

**A CONCEPTUAL FRAMEWORK ANALYSIS OF THE ROLE OF BAR COUNCIL OF INDIA IN BURGEONS OF LEGAL EDUCATION IN INDIA.**

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**ABSTRACT:**

Bar council of India (hereafter called 'BCI') have played a vital role in the development of legal education in India. The BCI was the first initiative to drop down the caliber in terms of modus operandi, classroom inculcation, court visits, moot courts, legal aid works, and empirical training programs for graduates. In the present scenario the aim of legal schooling has been reoriented. A prompt challenge is to improve the quality of legal education in an extensive majority of law schools in the country. This essay shall focus on discussing the role allocated to BCI of the advocates act, 1961 along with the legal education in the global perspective. The controversy "Can BCI be empowered with more powers?" shall be discussed in major in accordance with the propositions and possible outcomes. This paper also aims to critically analyze the role of the Bar council of India in the growth of legal education and to examine the functions of the bar council of India towards the quality of legal education. In respect with the powers of the BCI and along with the discussion as of whether the BCI should be crowned with more powers in the execution of its functions are also been included along with to demonstrate the premise and viable sequel in the future.

**Keywords:** development, education, BCI (Bar Council of India), challenge, practical.

## INTRODUCTION

Bar Council of India (hereinafter called BCI) has played a vital role in Legal Education in India. BCI has structured Legal Education System as it exists today. BCI amalgamated 92 new Law colleges in nine month last year, according to the Law Ministry's 2014-2015 annual report of 244 pages. The BCI's co-member Legal Education Committee (LEC), which scrutinize law colleges and recommend to the BCI if the scrutinized college are eligible for Affiliation, of issued acquiescence of affiliation to 92 new colleges to the report analyzed.

BCI being the pillar of support towards Legal education, boldly decided to initiate and sponsor five years integrated course from three years course in national law college Bangalore, India. The outstanding success of the National Law School led to the setting up more such schools similar to the Bangalore Model. Today there are 11 National Law Schools in the country. This had indeed given a special impact to Indian legal education.

This paper aims to explain about the growth and the hurdles faced by the legal education in burgeons through the commencement of a committee known as the Bar Council of India. It shall also demonstrate the functions and the powers of the BCI along with the drawback in its function towards the legal education in the current scenario.

**HYPOTHESIS:** The legal education in India stipulates more bugeon and ultimate awareness among the law graduates and as well as general public.

**NULL HYPOTHESIS:** The Bar Council of India has to perform more significantly in the field of legal education in India.

**MATERIALS AND METHODOLOGY:** For this study only secondary sources that are doctrinal research have been referred to. A secondary source includes books articles and journal publications. Various other websites, blogs and web derived materials have also been used for the study.

**RESEARCH QUESTION:** Whether the Bar Council of india be crowned with more powers towards the burgeon of the Legal Education?

## ROLE OF BAR COUNCIL OF INDIA

The Advocates Act, 1961 was passed by the Parliament of India by integrity of powers under List I of the Indian Constitution. This Act demands BCI to raise standards and promote legal education in India<sup>1</sup>. According to Section 49 of Advocates ACT, 1961, the Bar Council of India

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<sup>1</sup> <http://www.allindiabarexamination.com/>

structured Bar Council of India Rules, 1965 in which chapter VI exclusively intervene with minimum standards of legal education in India, which was further amended for the purpose of improving standards of legal education<sup>2</sup>.

According to the supreme court in the matter of *Bar Council of U.P v. State of U.P.* Section 4 of the Advocates Acts, 1961, which prescribes Bar Council of India has been constituted, is an enactment made pursuant to Entries 77 and 78 of schedule VII i.e.it deals with the subject matter of ‘..Persons entitled to practice..’ Bar Council of India is a professional body which holds an obligation to maintain the standards to be observed by the members of the Bar. In consonance with the several State Bar Councils, Bar Council of India has an obligation for all matters which relates to ethics, regulations, discipline, admission and development of the profession.

