will run into numerous pages, which is neither possible nor appropriate in this limited study. By way of illustration, reference may be made to a large number of articles in two journals entirely devoted to legal education—*Journal of the Society of Public Teachers of Law*, published bi-annually in England, and the *Journal of Legal Education* published quarterly in the U.S.A. In India, the *Journal of the Indian Law Teachers' Association* will be found devoted to this matter. Among earlier works, some outstanding ones are: Faculty of Law, Columbia University, *Summary of Studies in Legal Education* (1928); Keyserling, *Social Objective in Legal Education* 33 Col. L. Rev. 437 (1933); Steffen, *Changing Objectives in Legal Education*, 40 Yale L.J., 576 (1931); Riesman, *Law and Social Science*; A Report on Michael and Wechsler's Casebook on Criminal Law and Administration, 50 Yale L.J., 636 (1941); Clark, *The Function of Law in a Democratic Society*, 9 Univ. Chic. L. Rev. 393 (1942); Gelhorn, *The Law School's Responsibility for Training Public Servants*, 9 Univ. Chic. L. Rev., 469 (1942); Llewellyn, *On What Is Wrong with So-Called Legal Education*, 35 Col. L. Rev., 651 (1935).

[2] Llewellyn, supra n. 1 at 653.

[3] Report of the University Education Commission, Vol. 1, p. 257.

learning and as a science.[1] Nor is our education adequate to prepare our graduates for the legal profession. Part-time teachers and part-time students have been considerably responsible for the deterioration in standards. This dismal character is well brought out by the Law Commission of India:

> Excepting in certain centres... where full-time law colleges exist, education is imparted in part-time classes held in the mornings or in the evenings. The teachers are mainly legal practitioners who give tuition outside court hours. Some of these institutions have no buildings or libraries of their own and classes are held in buildings belonging to arts colleges and institutions. Large numbers of the pupils serve in government offices or elsewhere while attending the institutions and take the law course with a view to better their prospects in service by obtaining a law degree. Some are post-graduate students who, in addition to the post-graduate courses which they have taken and which are their main objective, wish to add to their qualifications a degree in law. Most of the students who crowd the institutions are young men who have not been able to secure employment; they take a course in law while waiting for a job with no intention of practising law as a profession.[2]

A number of institutions are now switching over from part-time to whole-time teachers but the process is not complete, as will appear from the statement in Appendix A. Obviously, no improvement is possible unless the dominant interest of the teacher lies in teaching and research. When such part-time teachers impart instruction to an overcrowded class of indifferent students, it is not suprising that there is hardly a pretence at teaching and that the holding of tutorials or seminars would be unthinkable. Our universities and law colleges are mechanically manufacturing law graduates. The courses of studies are so framed as to encourage book recapitulation. The examinations are reduced to tests of memory and are not conducive to the development of the legal mind or the ability at differentiation of case from case. Our examination question-papers keep to their stereotyped form and content and a majority of the questions revolve round direct theory questions carved out from the text-books. There are hardly any, or just a very few, intelligent problems. This being so, " open book " examinations are unknown to us.

A student studies by mugging up the contents of the cheap aid-books by unknown or little known writers, passes the examination —passing the examination regardless of assessment of day-to-day class-work being the only mode of our grading—and then forgets all that he had remembered. It is not uncommon that the paper-setters, who are already overburdened with the examination work

[1] Fourteenth Report of the Law Commission of India, Vol. I, p. 521 (1958).

[2] *Ibid.*, at p. 522.

on account of over-concentration of too much work in too few hands, repeat the previously asked questions and this greatly contributes to the notorious practice of cramming up selected topics and also opens up a wide market for the cheap aid-books whose mushroom growth is a serious threat to our legal education.

As will appear from the statement in Appendix A, the most accepted method of teaching is by the delivery of formal lectures. Group discussions, seminars and tutorials, the case-method, moots and mock trials have not found their due place in our curricula. Even the lecture method degenerates into a system of mere dictation of notes having reference to the probable questions in the examination and, as the Indian University Commission, 1902, so succinctly observed, " the greatest evil from which the system of University education in India suffers is that teaching is subordinated to examination and not examination to teaching. " Small wonder, most of our law graduates are neither intellectually embellished, nor professionally fit for the great task of a lawyer.

For the newly independent Afro-Asian countries, including India, the changes that have occurred and are occurring in the political, economic, and social life of our nations require a radical alteration in the patterns of legal education, its objectives, scope and technique, and render a complete reorientation of the outlook on legal education imperative. Efforts should be made to gather information about the actual circumstances of our law schools and put forward a comprehensive scheme for improving the institutions, the content of study, the method of instruction and examination, the qualifications and conditions of service of the staff, postgraduate studies and research and the equipments and buildings needed. Before undertaking a detailed study of these several matters, let us first consider some problems that are more basic and fundamental to the topic under review, and which have a profound influence in directing our above efforts: What are our ultimate aims? How do we clarify these aims? If our aim is a systematic training for policy-making, as is the contention of this paper, how does our educational system equip our students for this task? It is this important aspect that will receive our first consideration.

The Need for Clarification of Goal-Values & Systematic Training for Policy-Making

Although a tradition of legal research is gradually developing in the Commonwealth countries, the results of the research may not necessarily synchronize with the peculiar conditions now prevailing in these countries. By and large, the older generation was brought up in the tradition of English jurisprudence, whereas most of our younger scholars have been trained in America. However, some of these countries have decided upon objectives which may be widely different

from those from which we have derived our legal institutions. For instance, India has fixed her eye on the socialistic pattern of society. The goal of a social welfare state which our Constitution has adopted has led and continues to lead to sweeping changes in our social, economic and legal structure.[1] She has to resort to planned economy and industrial build-up. Several legislative measures [2] illustrate the shift of the line of demarcation between liberty and control further on the side of control so as to achieve the fulfilment of the social ambitions of the people. This shift seems to be not only inevitable but also envisaged by the Constitution in the Directive Principles of State Policy.[3] The question that now requires serious consideration is: How far has our learning and training equipped us for the above task? To what extent is our curriculum oriented towards achievement of this goal? How far does our curriculum provide for a systematic study of the legal problems pertaining to those subjects that have a direct bearing on the above goal, e.g., public control of private enterprise, socialistic planning, decentralization of power, collective pooling of resources, social security and labour-management relations, tax structure of our countries as also of those countries having a pattern similar to our own, political and civil rights? The answer most probably would be that our existing legal education is not adequately oriented towards achieving the values and appraising the conditioning variables of our society. The curricula, even at the advanced stages of our legal studies, comprises subjects labelled as *Contract, Tort, Property, Crime*—concepts which have remained the favoured instruments of the laissez-faire society. Secondary and ancilliary to these are such courses as sales, agency, insurance, equity, trusts, wills, conveyances. In teaching these subjects, organized in this order, little attention is paid to the goal-values that our contemporary society has set to it and the ways in which lawyers can be trained in the skills to reach the desideratum. The desideratum of

[1] Mention may be made of the rapid and vital change in the Agrarian system which has had and contiues to have a powerful impact on the social and economic life of the country. Same is the case with the rapid industrialization of the country which is now the accepted object of our economic development and is being vigorously pursued through planning. Reforms in our personal laws and some of our customary laws is another notable field. In all these spheres, it was through law that we set the ideals and brought about vital change in society.

[2] For instance, the Industries (Development & Regulation) Act, 1951, which regulates a number of important industries; the Industrial Finance Corporation Act, 1948.

[3] Some of these Directives are: that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; that the economic system does not result in the concentration of wealth and means of production to the common detriment; that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength; the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

our legal education is to broad-base it, and develop in the student a scepticism which will enable him in later life to appreciate all situations that may arise in a fast-changing world. The budding lawyers should be taught not only what the law, practice and procedure, is but what it ought to be. An objective and incisive criticism of what the judges say and what the law is *vis-à-vis* social requirements may induce and shape law reforms wherever it is necessary. Our present-day instruction does not equip the students for this task. For instance, in property courses, the teachers and students remain primarily occupied with an analysis of the statutory and case law pertaining to such concepts as *perpetuity*, *easement*, *lease*, *mortgage*, *covenant*, *reversion*, *remainder*, *executory interest*. Little attention is paid to such goals as the provision of proper housing, in well-planned communities, for all citizens at reasonable rates, or the promotion of the cheap and speedy alienation of land, or the examination of legal doctrines and practices pertaining to the transmission of wealth from generation to generation in terms of their effect on a balanced distribution of claims in society. This state of affairs exists in other courses as well, including the public law courses.

Even in such a subject as jurisprudence, where the course must have a basic relation to the specific and general problems of the country for which it is designed and the purpose of the course should be to give to the student a training and an insight into the relation of legal rules to the set of values that those rules are intended to secure in society, the position is far from satisfactory and our stagnation is appalling. The subject is taught as a compulsory subject at the LL.B. level in almost all the Indian universities and books written by Salmond, Holland and Keeton are prescribed. Even at the LL.M. level, our syllabi seem to be mainly concerned with the analytical and historical schools of jurisprudence. We may well ask ourselves, how far these works and other similar texts analyze the concepts of the Indian legal system and how far they help us in focussing attention on our own problems?

To put so much emphasis on the importance of questions of definition and analysis, as the analytical school does, is indirectly to encourage the vicious abstraction of the law from its social and political context and purposes to which the English lawyer's mind is congenitally prone. In a period of great social and economic change, like the one we are experiencing in Afro-Asian countries, this persistence of analytical tradition seems anomalous and the more recent works of Professors Stone and Friedmann attempt to displace it by demonstrating to the reluctant English lawyer that behind the often deceptive formal structure of every legal system there lurks an ideology compounded of diverse philosophical, political, moral and economic strands.[1] Analytical positivism with its insistence upon certainty

[1] See Hart, *Philosophy of Law and Jurisprudence in Britain* (1945-1952), 2 Am. J. Corp. Law, 355 (1953).

and logical self-consistency presupposes a stable order of society and government. When this theory was emerging in England, the requisite conditions existed and a course designed on analytical approach ideally suited them. The Indian society, unlike the homogeneous English society, suffers from the disintegrating problems of regionalism, communalism, linguistic multiplicity and cultural diversity, whose solution requires an appraisal of law in terms of its consequences. What we need, today, is sociological relativism and the philosophy of pragmatism which became popular in the U.S.A. towards the end of the century under conditions similar to those through which we are now passing.[1] Merely confining ourselves to what Austin, Holland, Salmond or Gray have preached leads us nowhere. Unfortunately, there is a virtual famine of such books in India which could assist our students in directing their thinking to their own system and their own values and help to examine the working of the Rule of Law in society with the application of other social and behaviorial sciences. It would be interesting to know if jurists in other Asian countries have accomplished this task. It is also incongruous that whereas Roman law should be taught to our students (see Appendix A) when India was never a part of the Roman empire and Roman law has had little effect on the development of our law, our curricula should give no place to Indian Jurisprudence and thus keep our students ignorant of the development of jurisprudence and political philosophy of our own civilization. (I am not asserting that the study of Roman law is useless and the subject be discarded. In fact, its study will be very profitable for a student of comparative jurisprudence. My remarks be only taken in a relative context.) This neglect of our own jurisprudence is not without significance. For instance, in regard to rights and duties —the fundamental or rather parent concepts of jurisprudence—the Indian and the Western systems have different attitudes. The latter emphasizes the rights of the individual, whereas the former lays emphasis on obligations. This difference may have some meaningful effects on our social structure. Thus, marriage under the Indian system was a duty, but in the Western system, with its orientation towards rights, it is largely conceived as an alliance from which each partner tries to get as much as he can and this may, in some measure, explain the high rate of divorce in the Western countries.

Curriculum inertia is, thus, a great handicap in a fast-moving society and this must be guarded against if law has to play its role of social engineering. Emphasis on the analytical school of jurisprudence not only in our LL.B. but also in the LL.M. syllabi to the exclusion of sociological thought is unwarranted and calls for immediate modifica-

[1] Professor G. S. Sharma, of the Jaipur Law School has contributed a thought-provoking article on the subject: " Some Reflections on Teaching of Jurisprudence in India," *Jaipur L.J.* 15 (1961). The suggestions outlined by him need concretization by furthering this work.

tions. The courses taught under the labels contract, transfer of property, constitutional law etc., may well be split up and spelled out so as to bring into sharp focus those areas under these subjects that have assumed special importance in the changed context or our society or, if this is not possible, the books recommended of prescribed should be those that provide enough material for directing our thinking towards the latest trends in these comprehensively-worded courses of studies. For instance, Fuller's *Basic Contract Law: Contracts: Cases and Materials* by Kessler and Sharp and Patterson's *Cases and Materials on Contracts* are taught in contract courses in the leading American law schools. These works present contract as an instrument of social order and the second of the above three, in particular, relates contract to political and economic values. By and large, this feature is shared by the works on other subjects as well. Such books are the essential devices for a reorientation in our outlook. To emphasize the vital trends in our systems, we may well introduce such subjects as public control of private enterprise; state legislation and the flow of commerce; legal problems of international trade; restrictive trade practices, monopolies and anti-trust laws; copyright, patents and trade marks; the law of arbitration; public corporations or companies; labour-management relations and social security laws; land development, co-operative plans, housing and city planning; trusts, religious and charitable endowments and wakfs; political and civil rights; local self-government; criminology and Forensic medicine; Indian legal history and Indian jurisprudence. These subjects may either be the subject-matter of seminars or may be included in the regular instruction for students in advanced stages. A perusal of Appendix A would bring in limelight our inadequacies in the curricula. Few Indian Universities are teaching administrative law, labour law, insurance, private international law, law of taxation, company law and administration, as compulsory subjects. Not only these subjects are to be included in our regular courses of studies, their study should be made more intensive and they may well be split up in more than one paper.

So, there is a great scope in India (and this, I believe, applies to other Afro-Asian countries as well), for teachers of law to enrich the study of jurisprudence and law by contributing to legal literature which should bring into sharp focus their own values and, thus, change the outlook of legal studies. Research in law must be founded on the background of changing conditions, facts and ideas of life and society which are rapidly changing an under-developed country into a mighty industrial state designed to create affluence for the common man. It must take into consideration the problems of a vast country and the unique experiment of creating a socialistic pattern of society through the rule of law and parliamentary democracy.

The first essential step towards reform in legal education is, therefore, to clarify our goal-values and impart systematic training to

our students for policy-making. Legal doctrines and concepts should be taught and evaluated in terms of the basic democratic values. Legal education should aim at creating skills of thought: goal-thinking, trend-thinking and scientific-thinking.[1]

Further Probe in Objectives: Academic Training v. Vocational Training

In most of the Commonwealth countries, including India and Malaya, the law has travelled from England and its roots can be traced in the English common law. Law training in India was organized as a compound of non-professional course of study in a law college and a professional apprentice course of training in the courts and in the chambers of our advocates. An impression has developed that law studies need not be theoretical or academic, since the object of such a study was to practice at the Bar, and that they need not be practical either, since that could be obtained only when one starts to actually practice. As I gather from an illuminating article by Dean Sheridan and associates,[2] Malaya has remained free from this confusion as the view adopted from the very beginning has been that the pulls of the academy and profession on legal education are far from opposed. "There are differences in direction, but these are largely, even if not entirely, unimportant."[3] The supposed antithesis between the academic and vocational training is fallacious. A practical know-how without a thorough, scholarly and analytical training would remain empty and meaningless.[4] As Professor Simpson observes, "Competence in the practical pursuits of the law is promoted far more by an understanding of the law's

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[1] A very useful and systematic survey has been made by two American scholars, Professors Lasswell and McDougal in their several articles. Two outstanding ones are: "Legal Education and Public Policy: Professional Training in the Public Interest," 52 *Yale Law Journal* 203-295 (1943); "The Identification & Appraisal of Diverse Systems of Public Order," 53 *A.J.I.L.* 1-29 (1959). Goal-thinking requires the clarification of values. Whatever values the student chooses, it should be done knowingly and not by self-deception. In a democratic society, the supreme goal-value is the dignity and worth of the individual and this can be achieved by a wide sharing of such specific values as power, wealth, respect, knowledge, enlightenment, well-being, skill, affection and rectitude. To implement these values, the student must orient himself in trend-thinking, i.e., in contemporary trends and future probabilities and for this all the relevant facts must be properly organized and made accessible. Next is scientific-thinking by which a policy-maker guides his judgment by what is scientifically known and knowable about the causal variables that condition the democratic variables.

[2] Calvert, Coomaraswamy and Sheridan, "Legal Education in Malaya," 3 *Journal Indian Law Teachers' Assoc.*, 7 (Dec., 1960).

[3] Id.

[4] Dean McClain, "Is Legal Education doing its Job? A Reply," *A. Bar Assoc. Journal*, 120 at 123 (Feb., 1953).

underlying principles and theories than by acquaintance with tricks of the trade. "[1] The noblest product of legal education is the legal mind and whether in the counsel's chamber or in a court or a college, or a department or a ministry of government or in a business house, it is this legal mind of which one should be proud. A sound legal education, with a thorough grounding, can develop a truly legal mind of high order. If a purely vocational training is imparted by a body of professional lawyers, it will remain highly defective unless broader objectives that law colleges emphasise are set before it. Practical lawyers have themselves deplored the conservatism of their profession which results from concentrating on *how* to do without regard to the *why* and the *wherefore* behind the how. University legal education, while inculcating a scientific background of legal knowledge, is better equipped for the constant adaptation of law to its basic purpose of social welfare.

An off-shoot of this bifurcation into academic and practical training is the problem relating to the duration of courses. Appendix B gives a comprehensive statement of the duration of course for LL.B. degree in some leading countries of the world.[2] The trend of modern opinion seems to be in favour of a three-year course. The majority of Indian Universities continue to follow a two-year course (Appendix A) and this includes those institutions in which law is not a full-time course and can be combined with other subjects leading to a post-graduate degree. Several commissions and bodies have recommended a three-year course, whereas the Indian Law Commission has recommended a two-year full-time course in which the universities be made to teach only theory and principles of law and the vocational and procedural subjects be taught later as an apprentice course of one year by the Bar Councils to those who intend to take a professional career. Very recently, one of our universities which has adopted a three-year course has recommended modification of Bar Council Rules to give credit for training while in study.[3] Both these proposals merit consideration and a uniform scheme should be worked out by a joint effort of the All India Teachers' Association and the All India Bar Council. It may, however, be observed that there appears some inconsistency in the position taken by the Law Commission. On the one hand, it has stated that the " supposed antithesis between an academic legal education and a training in law for the profession " is false, but on the other, by dividing the subjects into theoretical and practical and by recommending the assignment of the former to the Universities and of the latter to the Bar Councils,

[1] Sidney Post Simpson in 49 *Harvard Law Journal*, 1960.

[2] The statement is based on the " Draft Syllabus of Courses of Studies " prepared by the Banaras Hindu University, India, which has adopted a three-year full-time LL.B. course.

[3] See the Draft, supra note 16.

it accepts the antithesis.[1] The division into theoretical and practical is largely illusory. The study of the latter would be theoretical if it is concerned with the first principles and the purposes and objectives underlying the statutory and case law of the so-called practical subject. Similarly, theoretical instruction is also practical, as without a thorough grounding in principles, practical training will remain inadequate and lopsided. If civil or criminal procedure is included in the curriculum, it is not only because future practitioners ought to learn the rudiments of these subjects but also because the rules of civil and criminal procedures ought to be subjected to an academic examination. The exclusion of taxation from the LL.B. course, as suggested by the Law Commission, would also be inadvisable on other grounds as well. Today, it effects almost all the transactions—contracts, sales, partnerships, property, succession and wills and for an intelligent understanding of these latter subjects, a knowledge of the law of taxation is necessary. The Law of Evidence, by lending itself to a fine study of both legal principles and human nature, has immense cultural value.

In any case, the two-year course, in its existing form, manned by part-time teachers and as a part-time study, is extremely inadequate and defective. The situation is aggravated by the fact that the total number of working days in our Universities is between 170 and 180 per year and the student is not required to keep his attendance for more than 75% of the working days.[2] It is, therefore, important that law teaching be imparted in full-time institutions, manned by full-time teachers. Combined law and post-graduate courses, in their existing form, should not be allowed. However, a well-integrated programme in law and other related disciplines may be instituted as an optional four-year programme, independent of the LL.B. course which may lead to both the LL.B. and the M.A. degrees. This programme will aim at producing legal specialists and scholars. For instance, a programme in Law and Economics may be worked out for those wishing to be experts in company law, law of taxation, law relating to the regualated industries, and similar other law subjects involving economic implications. A separate diploma course may be instituted in such subjects as criminology designed mostly to benefit the law enforcing agencies.

Method of Instruction

The basic goal of legal education being a systematic training for policy-making, the method of instruction, the curriculum, and other tasks should be geared to assist the student to develop to the maximum the required capacities, qualities and skills. He should acquire a

[1] See Draft Memorandum on Indian Legal Education by Dean Spaeth, 3 *Journal Indian Law Teachers' Association*, 18 (1960).