The responsibility of Bar Council of India has not been confined or cramped to professional standards alone, but it also stretches its branches to a regulatory character viz-a-viz legal education which was noted as early as in 1958 by the 14<sup>th</sup> report of the Law Commission of India. The regulation of Bar Council of India in legal education is further manifested by the provisions of the Advocates Act, 1961. Section 7 of the Act, which defines the functions to be performed by the Bar Council of India.

#### **FUNCTIONS OF BAR COUNCIL OF INDIA**

1) The function of the Bar Council of India shall be—

- (a) 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;
- (b) To recognize Universities whose degree in law shall be a qualification for Enrolments as an advocate and for that purpose to visit and inspect Universities or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf:

The Bar Council of India further entrenched three supplementary organs to achieve its statutory mandate.

(a) *Legal Education Committee:*

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<sup>2</sup> "All India Bar Examination (AIBE)". Bar Council of India. Retrieved 14 May 2014.

The committee was established by the Bar Council of India under Section 10(2)(b) of the Advocates Act, 1961 for the purpose of academic, which includes only one personnel from academia.<sup>3</sup>

*(b) Bar Council Of India Trust:*

The Bar Council of India introduced a public welfare and charitable organization, namely, The Bar Council of India Trust, 1974. According to the norms, the purpose of such initiative is to maintain the standards and to effect improvements in legal education which also intends to establish Law Schools of excellence and to enhance legal research.

*(c) Directorate of Legal Education:*

In the year 2010, a Directorate of Legal Education was been established by the Bar Council of India for the purpose of running, initiate, upheld, organizing and administering (a) training for the teachers (b) certainty of Legal Education (c) advanced specialized professional courses legal research (d) workshop, program for the Indian students who are seeking for the registration from the foreign university after completing their law degree by the Bar Council of India.

## **THE GLOBAL PANORAMA OF INDIAN LEGAL EDUCATION**

Regarding the history of the stages in legal education, about fifty years ago the concept was that the law schools are meant to produce law graduates who would mostly come to the Bar, in which the others would be interested in law teaching. Therefore the Advocates Act, 1961 was enacted to achieve the said objective, but during this period and more specifically after liberalization during the year 1991, the entire concept of legal education has changed.

Today, legal education has to meet not only the requirements of the bar and the new needs of trade, commerce and industry but also the requirements of globalization. Legal education was modified with new subjects and international dimensions. There is also a tremendous need for non practicing law graduates in trade and commerce in accordance with the need for a new regulatory mechanism which will cater to the above mentioned present and future needs of the country. Therefore, among the various type of Legal Education, we can list out the type which is necessary for those who practice law and for those who need academics subjects of substantive law exclusively, the type which deals with public legal education or

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<sup>3</sup> "All India Bar Exam". West Bengal Bar Council of India. Retrieved 14 May 2014.

Paralegal education, the type which prepares law graduates to deal with legal, regulatory and ethical issues in active sectors of domestic and international business and industry, and finally, the type which professionals in engineering, medicine, management and social work may require<sup>4</sup>.

#### **4. CAN BAR COUNCIL OF INDIA BE CROWNED WITH MORE POWERS?**

Bar Council of India was decorated with limited powers but apparently in the current scenario it has been practicing more powers under subordinate legislation. The provisions behind the Advocates Act, 1961, as stated above, very limited powers were conferred on the Bar Council of India. During the last few decades, in as much as there was no other specific provisions for emerging needs and trends, the Bar Council of India has been dealing with all aspects of Legal Education under Resolutions, Rules and Regulations instead of limiting itself to the maintenance of minimum standards of legal education for the purpose of entry into the bar. In the last three decades, the Bar Council of India, by the rectitude of its norms, has taken over the entire powers in relation to legal education which is not the intention of Advocates Act, 1961. The Bar Council of India has reduced its powers to issue acknowledgement to the universities for the purpose of enrolment of law graduates has been dealing with inspections, affiliation or disaffiliation of various law colleges, granting annual affiliation or permanent affiliation etc. The establishment of Law Schools, buildings, recruitment of faculties and other players has not been allowed to have any effective role. The above stated powers was extended by the Bar Council of India under Resolutions, Rules and Regulations, even though such powers were confined and was not permitted by Advocates Act, 1961.