[2] Fourteenth Report, Law Commission of India, Vol. I., p. 530 (1958).

sound and critical understanding of the judicial process so that he may read, analyse and comprehend judicial decisions, distill rules of law from them, appraise the functioning of the rules in terms of their achievement of the goal-values which they are meant to achieve and also the community attitudes which bring about a change in the law. The insights and information from other social and behaviorial sciences should be utilized in studying the functioning of the rules. Besides judicial process, a sound understanding of the legislative and administrative process, which is assuming increasing importance every day, is another essential task of our legal instruction. Development of the skills of fact-finding (not merely facts of a written record or the skeleton of facts found in an appellate decision on which our present-day legal education centres), development of the problem-solving capacity (not merely of the individual client but of the society in which he lives), development of the counselling capacity, development of sophistication and precision in language (spoken or written), development of the capacity to foresee and anticipate remote and collateral consequences, and infusion of the ideals of self-discipline and responsibility of the profession are the qualities that law training should seek to develop. Whatever the law schools teach (I am not minimizing the importance of the content of curriculum), they should strive for depth. They exist to teach not facts, but what to do with facts; not the state of the law, but the process of legal change.[1]

Need for Re-orientation in the Outlook of Political and Education Leaders

The apathy of the political and educational leaders of the country towards law and lawyers and consequently towards legal education is also partly responsible for our present-day plight. Many of our leaders feel that the courts and the legal profession as a whole are obstructionists who, on narrow technical grounds, delay and hinder the efforts of government to accelerate the social and economic development of the country. If the system of administration of justice is slow and tardy and the conduct of some of our lawyers and law courts falls short of the desired ethical and professional standards then the remedy lies in reforming these defects rather than in condemning and eliminating the law and lawyers as a whole. Even in the communist systems, where law was looked down upon as an instrument to perpetuate bourgeois supremacy over the proletariat and was thus condemned, it has continued to thrive and has, in fact, assumed greater importance as an instrument of social policy of the ruling party. We, thus, cannot get rid of law and people competent to interpret and administer law if we have to have a society under Rule of Law; but, certainly, in case of those parasitic elements in the

[1] See Gilmore, Book Review, 68 *Harvard Law Review* 555, 560 (1955); also Griswold, "The Future of Legal Education", 5 *Journal Legal Education*, 438 (1953).

profession who are utilizing law for their own unfair ends, we will let Shakespeare avenge: the first thing we will do is to hang all lawyers.

To quote an eminent observer:

"Although as a constitutional democracy India requires well-drafted legislation, carefully conceived administrative machinery and a smoothly functioning judicial process, most leaders with the necessary power seem to believe that a dynamic legal order can be constructed without a strong legal profession consisting of practising lawyers, legislative draftsmen, legal scholars and judicial statesmen . . . there can be no fundamental and widespread improvement in legal education until the most powerful leaders of the country recognize and acknowledge that to develop and live under the Rule of Law, Indian democracy must have a body of lawyers who are well-trained from the first days of their law study."[1]

Thus, a re-orientation in the outlook of our political leaders is imperative. How has this to be brought about? The answer will take us into a discussion of the status of lawyers and law teachers, their existing inferior position in our society, and the methods to be adopted to elevate them and this forms part of a separate topic included in our Conference agenda and should be left to that assignment.

Conclusion

Within the limitations of a Conference paper, I have tried to indicate some of the more glaring defects with which our present-day legal education suffers and have made some suggestions to remove those defects and bring about a reorientation in our outlook on legal education. The suggestions are made in the hope that they will facilitate a purposeful effort for the improvement of legal education and will provide some material to stimulate discussion among more erudite and competent friends present here in this Conference. Let me close this paper with an appropriate quotation from a distinguished judge of this century:

"The function of the law schools of the second half of the twentieth century, as I envision it, will be twofold. First, they will be responsible for training the lawyers in the future with the large and enriched curriculum of which I have spoken. Second, and equally important, they will also have the primary duty of leadership in the restatement and simplication of the entire body of the law and in so doing they will be giving their teaching a realism and a vitality that it could in no other way acquire. The task is a tremendous one. It is one that

[1] Draft Memorandum, Dean Carl B. Spaeth, supra note 18.

is crying to be done, if our civilization is to be maintained in the form and mould that every clear-thinking lawyer would have it. Give our law schools the men and the material . . . Give them the encouragement and the cooperation to which they are entitled from the Bench, the Bar, the government, industry and labour, and I have no doubt that they will respond effectively and enthusiastically to the greatest challenge that has ever come to . . . lawyers." [1]

[1] Chief Justice Arthur T. Vanderbilt, " The Responsibilities of our Law Schools to the Public and the Profession ", 3 *Journal of Legal Education*, 207, 216 (1950).

APPENDIX B

Comparative Statement of Duration of Courses for the LL.B. Degree in Different Universities

University	*Period in years*	*Qualification for admission to LL.B*	*Remarks*
U.K.			
1. Oxford	3	General Certificate of Education	For qualifying as Solicitor or Bar-at-Law additional period of 3 to 5 years is needed.
2. Cambridge	4	General Certificate of Education	
U.S.A.			
3. Yale	3	B.A.)	Candidates have to pass Bar examination to qualify for enrolment.
4. Harvard	3	B.A.)	
5. Columbia	3	B.A.)	
6. Stanford	3	B.A.)	
AUSTRALIA			
7. Sydney	5	Matriculation	
8. Melbourne	4	Matriculation	
INDIA			
9. Calcutta	3	B.A.	
10. Punjab	3	B.A.	
11. Bombay	3	Intermediate	
12. Delhi	2	B.A.	One year for Certificate of Proficiency.

13. Universities in U.P.	2	B.A.	One year's training and the Bar examination for entering the profession.
14. Other Indian Universities	2	B.A.	

Recommendations of:

1. The Radhakrishnan Commission	3	B.A.	
2. The Indian Law Commission	2	B.A.	One year training.
3. The All India Law Conference	3	B.A.	
4. The All India Law Teachers' Conference	3	B.A.	

VIII. PROBLEMS OF MUTUAL RECOGNITION OF DEGREES AND INTER-UNIVERSITY RELATIONS; RELATIONSHIP OF THE LAW SCHOOLS WITH UNIVERSITIES AND GOVERNMENTS

FRIDAY AUGUST 31, 1962 (AFTERNOON SESSION)

Chairman: Professor L. C. Green

1. Mutual Recognition of Degrees and Inter-University Relations

by

SHEIKH IMTIAZ ALI *

Law and legal institutions being under the constitutional dispensation the prime mover of all activities within a state, the importance of legal studies and the institutions imparting legal education can hardly be over-emphasized. The dawn of independence has brought with it added responsibilities for the legal profession in the new nations. On them have fallen the responsibilities of working constitutional government, securing the freedom of individuals within and ensuring the orderly progress and evolution of society under the law. Dealing with human relations that are in constant state of flux, law needs constant revisions, modifications, and refinements to meet the changing situations. What was till yesterday the responsibility of the alien governments, is today the duty of the sons of the soil. The law school, therefore, must face the responsibility of raising successive generations of men and women well versed in law and jurisprudence, capable of making lasting contributions to the growth of law, to meet the ever-changing and ever-growing needs of the society and securing the progressive evolution of legal institutions. Added to this is the responsibility of research in law schools for removing what is barbaric and archaic in the existing laws and providing stimulus for new legislation. Healthy growth of law by means of beneficient legislation all over the world, owes its stimulus and expansion to the vision of scholars who are capable of looking upon the problems of state craft in a spirit of detachment. The busy practising lawyer can hardly be made responsible for improving the law, for the simple reason that he is all the time too busy taking advantage of the pitfalls, the loopholes and the concealed traps that

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exist in the system in law. Thus these countries have naturally to look upon the teachers and scholars in the law schools for supplying their legislatures with the necessary suggestions for the reform of laws.

With the march of science and the annihilation of time and space by the jets and rockets today, the world has become a small place to live in. The days of isolated cultures are now the days of the past. Legal scholars understand too well the importance of the study of comparative jurisprudence, for that alone can give to its votaries a valuable background of thought and culture so necessary for modern life.

It is in the light of the above two factors, namely, the responsibility of the law schools brought about by independence and the need for collaboration in the fast-shrinking world, that I wish this august assembly to consider the question of inter-school relations. There is immense need for close collaboration among law schools and law school teachers in this region, for exchange of experience and ideas, for the development of new educational thought and techniques. The maintenance and dissemination of adequate funds of information concerning legal education, and the results of experiments with new techniques of admissions, instruction and research would greatly help individual law schools, in improving and achieving their objectives. The light from the brighter law schools can illuminate the path of progress for the new schools in the earlier period of their development. This can effectively be done only by creating a permanent association of law schools of the common law countries in this region, with a permanent office for dissemination of such information as the degrees offered, constitution of faculties, the nature and duration of courses and admission rules for the various degrees.

So far we have been sending our teachers and students to U.K. and U.S.A. for advanced training and research in law, regardless of the facilities available in our neighbouring countries. While it is laudable to go to the ends of the earth for the acquisition of knowledge, I feel that law is that branch of learning in which the lawyers of Asiatic countries have maintained high standards of their own, and therefore we would be better advised to look to one another for help and assistance. Law being a mechanism of social control, legal solutions borrowed from the West can hardly be effective in our entirely different social, cultural, religious and economic set up. Research work done and solutions discovered to those problems in the neighbouring countries with a similar background would certainly be more effective and practical.

Closely linked to these relations of the law school and law teachers is the question of mutual recognition of law degrees, for the benefit of our students in this world of fast migrations. Acquisition of knowledge of law is not the same thing as merely having information as to what the law is. Fundamentally, it consists in the acquisition of a sure understanding for perceiving legal problems in the light of

those important principles of jurisprudence, which underlie the entire system of our law. If, therefore, a law school can impart to its students the basic skills and proficiency required for the practice of law in the common law system, then, irrespective of the difference in the syllabi and courses of reading, which must of necessity be attuned to the national needs, the question of mutual recognition of degrees would not be much of a problem. Necessary adjustments could easily be made to facilitate the transfer of students from one region to another, provided the spirit to accomodate is not lacking. To give an example from my personal experience, we had during the last academic session a student who came from the University of Khartoum and wanted admission in the LL.B. final class. He had done two years' work in law in his own University after having passed the Senior Cambridge examination. The Senior Cambridge examination according to my University rules is considered as equivalent to the Higher Secondary School Certificate and our basic qualification for admission to the law degree is that the student should hold a bachelor's degree. In order to help the student, my University relaxed the rules and the student was permitted first to take his B.A. examination in one year and then, considering his law study at Khartoum University as equivalent to our F.E.L., he was permitted to join the LL.B. Class. I am glad to say that boy did very well in his B.A. examination as well as in his legal studies. In the absence of mutual recognition of degrees, or willingness to relax the routine, the plight of a foreign student can well be imagined.

Since there are practically no private universities in the participating countries, all universities having been incorporated by the Acts of the state legislatures, the problem of the unapproved law schools does not present much difficulty. Recognition of degrees by the university has to be on a reciprocal basis. I think the central organization of law schools suggested by me earlier could get it settled at the national level with the Inter-University Boards of the participating countries and later submit the detailed information to the members' law schools of different countries for mutual recognition of degrees. The mutual recognition of degrees would greatly help the students educated in other countries who seek enrolment at the bar, and admissions to law schools, for higher studies. I have been greatly disturbed by the distress of students who having taken degrees abroad seek enrolment at the Bar on return. Their cases shuttle between the High Courts and the universities for decision on equivalence and recognition of degrees with the universities always pleading the lack of information necessary for a proper decision about recognition. I think it is a matter which needs no less serious consideration than the collaboration of the law schools in the larger interests of law and jurisprudence.

To sum up I would lay the following specific proposals before this house:

(1) There should be an organization in the form of an association of the law schools of the common law countries in this region to be known as S.E.A.L.S. (South Eastern Association of Law Schools). This association can act as a catalytic agent for the growth and development of legal education in this region.

(2) The Association should serve as a depository of all information concerning the member law schools and may also act as a clearing house for all information on subjects of interest to the members.

(3) The Association should be the organizing agency for the exchange of teachers and students among the member countries and encouraging the study of comparative jurisprudence.

(4) The organization should arrange for the wide dissemination of legal literature in this region by arranging the exchange of journals, periodicals and publications with law schools in this region and outside.

(5) The organization should have a special branch to deal with the problems of mutual recognition of degrees for the purposes of admission to the member law schools and enrolment at the Bar in the member countries.

(6) The Association should arrange periodical conferences of Law Teachers, Lawyers and Judges to discuss their mutual problems, review the progress made and suggest measures for improvement of Legal Education and furthering collaboration among the law schools.

Finally, Sir, I would respectfully submit that if the proposals outlined by me find favour with this august body, concrete steps should be taken for the formation of the S.E.A.L.S. by the nomination of a committee to draw up its constitution and to lay down its working procedures.

2. Relationship of the Law Schools With Universities and Governments

by

SUJONO HADINOTO *

Speaking about the relationship between law schools, universities and government, in the first place, I have to point out that in Indonesia there are:

I. Law schools which are part of universities, so that they are not called law schools but faculties of law.

II. Law schools which are not part of universities and which are usually established as a commencement and with the purpose of founding a university in the future.

This is the case with the law school Krishnadwipajana in Djakarta which later has become part of the Krishnadwipajana University.

The only law school in the true sense was the Rechts Hogeschool which became the Faculty of Law after World War II and formed a part of the University of Indonesia.

With regard to the law schools which are part of a university and which therefore are called Faculties of Law, you must bear in mind that in Indonesia there are those which are part of:

(1) State Universities.

(2) Private Universities Recognised as having the same position as government Universities.

(3) Private Universities Only Recognised.

(4) Private Universities Registered.

To give a clear picture about the state and number of the universities in Indonesia and their law schools, I shall give you some statistics.

In Indonesia there are 14 State Universities (among which there are two Institutes of Technology) with a total number of about 70,000 students. There are just two Private Universities Recognised as having the same position as government universities, i.e. the Catholic University Parahiangan in Bandung which also has a faculty of law and the Faculty of Pedagogy and Education Sanata Dharma in Jogjakarta. Private Universities Only Recognised are not

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yet established, but there are already universities which are in the final process for above-mentioned recognition. There are many private Universities Registered in Indonesia and they have about 25,000 students. But not all of these Private Universities Registered are Universities in the true sense, because they do not have the minimum number of faculties to become a complete university. Therefore it is more appropriate to call them Private Institutions for Higher Education among which there are complete universities; there are also Private Institutions for Higher Education which consist of only one faculty or one academy.

In Djakarta only there are 25 Private Institutions for Higher Education registered of which eight are faculties of law. In West Java, except Djakarta, there are 21 Private Institutions for Higher Education registered of which nine are faculties of law; in Central Java there are 23 of which six are faculties of law; in East Java there are 17 of which six are faculties of law and outside Java there are 35 of which 13 are faculties of law. The main difference between these four universities is the civil effect of the certificates of these several universities.

The students of these Private Universities Recognised having the same position as government Universities, get certificates which have the same civil effect as those of the State Universities without passing State Examinations and following their own examination regulations. But before a Private University will be recognised as having the same position as a government University, first, it has to pass phases as a Private University Registered and Private University Only Recognised. A Private University will be granted its registered status only after having fulfilled the official requirements as provided in articles 22-30 and article 35 of the University Law no. 22 Year 1961 (Lembaran Negara of 1961, no. 302). In the first stage of the execution of the law, article 23 is most important. Article 23: To conduct a Private University, the founder has to fulfil the following requirements ultimately within six months after its establishment:

(a) The Private University should inform the Minister of its establishment, by conveying the notarial act concerning the establishment of legal executive body, its constitution, properties and/or sources of income for the conduct of the Private University, its curriculum vitae and the list of lecturers including their curriculum vitae and the subjects of teaching.

(b) Earnestly declare that the Private University is based upon the Pantja Sila and the Political Manifesto of the Republic of Indonesia.

Registered Private University certificates will only have the same civil effect as the certificates of State Universities if the students have passed State Examinations. If State Examinations have satisfactorily been done by Registered Private University students, the status of

Registered Private University will be changed into Recognised Private University, and the students do not have to pass State Examinations any more, they may just pass their own examinations conducted on basis of directives as determined by the Minister of Higher Education and Science. The students concerned will be granted certificates having the same civil effect as State University certificates.

If a recognised Private University has shown satisfactory results and a sound and regular existence, it is granted the Private University status which is equal to a State University, so that its certificate is considered equal to a State University certificate with equal civil effect. The students only do their own university examination which may be based on its own policy.

In view of the above-mentioned figures it is clear that there are indeed many faculties of law, both State and Private, in Indonesia. This has its sound basis, as lawyers are very much needed in the several fields of society:

(1) The Department of Justice.

(2) To become judges.

(3) To become prosecutors, for whom a special department has been established.

(4) Other departments and other governmental bodies.

(5) Semi-governmental bodies or the numerous State trading enterprises being the result of the implementation of the Guided Economy in the Indonesia Socialist Society based on Pantja Sila.

(6) Private business.

(7) Free professions or barristers or solicitors.

The need for workers with a basic law education is so great that law students at the bachelor's level obtain higher wages than secondary school graduates. Because of the wide range of variety of the above-mentioned fields, the government has instituted a broader curriculum than the pre-war faculty of law. Apart from the necessity that students should be trained to think in the system of written and unwritten law, they are also taught:

(1) Introductory Sociology and Indonesian Sociology.

(2) Introductory Economics and Indonesian Economics.

(3) Cultural Anthropology.

(4) Psychology and Criminal Psychiatry.

(5) Philosophy and Sociology of Law.

So indeed graduates will be more able to fulfil their duty in society. Besides, to prepare students still better for their various tasks in society, heralded by the law faculty of the University of Indonesia, State law faculties tend to institute sections in the last year, to deepen

the students' knowledge in a certain field and in their preparation for their task in the future. And for the purpose provided sections are as follows:

(1) The section for public law, especially meant for those students who are going to work in the Judicial Department and other governmental bodies and departments.

(2) The section for Criminal Law, especially meant for those students who will become prosecutors and judges.

(3) The section for civil law, especially meant for those who will become barristers and solicitors, and also for those who will become judges of civil cases or who will work in the semi-governmental bodies or private business.

(4) The section for international law, especially meant for those who will be working in the Department for Foreign Affairs or who will become officials in the embassies abroad.

(5) The section for the profession of Notary, meant for those who will become notaries, a public profession which in Indonesia is under the control of and regulated by the judicial department.

With the same purpose, i.e. in order that they may be more prepared to do the practical job, the criminal and the civil law procedures have their centre of gravity on the *privatissimum*, i.e. a kind of practice in the court of justice and in the judiciary (in the office of counsel for the prosecution), where they can take part in the case by their assistance. It has been so arranged that the hours for colleges in a faculty of law would be fewer compared to those of the other faculties, which then provide the students with a lot of free time and enable them to educate themselves in the broad fields they may enter in the future.

In connection with the fact that a developing country like Indonesia has been giving much assistance to education and instruction, it could be morally justified that the government claims from the faculty of law as well as from the other faculties, that these send their students to participate in the military trainings which are being held as long as they are studying for a fixed period. And these military trainings are truly considered as a very important means to bring the students closer to their own society, so that they are really of great use for the students themselves. It is also just to lay the obligation on the graduates of the faculty to work for at least three years or even more (a matter which depends on the addition of fixed duty years according to the presence or absence of scholarship fund) to the advantage of the government everywhere they are needed.

An important thing we should add to it is the fact that, beside the common task of a faculty to hand over as many competent scholars as possible to the society and the State, a faculty of law is able to give

special loyal services (merits) to the State and the society, which we would call " extension service. "

Extension service means all the activities of the faculty together with the research-institution which have been carried on to the advantage of persons or bodies outside the university and outside the normal curricula of the faculty with the intention in mind, to render special services to the society.

This extension service can take forms of:

A. Consulting (giving advices, counsels, scientific enlightenments), and

B. Courses (colleges/lectures, seminars, causeries/talks).

First of all we would like to give some examples taken from the Faculty of Law of the Universitas Indonesia where the idea of this extension service has been prepared and carried on in a higher degree of maturity, and is more closely known to us, of course without diminishing the services and merits rendered by the other faculties of law which have been moving onwards to carry on the same extension service.

Ad.A. The consulting provided in the extension services has in mind to give advice and counsel which are not binding as well as providing scientific enlightenments that are binding.

For this purpose we can give the systematization as follows:

I. Juridical Consult
   (a) particular
   (b) public

II. Scientific Enlightenment

Ad.I. (a) By the particular Juridical Consult we mean all the services given as answers to questions/problems concerning law, which have been put by private persons who officially perform a function in the government. This kind of Juridical Consult has been done by the Section of Criminal Law and the Section of Criminology of the Institutes of the Faculty of Law of the Universitas Indonesia, Djakarta.

(b) By the public Juridical Consult we mean the services rendered as answers to questions/problems put by the public/society.

In this case the law students can be asked to take part so that there will be an additional force, with this advantage that they can be trained in the practice.

Ad.II. Scientific Enlightenment means all the services rendered as answers to all questions/problems in the matter of law

officially put by an official body, governmental or private, to the Faculty or the Research Institute.

This case, for instance, has been carried on by the Section of the Judicial Medicine and by the Section of the Judicial Chemistry of the Criminological Institute of the Faculty of Law of the Universitas Indonesia, Djakarta.

Ad.B. Courses given in the extension service can be divided into:

I. Refresher Courses,

II. Application-Courses,

III. Short Training Courses, and

IV. Evening Courses.

The main point of the Refresher and Application Courses is re-freshing all the theories which then will be adapted to their practice.

The Criminological Institute of the Faculty of Law of the Universitas Indonesia in Djakarta has planned this to be given to the police and prosecutors in the immediate future. With regard to what would be given, it is a series of courses provided during a period of two weeks, four hours a day, in the subjects of: judicial medicine, judicial chemistry, criminalistics, criminal law, criminology, judicial psychiatry and psychology.

By Short Training Courses we mean the assistance given to the official authorities, for instance in educating in a very short time a big number of people needed for a work/profession in the field of science of law or of social sciences, as has been done for instance by the Social Research Institute of the Faculty of Law of the Universitas Indonesia by giving research-methods, in the wide sense of the word, which consist of Methods of Areas Study, of Documentary Study and of Laboratory Study.

The meaning of Evening Courses is " Courses which are given in the evening, in particular to give assistance to those having jobs in order that they are able to be students of the Faculty of Law, without which they cannot follow the colleges of a normal faculty of law, since this has a guided study principle, according to which the colleges have to be followed and the students have to sit for the examinations at fixed times." These Evening Courses have to be provided for in agreement with the decision of the People's Consultative body (Madjelis Permusjawaratan Rakjat), because of the great interest shown by those having jobs to continue their study and because of the fact that society and the State are really in need of man-power with a university education in a very large number to be disposed in the Over-all Development Plan of Indonesia.

In the coming month of December the Indonesia Lawyers Union (Persatuan Sardjana Hukum Indonesia or Persahi) together with the Institute for the Founding of National Law (Lembaga Pembinaan Hukum Nasional) will organize a Law Consultation concerning the fundamental laws existing in Indonesia, in which the Government Faculties of Law of the whole country of Indonesia will play an active part. This, too, indicates how close the relation is between the Faculties of Laws in Indonesia and the State and its society, so that they are considered as a very important body in every activity of the state or of the society concerning the problems/the matters of law. It has so happened that within the Institute for the Founding of National Law, the task of which is to plan the principles of our national law, there are a lot of Professors of the Faculty of Law, while the management of the Indonesian Lawyers Union (Persahi) is at present in the hands of the Professors of the Faculty of Law of the Universitas Indonesia. If anyone has a look at the Faculty of Law and Social Sciences of the Universitas Indonesia at the present moment, he can notice that the department of Social Sciences within the faculty has been established which formerly, however, had been neglected.

This section is still connected with the law section in one faculty because it is really considered as having a close relation. I can add, too, that among those interested in social sciences an association/league of those interested in Indonesia social sciences (Ikatan Peminat Ilmu2 Kemasjarkatan Indonesia) has been established which brings together all those interested in and scholars of the social sciences.

The last thing I would like to mention here is the fact the Faculty of Law of the Universitas Indonesia, Djakarta is pioneering a scientific centre for all faculties of the Universitas Indonesia with the aim to co-operate in important matters as well as to create a friendly atmosphere, which is necessary. For this purpose the Faculty of Law has initiated an Inter-Faculty Institute for Areas Study to organize an interdisciplinary research and has held causeries/lectures about philosophy by Professor Dr. Count Arnold Keyserling for all faculties of the University of Indonesia.

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3. Relationship of the Law Schools with Universities and Governments

by

T. S. FERNANDO *

It is indeed fitting that those of us who are gathered here, many of whom come from the current restless nations of this part of the world, should spend a little time to consider the relationship of the law schools with universities and governments. If I should pay more attention to the relations between law schools and governments rather than to those between law schools and universities, it is on account of a realization that there should not be and there is no basic conflict between the objectives of the two teaching bodies. Both attempt to equip a citizen to service or employment, according as one likes to look at legal education. But in the case of governments, particularly at the present day, they expect much more of the law-teaching bodies. A characteristic of the contemporary world which has implications for education in any field and in any part of the world, but needs perhaps to be especially emphasized in designing education for developing countries, is the extraordinary rapidity and unpredictability of the changes through which these countries are passing. The generation now entering law school will have to cope with a world not only totally different from the one their fathers were brought into, but also totally different from the one in which we now live. Thus the educational problem is not to train them to substitute our present answers for their fathers' answers, but rather to give them equipment and an attitude of mind with which to work out answers of their own.

There are, I believe, quite a number of countries where legal education is almost entirely a responsibility of the universities, yet it is essentially professional in its orientation. The law faculties are staffed by teachers who, with relatively few exceptions, devote nearly all of their time to their university work. Their students, however, enrol in the law schools to prepare themselves for the practice of the law, not to study law as a part of general education.

One of the most learned teachers of the law in the Western Hemisphere, the venerable Dean Roscoe Pound, once described a profession as " an organized group pursuing a learned art in the public service." How far the legal profession in our own countries falls within that

* Q.C. Puisne Justice in the Supreme Court of Ceylon.

definition may itself be worthy of separate debate. If I may confine myself to a country of which I can claim to speak with some little knowledge, viz. Ceylon, until comparatively recent times legal education was by and large a privilege available to the comparatively few. For nearly a century in our country legal education in its practical professional aspect has been in the control of a small body of persons called the Council of Legal Education, consisting of the judges of the Supreme Court, the two principal law officers of the government, and, to reproduce the words of the relevant statute, " such other persons of standing in the legal profession as the said judges may appoint. " There are about nine such other persons in the present body. Though the personnel of the Council changes, its composition has remained unchanged during this long period. It was inevitable, therefore, that we should become increasingly susceptible to criticism based on the allegation that a body of persons consisting solely of lawyers tends to be ultra conservative. In countries which throw out evidence of developing socialist policies in government the ultra conservative groups are apt to be characterised, to employ the language of politicians, as " bastions of reaction ", an expression which most of you will readily recognise. At any rate, persons with pro-socialist ideas are apt to be wary, perhaps unduly wary, of men of the law as being obstacles to the realization of their policies. This wariness may be undeserved, indeed uncharitable, but it would be wrong to ignore its existence.

In early colonial times lawyers were relatively few, but as life grew at once more stable and complex, the role of the lawyer changed. Some young men went to England to study law in the Inns of Court and returned home to practise their profession. The majority, however, received instruction at the Law College and apprenticed themselves to established practitioners. Moreover, in our country the division between barristers and solicitors was always recognized, and the latter group was almost exclusively, except in the earliest times, taught and trained within the country itself. All of them, however, came from relatively wealthy families, and the practice of the law became more or less confined to sons of parents who could afford to pay for the education and equipment of a lawyer. From those days to the present there has been a big jump. It was about twenty years ago that the then government declared and implemented its policy of free education to all in the country. Commencing from the primary school stage, the free education scheme progressed till it became free education from the kindergarten to the university stage inclusive. University education was itself till comparatively recent times more readily available to the wealthier student than the student without that advantage. The free education scheme has brought with it to intellectual status a different class of student, one who comes of a background which is now increasingly represented in the public service, the legislatures and the government. With a rapidly ex-

panding population, the cost of the free education scheme is proving a big, almost too big, burden on the national revenue, but it would be a strange man indeed who would today dare in the East to clip an established free education scheme.

We have in our country today the rather anomalous situation that while university education in law, the gathering of a law degree, is free, the education at the Law College, the examinations of which are the only ones recognized for qualification to practise in a court, whether as a barrister or as a solicitor, has to be paid for. This situation has already begun to be commented upon, and it is not difficult to understand that a similar situation in any other country will be equally the object of adverse comment. What criticism and a possible call for modification of the present system may evoke is difficult to foretell, but in this kind of situation a possible *via media* may be to grant more recognition to the university degree with suitable adjustment, where necessary, of the university requirements. I know I speak in the presence of the Head of the Faculty of Law in our principal university, and I have the comfort of the knowledge that he will be better able to comment or advise on the problem of more profitable co-operation between the law school and the university.

In the system which I gather obtains in the host country the law school is itself part of the university, and in countries with a like system obviously no question of difficulties between law schools and universities can arise. But as in many of our countries law schools of one sort or another had taken root before universities as we understand them came to flourish, the law school has neither given place to nor become dislodged by the establishment of universities. Where the two institutions exist side by side, they could both be made to flourish without conflict, the university nurturing the student's latent power of original thinking and encouraging the instinct of research which are both essential functions, as we understand, of all universities. The law school will naturally pay more attention to empirical knowledge and have as its goal the turning out of men and women equipped to espouse the cause of their countrymen seeking the aid of the law in the country's courts of law.

In a society governed by laws and not by men, one of the safeguards of individual liberty is the wise development of the law. The part the universities and law schools can play in that development cannot be over-estimated. Wherever possible, there should be a pooling of resources, whether it be of libraries, or on occasion of staff, or whether it be in the preparation of the curricula of studies. Publication of books on legal subjects and of legal text-books is woefully lacking in many of the countries in our region, and joint ventures between law schools and universities may with advantage to each other be seriously considered. Personnel from law schools and universities should be made available for service on Law Revision Committees

which should be active bodies in our countries where alteration or modification of statute law is apt to lag behind the needs of the times. Many countries have hopes of undertaking a Restatement of the Law, partial or complete, and that manner of undertaking is hardly possible by a government without the collaboration of the law schools and the universities. The common goal is the furtherance of the administration of justice in the country, and ultimately in the world, and the two institutions, the law school and the university, where they exist side by side, are but two means to one end.

Government, as we are all aware, needs in increasing numbers the services of lawyers or persons trained in the law. But where in the democratic world government does not seek to influence or channel thought either in a university or in a law school, the question might well be posed by the government of a welfare society even in a democratic country as to what contribution these two institutions make towards the promotion of the welfare state. Indeed an assessment of such a contribution may be undertaken in the context of the larger question of what the legal profession as a whole can do to further national interest and the general welfare. This is particularly so where university education is being financed largely or, as in our country, solely by the national revenue. Will government dictate university objectives or will it leave the universities free? The tendency to influence is bound to be present, and whether it can be channelled into harmless patronage depends upon the degree of co-operative wisdom the principal participants bring to bear on their functions. No government can, of course, be expected to be complacent over the problem of whether those who are to be embarked upon its service are being equipped by their training for the demands to which they must respond. This raises the question whether our law schools and universities are adequately equipping lawyers for the roles they may be called upon to play in their respective countries. In view of the national, if not world, problems of today, one must wonder. In the past we relied upon the curricula to provide a good foundation for understanding the world. Curricula have probably broadened over the years. But now history is accelarating and the curricula of our law schools and universities must accelerate with it.

A lawyer would profit greatly from a command of more than one language. He may be called upon to know something of science. He certainly should know something of economics. He should have a knowledge of history and public administration, more traditional subjects.

Can we safely just rely on the practice of the law itself to sharpen the intellect and make for the qualities needed for public service? Can we rely upon the fact that articulate reasoning and a sharpened mind, qualities associated with legal practice, adequately equip man to discharge responsibility? I raise these questions without

attempting to answer them so that they may receive examination by this learned gathering. Perhaps lawyers, deans of law schools, law professors and college administrators should measure the training we are providing in the light of the duties to which the graduates may some day be called.

The profession of the law has served as a provider of first rate talent to systems of self-government. I feel we should now support our expectation of that upon a firmer guarantee that such men will be forthcoming in the difficult years ahead.

There is the opportunity too and the obligation to make the law a dynamic, not a static, force in society. We are clearest about the stabilizing influence of the law, about its proper—but not exclusive—function as a preserver of precedents and an instrument of predictability in the guiding of human affairs. But the law must be a flexible, living instrument. It is a balance wheel, not a brake.

The common law as we understand it failed to keep pace with a growing industrial society. Collective bargaining developed as a private law-making process because the public law-making process ignored a whole area of impact—the impact on human beings of the industrial revolution. The common law developed rules of reasonable notice to protect a tenant from unconscionable ejectment, but left a man working in a factory vulnerable, despite years of faithful labour, to dismissal at the end of any day, or at any hour. As one writer has put it, I wonder sometimes why it is that the law came to recognize the obsolescence of machines, but not—in any like degree—of man.

Each of you would be able to pinpoint instances where the law has concentrated too fixedly, too inflexibly, on things as they are or were. We are all liberals in the fields we know, and conservatives where we are strangers.

We would find common ground in our sense of the difficulties the law has faced as its role has shifted to governing the relationships between groups rather than individuals, as the pluralistic forces have emerged in society, and as we try to adjust to the international and supranational agencies which put the traditions of sovereignty to new tests.

When we speak of ourselves as guardians of the law, we probably speak too narrowly. For we are builders of the law too—and in that work the government has a right to expect the law schools and the universities to take their full share. And, if I may borrow a phrase from President Kennedy's challenge to the nation on his assumption of office last year, we should ask less what the law can do for us, and a little more what we can do for the law.

GROUP I

4. Report of the Proceedings on Relationship of the Law Schools with Universities and Governments

Chairman: A. V. Winslow

Rapporteur: U Hla Aung

Dr. Enrique M. Fernando, initiating the discussion, expressed the view that the relationship of the law schools with universities and governments should be mid-way, that is to say, there would be neither complete independence from nor complete control by the government. It was by following the middle road that the national objectives could be best achieved, Mr. Fernando observed.

Dean Sheridan said that although a law school which was part of a university might be an autonomous body it was quite possible that the government, through its nominees in the Governing Council, might indirectly and sometimes subtly exert some political influence. This tendency might eventually whittle away bit by bit the autonomous nature of the institution, Professor Sheridan observed.

U Hla Aung associated himself with the views expressed by Mr. Fernando and Dean Sheridan. He said that for most of the universities in this region which have to depend upon the grants made by the government, it was impossible to be completely independent.

Professor Anandjee observed that there were a number of channels through which the government could interfere directly or indirectly in the work of the university.

Professor M. Ali pointed out that in most universities of this region the Vice-Chancellor is appointed by the government itself and that since there were ex-officio members of the Governing Council appointed by the government, there was always some control by the government.

Mr. Justice Fernando observed that, in those countries where socialist policies are developed and where government provides the main funds for law schools and universities, we must face the

problem that governments may not in the future be willing to play a merely passive part in legal education.

Dr. Enrique Fernando drew attention to the fact that in his country there was a strong public opinion against governmental interference in purely academic matters.

GROUP II

5. Report of the Proceedings on Mutual Recognition of Degrees and Inter-University Relations

Chairman: Professor L. C. Green
Rapporteur: U Hla Aung

Professor Sivasubramanian asked for Dean Sheridan's views on the problem of mutual recognition of degrees.

Dean Sheridan replied that the University of Singapore adopted the same attitude as that adopted by the University of London in the matter of recognition of degrees. He said that a student who is in possession of a degree of any Indian university was considered for admission but that it did not follow that he would be automatically admitted. If necessary some references would be made to appropriate authorities in order to determine the quality of particular students, Dean Sheridan said.

Professor Anandjee said that recognition at the national level should not be the concern of this body because it raises different issues. " However, so far as recognition of foreign degrees is concerned, the Ordinance of the Benares University which permits a foreign student to be admitted even though he does not possess the minimum formal degrees provided the appropriate body is satisfied about the competence of the student to pursue the higher course, may be followed. "

Dr. Minattur pointed out that there was some difference between the graduates of the University of Singapore and those of Indian universities because in the case of Indian universities the duration for the degree is seven years whereas in Singapore it was only four years.

Professor Groves pointed out that in the United States when such a problem was faced, the test was whether a particular student was able to do the work he proposed to do and not how many years he had spent to get the degree.

Dean Sheridan observed that from his experience with Indian students seeking admission as graduate students in the British universities, he had found that the Indian students were no better than the graduates of the University of Singapore. He supported the view that assessment of individual students invariably has to be made. He also pointed out that there was no rule that only graduates of Commonwealth universities would be admitted.

IX. SPEECH BY TAN LARK SYE

One of the events on the programme of the Conference was a dinner given by Mr. Tan Lark Sye, Chairman of the Nanyang University Council. He made the following speech:

It is an honour to me, as the Chairman of the Nanyang University Council, to be given tonight the opportunity of meeting the distinguished delegates to the Regional Conference on Legal Education, and I have much pleasure, indeed, in bidding you all a most hearty welcome.

I am more than grateful for the visit you paid Nanyang University yesterday. As you all know, Nanyang University has been established for less than a decade and, naturally, it has certain shortcomings. Whilst we, on our part, are trying our very best to improve our university in every way possible, it is earnestly hoped that you, the distinguished legal experts from our neighbouring countries, will give it its much needed encouragement and support, enabling it to progress with the march of time.

I recall that before Nanyang University came into existence most of the Chinese senior middle school graduates of Singapore and the Federation of Malaya had to go to mainland China for higher learning. Since the inception of Nanyang University, however, this particular need has been taken care of. Also a good number of our 1,166 graduates from the past three academic years have been absorbed as teachers by the Chinese Middle Schools both in Singapore and the Federation of Malaya, thus obviating the erstwhile necessity of having to recruit teachers from overseas. It is therefore apparent that Nanyang University not only directly serves its purpose as an institution for higher learning, but also indirectly makes a valuable contribution towards the progress of our middle schools. The dual role that we have assumed, though it gives us a certain amount of satisfaction, yet also carries with it an onerous load, the lightening of which we have to look to and rely on the good advice and constructive criticism of those who have the welfare of Nanyang University at heart.

Gentlemen, you are all distinguished legal experts. I am confident that as a result of the present Regional Conference on Legal Education, the local populace will be benefited and that the foundation of law and justice in this area will be more firmly laid. I am sure also that your Conference will give an additional inspiration to those interested in the various aspects of legal education. I wish your Conference a great success.

Gentlemen, may I propose a toast to your health.

X. CLOSING SESSION

Chairman: Professor L. A. Sheridan

Rapporteur: U Hla Aung

Dean Sheridan opened the discussion by drawing the attention of the delegates to the suggestion made the previous day by Professor Imtiaz Ali of the University of the Punjab regarding the need for the setting up of a permanent organization for the region.

There was general agreement that such an organization should be set up, but as to the nature of the organization to be set up, three different proposals were put forward. The first proposal was to set up an association of individuals along the lines of the Society of Public Teachers of Law. The second proposal was to set up an association of institutions only along the lines of the Association of American Law Schools. The third proposal was more or less a compromise of the first two and envisaged an association in which the law schools, legal institutions and individuals would be members.

There was a lively debate in which many of the delegates participated. Among those advocating an association of institutions only were Professor Imtiaz Ali, Professor Sivasubramanian and Justice Rahman of the Supreme Court of Pakistan. Professor Groves also spoke in favour of an association of institutions. Those who wanted to set up an association of individuals included Professor L. C. Green, Dr. Hingorani, Dr. A. T. Markose and Professor C. J. Chacko.

Since opinion was divided and in view of the limited time available for discussion, the Chairman suggested that it might be desirable to have a specific motion on the floor. **Professor Imtiaz Ali** thereupon moved that an Association of Law Schools be established by this Conference and that associate membership should be open to other similar legal institutions and individuals.

Professor Sivasubramanian seconded the motion.

Professor L. C. Green proposed an amendment whereby the word " associate " would be removed. Professor Markose and Dr. Hingorani seconded the amendment.

After some discussion, the amendment was adopted along with the proposal.

The consensus of the Conference was, therefore, as follows:

(1) That there shall be established an Association of Legal Institutions in this region and that membership thereof shall be open to law schools, law institutes and individuals interested in the promotion and improvement of legal education.

(2) That the drafting of the Constitution of the proposed association be entrusted to the Faculty of Law of the University of Singapore which sponsored this Conference.

(3) That Professor L. C. Green be appointed Chairman of the Committee to draft the Constitution of the proposed association.

Professor L. A. Sheridan, Dean of the Faculty of Law, University of Singapore, before calling upon the Honourable the Chief Justice of Singapore, Sir Alan Rose, to officially close the Conference said among other things:

" We have now come to the official end of our discussions. I should like to take a moment to express our gratitude to the financial sponsors who made this conference possible: the Asia Foundation, the Lee Foundation, and the authorities of the University of Singapore. Our gratitude is also due to the various generous hosts who helped to make this conference a social success in the evenings."

Many of the overseas delegates have been kind enough to make reference in speeches to their appreciation of what has been done by the Faculty of Law of the University of Singapore. In my turn, I record the appreciation of the Faculty for the work and enthusiasm all delegates have put into it and especially for the quiet but consistent organizing of a man who has steadfastly refused the limelight: Dr. Khetarpal.

It is now my pleasant duty to call upon Sir Alan Rose, Chief Justice of Singapore, to deliver the closing address. "

Sir Alan Rose in officially closing the Conference said:

" Professor Sheridan, Ladies and Gentlemen,

It gives me great pleasure to congratulate you all on the outstanding success of this conference. There have been representatives and observers from nearly twenty countries, some within the Commonwealth and some without.

It is of great importance to small countries like your present host country to have an opportunity of looking out upon a wider world. One of the dangers of living in a small place, however attractive it may be, is that one tends to become parochial in one's outlook and to imagine that little of importance is happening in the big world beyond our boundaries.

Apart from the observers who have given us the pleasure of their company during the last week, the delegates are all, I believe, from Asian countries. It is perhaps of particular significance that

in a continent where every form of government exists—whether democratic, quasi-democratic or totalitarian—it has been possible for you gentlemen to affirm, both by your presence and by the learned papers that have been read, your joint belief in the sanctity of the Rule of Law.

So much has been said during the past week on that head that I do not propose to weary you with further comments now. But it is refreshing for us all to remember that, if all goes well in this part of the world, basic matters, such as the independent administration of the law in the interests of both the subject and the state, will survive long after current political issues and indeed even current political systems may have either disappeared from the scene or undergone a sea change.

There is however one aspect of this conference that should, I think, not be overlooked; that is, that it could not have been held at all—or at any rate been held effectively—unless you all had the benefit of a common language.

This question of language is of paramount importance in these days when the world grows smaller every day.

All communication of ideas depends mainly upon language; and a language which lays claim to be of value to the nations of the world as a common language must have two essential features. First, it must be rich—rich enough to be able to convey subtleties of thought. Secondly, it must be if not universally at least generally accepted by a majority of nations.

The only language, at the present day, that fulfils both these conditions is English and it is perhaps interesting, in view of certain misconceptions and certain political attitudes that have been adopted in some newly emergent Asian countries, to consider for a moment what exactly this English language is.

There is an old saying: " Happy is the country that has no history. " I would amend that by suggesting: " Happy is the country that benefits by its history. " Very few countries in the world in the last two thousand years or so have avoided invasions and conquests, with their attendant consequences. Even Switzerland, protected by its mountains and its favourable geographical location, once, if my memory serves, was the scene of an episode concerning an apple and a Mr. William Tell.

I myself happen to be an Englishman and my own country has been singularly fortunate in the nations by whom it has been conquered. Also, happily enough, the people of the island of Britain have been adaptable enough to take advantage of the benefits that accompanied their conquerors.

First, there was the Roman invasion; secondly, there was the Norman-French invasion; not to mention the periodic forays from early Scandinavian adventurers.

I remember as a child, beset naturally enough by indigenous sentiment, feeling innate sympathy with Queen Boadicea and deeply regretting that she failed to drive the Roman invader into the sea. Similarly when reading of the events of 1066 my heart beat anxiously for the success of King Harold in that famous battle on the south coast of England. Happily, however, for the history of England, the invaders were successful on both occasions.

The benefits of course were partly material by way of roads, aqueducts and so on, some of which still survive in almost their original form; but the relevance of my remarks this morning is in regard to language.

Before the Roman invasion the indigenous people of Britain spoke a language which we now call Anglo-Saxon. Like so many vernaculars this was a tongue sufficient for the communication of simple ideas but unsuited for the conveyance of subtlety of thought. The Roman occupation changed all that and the basic language was immensely enriched by the infusion of the Roman tongue.

Similarly after the Norman invasion the language of England was once again enormously enriched by the infusion of Norman-French words and means of expression.

There is therefore nothing intrinsically Anglo-Saxon about the modern English tongue. It is a language that has grown over the years as a result of contact with foreign civilizations and is now an almost perfect instrument for the expression of ideas. It follows that there is nothing derogatory to the concept of nationhood in the adoption of so eclectic a language. Moreover, it is spoken by more than half the world; and it is not only the inherent virtues of a language that are the decisive factor in selecting it as a common medium but also—indeed mainly—the generality of its adoption.

Mr. Nehru, who I suppose must be generally accepted as the leading contemporary statesman in Asia, recently said that a knowledge of English opens a window on the world. He was suggesting, in effect, that it is important for the newly independent nations of Asia to bear in mind that the encouragement of the vernaculars should not be permitted to be accompanied by a reduction in the standard of knowledge or of the efficient use of the world language of English.

The encouragement of a vernacular is in itself a permissible aim and has an obvious political and sentimental appeal. It should, however, I would suggest in all humility, run hand in hand and not in competition with the use of English.

Perhaps one of the most significant features of this most successful Conference has been to turn the spotlight upon the usefulness—indeed even the necessity—of having a common language in which men of mind can exchange their views.

In conclusion, may I congratulate the organizers of this conference and perhaps in particular those who I know would prefer not to have their names mentioned who have worked so hard behind the scenes to make this conference the outstanding success that it has been.

And to you delegates and visitors from other lands I extend to you on behalf of the University and the legal profession of Singapore our appreciation of your courtesy in coming here, and I hope that the harmony of this just concluded Conference may be a harbinger of equally fruitful consultations in a wider field."

The Honourable Mr. Justice S. A. Rahman, Judge of the Supreme Court of Pakistan, on behalf of the delegates, said among other things:

"I have been asked by the delegates from overseas to express our appreciation of the fact that the University of Singapore, by organizing this Conference, brought about the first international meeting of people concerned with legal education in this region. The programme has been full and we have worked hard and perhaps not seen as much as we would have liked to see of this beautiful island. But we have profited from our experience and we have learned enough to hope that this will be the forerunner of many more such conferences."

XI. Draft Rules of the Association of Law Teachers and Schools in South-East Asia *

Name

1. The Association shall be known as the Association of Law Teachers and Schools in South East Asia.

2. For the purposes of this constitution, South East Asia shall be understood as embracing the following territories:

Burma	Laos
Cambodia	Malaysia
Ceylon	Pakistan
India	Philippine Republic
Indonesia	Thailand
Japan	Vietnam
Korea	

and, with the consent of the Association, any other territory in the area.

Objects

3. The objects of the Association shall be:—

(a) the furtherance of legal education in South East Asia and of the work and interests of law teachers and law schools in the area;

(b) the examination of the common problems of such law teachers and schools, together with, when feasible, suggestions for their solution;

(c) the preservation and maintenance of high academic standards of law teaching in South East Asia;

(d) the inculcation of high ethical standards in law students;

(e) the promotion of active co-operation of the law teachers and schools of South East Asia with law

* For consideration at the next Regional Conference on Legal Education.

teachers and schools elsewhere, and with university, professional and other learned bodies concerned with the law or education in South East Asia or elsewhere;

(f) the maintenance of close relations between the universities, law schools and the legal profession;

(g) co-operation with professional legal associations and other bodies in projects for law reform.

Membership

4. There shall be four classes of the Assocation to be called respectively: Individual Members: School Members: Honorary Members: Associate Members.

Individual Members

5. Individual members of the Association shall be such deans, professors and University teachers of law and such others engaged or interested in the teaching of law in South East Asia, as shall signify to the Honorary Secretary of the Association their wish to become Individual Members, shall pay their subscriptions as they fall due, shall conform to the rules of the Association, and shall be approved by the Executive Committee. In the event of the Executive Committee not approving an application for membership, the applicant shall have the right to appeal to the body of members of the Association at the next general meeting.

School Members

6. School members of the Association shall be such university or professional law schools in South East Asia as shall signify to the Honorary Secretary of the Association their wish to become School Members, shall pay their subscriptions as they fall due, shall conform to the rules of the Association, and shall be approved by the Executive Committee. In the event of the Executive Committee not approving an application for membership, the applicant shall have the right to appeal to the next general meeting.

Honorary Members

7. Honorary members of the Association shall be such persons who have been engaged in teaching law in South East Asia, or have been or are still so engaged in other countries, or any persons interested in legal education who have conferred important benefits on the Association or on legal education, by way of gift or otherwise, and have been invited by the Executive Committee, and have accepted that invitation, to become Honorary Members of the Association. Honorary Members of the Association shall not be called upon to pay any subscriptions; nor shall

they be eligible to hold office; nor shall they be entitled to vote at any general meeting or in the election of officers. Honorary Members shall, however, be entitled to attend meetings, participate in discussions, and in other activities of the Association. They shall also receive publications of the Association on the same terms as Individual Members.

Associate Members

8. Associate Members shall be:—

(a) Individual Members who have ceased to be engaged in the teaching of law in South East Asia and who have expressed their desire to become Associate Members. On resuming the teaching of law, such persons shall cease to be Associate Members and shall become eligible for Individual Membership;

(b) such law schools outside the region as shall be invited by the Executive Committee.

(c) law teachers who may be visiting law schools in South East Asia or who, being teachers at law schools outside the area, are considered by the Executive Committee as being likely to contribute to the work of the Association, and who are invited by the Committee to become Associate Members.

Associate Members shall pay their subscriptions as they fall due, shall be entitled to participate in all the activities of the Association and receive the Association's publications; they shall not, however, be entitled to vote at general meetings of the Association nor participate in elections.

Consultants

9. The Executive Committee shall be entitled to consult and invite co-operation from other organisations such as the Association of American Law Schools, the International Commission of Jurists, the Society of Public Teachers of Law, the Australian University Law Schools' Association, which have similar interest to the Association, and may invite them to send observers to general meetings of the Association.

Funds

10. The funds of the Association shall consist of the annual subscriptions of its members, donations, grants and such other moneys as shall be received by the Honorary Treasurer on behalf of the Association.

Subscriptions

11. The annual subscription for Individual Members shall be one guinea or the equivalent thereof, and may be paid for any number of years in advance. For School Members it shall be ten guineas or the equivalent thereof. For Associate Members it shall be half a guinea or the equivalent thereof.

12. Subscriptions shall be due on election and shall be renewed on each January 1st thereafter. Any member who is six months in arrears with his subscription shall, in the absence of an explanation considered satisfactory by the Executive Committee, be suspended from membership. If a subscription shall not be paid by the end of the year in which it is due, the member in question shall be considered to have resigned from the Association.

13. Subscriptions may be altered by the Executive Committee with the approval of the general meeting and provision may be made for the institution of a category of members to be known as Life Members.

Administration

14. The affairs of the Association shall be managed by an Executive Committee. Subject to the control of the general meeting, the Executive Committee may take any action on behalf of the Association which, in the opinion of the Executive Committee, will further the objects of the Association.

15. The day-to-day administration shall be in the hands of its officers.

Officers

16. The officers of the Association shall be a President, a Vice-President, an Honorary Secretary and an Honorary Treasurer.

17. The officers of the Association shall be elected at each general meeting of the Association, and shall serve until the close of the next general meeting of the Association. They shall be eligible for re-election.

18. Casual vacancies among the officers shall be filled by the President. If the President is unable to act, the Vice-President shall act in his place. The Honorary Secretary shall inform all school members of any such casual appointment.

19. Should it prove necessary for the effective administration of the Association, the Honorary Secretary

may, with the approval of the President and the Vice-President of the Association, appoint an Assistant Honorary Secretary from the Individual Members of the Association.

Executive Committee

20. The Executive Committee shall consist of the officers of the Association together with the elected representatives of the Individual Members and the School Members of the Association.

21. Elections shall be held at each general meeting.

22. Individual Members of the Association shall be entitled to elect three of their number to serve on the Executive Committee.

23. School Members of the Committee shall be chosen as follows:

(a) there shall be one representative of all the member law schools in each of the territories listed in Rule 2 above. Should there be more than five member law schools in any such territory, they shall be entitled to elect two representatives to serve on the Executive Committee;

(b) school representatives shall be elected by postal ballot of all the member law schools in any such area;

(c) if there is only one law school in the area, the individual members of that school shall elect the school representative.

24. Elections of school representatives shall be held within the first fortnight of January of each year in which a general meeting is scheduled, such representatives to assume office on the close of the general meeting of said year. The President shall appoint a returning officer for each territory where an election is to be held with respect to law school representatives. The returning officer shall hold the election and shall inform the Honorary Secretary of the result thereof.

25. Persons elected to the Executive Committee shall serve until the close of the following general meeting. They shall be eligible for re-election.

26. The Executive Committee shall normally conduct its business by post. It shall, however, meet in plenary session at each general meeting of the Association.

General Meetings

27. General meetings of the Association shall be held biennially.

28. So far as practicable, meetings shall be held at different geographic centres in order to ensure as wide a distribution of activities as possible.

29. All Individual Members shall be entitled to attend general meetings.

30. School Members shall be entitled to send two representatives to each general meeting.

31. Honorary and Associate Members shall be entitled to attend and participate fully in general meetings, but shall not be entitled to vote unless nominated by a School Member as its representative.

Voting

32. Each member who is present at the meeting, other than Honorary or Associate Members not representing a School Member, shall have one vote.

33. Individual Members nominated to represent a School Member shall be entitled to vote as an Individual Member and as Representative of a School Member.

34. Unless otherwise provided in these rules, or by resolution of the Executive Committee, all decisions of the general meeting shall be by simple majority.

Procedure

35. Unless the meeting shall itself decide otherwise, the business at general meetings shall be as follows:

(1) Minutes of the last general meeting;

(2) Report of the Executive Committee and statement of accounts;

(3) Replies by officers to questions;

(4) Address by the retiring President;

(5) Election of officers;

(6) Reports from special committees, if any;

(7) Communications from other bodies;

(8) Motions, if any;

(9) Papers and discussions.

Amendment of Rules

36. Any amendment to these rules may be made at a general meeting, on motion by any member, provided two months' notice of such amendment has been given to the Honorary Secretary.

37. It shall be the responsibility of the Honorary Secretary of the Association to convey such notice to all members.

38. Such amendments shall be adopted by a majority of the persons attending the general meeting and entitled to vote, provided that majority is made up of a simple majority of the Individual Members present and voting, and a two-thirds majority of the Representatives of the School Members present and voting.

Publications

39. The Association shall publish a biennial report and statement of accounts.

40. The Association shall appoint at each general meeting an Editorial Committee to edit and publish such documents as may be decided upon by the Executive Committee.

41. The Association may, either alone or in participation with others, publish such material as in the view of the Executive Committee will promote the objects of the Association.

43. The material referred to in Rule 39 above shall be distributed free to all members of the Association.

42. The publications referred to in Rules 40 and 41 shall be offered for public sale at commercial rates, but shall be made available to members of the Association either free or at the lowest price suggested by the Honorary Treasurer as compatible with the continued liquidity of the Association.

Expulsion

44. Any member of the Association, whatever the category of membership, who may be guilty of any conduct, which in the opinion of the Executive Committee renders continued membership detrimental to the Association, may be requested to resign. Any member called upon to resign and refusing to do so may, after being given an opportunity to explain his conduct, be expelled by resolution of the Executive Committee.

45. A resolution to expel a member must be supported by at least two-thirds of the members of the Executive Committee.

46. If the member involved is an Individual or School Member he shall be entitled to appeal to the next general meeting of the Association.

47. A decision of the Executive Committee to expel an Individual or School Member may only be reversed by the general meeting if supported by at least three-quarters of the representatives of the School Members at that meeting and two-thirds of the Individual Members present and voting.

48. Expulsion of a School Member shall not, unless otherwise decided by a two-thirds majority of the Executive Committee confirmed by the general meeting voting as in Rule 47, affect the continued membership of Individual Members attached to the School Member in question.

PROPOSED AMENDMENTS

3. (h) the encouragement of legal research in the region and for this purpose publication of a *Journal of Legal Research.* (proposed by Dr. Hingorani).

5. Individual members of the Association shall be such deans, professors and university teachers of law and such others engaged or interested in the teaching of law *with five years standing* in South East Asia, etc. (proposed by Dr. Hingorani).

8. (c)...and who *either apply or* are invited by the Committee to become Associate Members. (proposed by Dr. Hingorani).

11. Dr. Hingorani proposes an additional category of Life Members whose subscription would be ten guineas.

11. Professor Imtiaz Ali proposes that the annual subscription for Individual members be half a guinea or the equivalent thereof.

34. Unless otherwise provided in these rules, or by resolution of the Executive Committee, all decisions of the general meeting shall be by two-thirds majority of the members present and voting; provided, however, that the decisions of the Executive Committee may be approved by simple majority of the members present and voting. (proposed by Professor Imtiaz Ali).

44-48. Justice T. S. Fernando recommends deletion of the section on Expulsion.

A Comparative Chart Regarding Legal Education in Indian Univers

Sl. No.	NAME OF UNIVERSITY	SUBJECTS TAUGHT																	Method Adopted
		R.L.	C.	T. & E.	C.L. & P.	C.L.	J.	C.P.P. & L.	L.T.	H.L.	M.L.	T.P.	E.T. & S.R.	C.L. & I.T.	L. & T.	P.I. L.	A.L.	E.	L.L.	A.L.	
1	ALIGARH	Yes Add:S	Yes & Sp.R.	Yes	Yes	Yes	Yes	Yes	Yes Add:S	Yes	Yes	Yes & Trusts	No	Mer. L. or Lab.L.	Yes or Equity	Yes	Yes or Pr. I. L.	Yes	-op.	Yes Add:S	Lecture Method, Discussion groups.
2	AGRA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	Yes	No	No	Lecture Method.
3	ALLAHABAD	Yes or L.H.	Yes	Yes	...	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method & Tutorials.
4	ANDHRA	Yes op.	Yes	Yes	Yes I.P.C. o.	Yes op.	Yes	No	No	Yes	Yes op.	Yes	No	Yes op.	Yes op.	Yes op.	Yes op.	Yes	Yes	No	Lecture Method, Moot Courts.
5	BENARES	No An.Law	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method.
6	BIHAR	Yes op.	Yes	Yes	Yes	Yes op.	Yes	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	No	No	Lecture Method, Moot Courts & Tutorials.
7	BHAGALPUR	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	No	No	Lecture Method, Moot Courts & Tutorials.
8	BOMBAY	No	Yes	Yes	Yes	Yes	Yes & P.I.L.	No	No	Yes	Yes & S.A.	Yes	Yes	Yes	No	Yes	No	No	No	No	Lecture Method, Seminars, Moots & *Case Method.*
9	CALCUTTA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes	Yes	Yes op.	No	Yes	No	Yes	Yes op.	No	Lecture Method, Tutorials & Moots.
10	DELHI	Yes op.	Yes	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	Yes op.	No	Lecture Method, Tutorials.
11	GAUHATI	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	No	Lecture Method, Tutorials and Moots.
12	GORAKHPUR	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No	Lecture Method.
13	GUJARAT	No	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	No	No	Yes	No	No	No	No	Lecture Method.
14	JABALPUR	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No	Lecture Method.
15	KARNATAK	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	Yes	No	Yes	No	No	Lecture Method, Tutorials, Moots.
16	KERALA	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.
17	LUCKNOW	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes op.	Yes	Yes op.	Yes	Yes op.	No	Lecture Method, Tutorials.
18	MADRAS	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.
19	BARODA	No	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method.
20	MARATHWADA	No	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.
21	MYSORE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.
22	NAGPUR	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method.
23	OSMANIA	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No	Yes	No	Yes	No	Yes	No	No	Lecture Method.
24	PUNJAB	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No	Yes	No	Yes	No	Yes	No	No	Lecture Method, Moots & Tutorials.
25	PATNA	Yes op.	Yes	Yes	Yes	Yes op.	Yes	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	Yes op.	No	Lecture Method, Tutorials.
26	POONA	No	Yes	Yes	Yes	Yes	Yes & P.I.L.	No	No	Yes	Yes & S.A.	Yes	Yes	Yes	No	Yes	No	No	No	No	Lecture Method, Tutorials.
27	RAJASTHAN	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method, Tutorials.
28	RANCHI	Yes op.	Yes	Yes	Yes	Yes op.	Yes	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	No	No	Lecture Method, Moots & Tutorials.
29	SAUGOR	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	No	Yes	No	No	Lecture Method.
30	UTKAL	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	No	Yes	No	No	Lecture Method, Moots & Tutorials.
31	VIKRAM	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes op.	Yes	Yes	Yes	Yes	Yes op.	Yes op.	Yes op.	No	Yes	Yes op.	No	Lecture Method, Moots & Tutorials.

A Comparative Chart Regarding Legal Education in Indian Universities*

LL.B. / B.L. Degrees

S TAUGHT										Method Adopted	Combination Permitted	Employment Permitted	No. of Students	No. of Teachers	Library	Annual Budget (Books)
M.L.	T.P.	E.T. & S.R.	C.L. & I.T.	L. & T.	P.I. L.	A.L.	E.	L.L.	A.L.							
Yes	Yes & Trusts	No	Mer. L. or Lab.L.	Yes or Equity	Yes	Yes or Pr.I.L.	Yes	-op.	Yes Add:S	Lecture Method, Discussion groups.	Yes	Yes	345	10	7,300 bks. 18 p.	Rs. 3,500/-
Yes	Yes	Yes	Yes	No	No	No	Yes	No	No	Lecture Method.	Yes	Yes	1,400	39 (4 part-time lecturers)	6,550	Rs. 2,500/-
Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method & Tutorials.	No	No	620	14 (3 part-time lecturers)	7,170	Rs. 2,625/-
Yes op.	Yes	No	Yes op.	Yes op.	Yes op.	Yes op.	Yes	Yes	No	Lecture Method, Moot Courts.	No	No	350	8	10,000	Rs. 6,000/-
Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method.	Yes	Yes	400	14	11,000	Rs. 4,000/-
Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	No	No	Lecture Method, Moot Courts & Tutorials.	Yes	Yes	245	9 (7 part-time lecturers)	2,700	Rs. 2,200/-
Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	No	No	Lecture Method, Moot Courts & Tutorials.	Yes	Yes	324	8 (all part-time)	2,000	Rs. 2,800/-
es & S.A.	Yes	Yes	Yes	No	Yes	No	No	No	No	Lecture Method, Seminars, Moots & *Case Method.*	No	Yes	3,580	93 (82 part-time lecturers)	29,500	Rs. 23,000/-
Yes op.	Yes	Yes	Yes op.	No	Yes	No	Yes	Yes op.	No	Lecture Method, Tutorials & Moots.	...	...	...	55 (40 part-time lecturers)	50,000	...
Yes	Yes	Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	Yes op.	No	Lecture Method, Tutorials.	No	Yes	721	32 (6 part-time lecturers)	20,000	...
Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	No	Lecture Method, Tutorials and Moots.	Yes	Yes	500	6 (all part-time)	...	...
Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No	Lecture Method.	Yes	...	470	18 (8 part-time lecturers)	3,467	Rs. 10,000/-
Yes	Yes	Yes	No	No	Yes	No	No	No	No	Lecture Method.	Yes	Yes	1,640	53 (29 part-time lecturers)	11,530	Rs. 14,500/-
Yes	Yes	Yes	No	Yes	Yes	No	No	No	No	Lecture Method.	Yes	Yes	460	10 (all part-time)	1,600	Rs. 1,400/-
Yes	Yes	No	Yes	No	Yes	No	Yes	No	No	Lecture Method, Tutorials, Moots.	No	Yes	626	44 (31 part-time lecturers)	13,600	Rs. 12,000/-
Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.	No	No	475	12 (8 part-time lecturers)	16,100	Rs. 13,500/-
Yes	Yes	Yes	No	Yes op.	Yes	Yes op.	Yes	Yes op.	No	Lecture Method, Tutorials.	No	Yes	1,284	26	20,000	Rs. 5,000/-
Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.	No	No	1,289	16 (11 part-time lecturers)	23,800	Rs. 5,700/-
Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method.	No	Yes	280	8 (4 part-time lecturers)	...	...
Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.	Yes	Yes	130	9 (7 part-time lecturers)	1,600	Rs. 5,000/-
Yes	Yes	No	No	No	Yes	No	Yes	No	No	Lecture Method.	No	Yes	898	19 (14 part-time lecturers)	10,000	Rs. 509,000/-
Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method.	Yes	Yes	510	14 (12 part-time lecturers)	9,680	Rs. 3,500/-
Yes	Yes	No	Yes	No	Yes	No	Yes	No	No	Lecture Method.	No	Yes	1,278	33 (20 part-time lecturers)	8,000	Rs. 10,000/-
Yes	Yes	No	Yes	No	Yes	No	Yes	No	No	Lecture Method, Moots & Tutorials.	...	...	...	...	...	...
Yes	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	Yes op.	No	Lecture Method, Tutorials.	Yes	Yes	681	27 (25 part-time lecturers)	5,000	Rs. 3,000/-
s & A.	Yes	Yes	Yes	No	Yes	No	No	No	No	Lecture Method, Tutorials.	No	Yes	415	15 (10 part-time lecturers)	17,000	Rs. 3,000/-
es	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Lecture Method, Tutorials.	No	Yes	468	23 (11 part-time lecturers)	14,600	Rs. 1,500/-
es	Yes	Yes op.	Yes op.	Yes op.	Yes op.	No	Yes	No	No	Lecture Method, Moots & Tutorials.	...	...	400	6 (5 part-time lecturers)	2,000	Rs. 2,000/-
es	Yes	Yes	No	No	Yes	No	Yes	No	No	Lecture Method.	Yes	Yes	206	14 (all part-time lecturers)	1,650	...
o	Yes	Yes	Yes	No	No	No	Yes	No	No	Lecture Method, Moots & Tutorials.	Yes	Yes	332	8 (6 part-time lecturers)	...	Rs. 6,000/-