Additionally, while the statement of the preamble of the University Grants Commission Act, 1956 and of the Indian Medical Council Act, 1956 allude to the constitution of bodies for maintaining the 'standards of Legal Education', unfortunately there are no such words or statements mentioned in the preamble of the Advocate Act, 1961. The Advocates Act, 1961 deals with the minimum standards of legal education only in the context of 'practice in courts'. To terminate, no general power to constitute standards of Legal Education for all determination has ever been conferred on Bar Council of India by the Advocates Act 1961. Therefore the rules or resolutions or the circulars of BCI dated 2-7-96, 21-10-97, 23-9-98, 22-12-98 made by way of

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<sup>4</sup> "The All India Bar Examination 2015".

delegated legislation, taking over conservation of degree, syllabus qualifications for admission and for faculty and inspections for all purposes, is clearly outside the scope and jurisdiction of the BCI<sup>5</sup>.

#### **THE ROAD AHEAD - PREMISE AND VIABLE SEQUEL**

The needs of Globalization and Domestic needs urge for a new 'Regulator' with pure and global goals. The revolutionary changes which was figured out by the Law Commission in its 184<sup>th</sup> Report in the year 2002 under paragraph 5.16 in accordance with legal education by reason of developments in information, communication, mode of transport technologies, intellectual property, cyber laws, corporate laws, human rights, alternative dispute resolution, international treaties, tax laws, space laws, environmental laws etc.

The intercontinental Endeavour to achieve legal education is definitely not to create individuals who can "practice" law in a number of jurisdictions. Even though graduates of such an event may well wish to do so, such ability should not be seen as an objective in itself, but eventually as an subordinate result. The demand towards legal education must help the students, to specialize in the following subjects:

- International Trade Practices
- Comparative Law
- Conflict Of Laws
- International Human Rights Law
- Environmental Law
- Gender Justice,
- Space Law
- Biomedical Law
- Bio- Ethic,
- International Advocacy Etc.

They must also acquire a general knowledge of American, French, German, Chinese and Japanese Law.<sup>6</sup>

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<sup>5</sup> "bar council rules". Retrieved 3 February 2017.

<sup>6</sup> <http://barcouncilofindia.org/>

Internationalization does not only mean inclusion or supplementing of new subjects in the syllabus as stated above. The broader issue is to prepare the legal profession to handle the challenges of Globalization. Independent from expanding the syllabus, law schools have to raise standards in their libraries and there shall be an event of regular use in internet by the students and faculty. Use of computers and internet must be made compulsory in all law schools. Social engagement in legal education must be encouraged, which means that the legal education programs must compulsorily expose students to the issues of poverty, social exclusion, environmental degradation and social change through clinical legal education.

Group discussions, seminars, debates and legal aid programs which sensitize and expose students to issues of social justice. Conduction programs in which the students are left to work with the poor must be a mandatory part of curriculum. In division between the internal and external score, the faculty must consider the students capacity in participating social issues directly along with interdisciplinary training. Every student must visit the court at least twice a week which should be made mandatory in all law schools.

In the presence of changed scenario in the last five decades, the wants of globalization after 1991, and the deficiencies in the existing regulator as referred to above which have to be filled up, it is transparent that the Bar Council of India has neither the power under the Advocates Act, 1961 nor the expertise to merge the new challenges both internally and externally. The necessary step is to constitute and enhance new regulatory mechanism with a vision of social goals to deal with the entire aspects of legal education.

#### **SUGGESTION:**

The legal education system was been unauthorized those days and for the interest of justice and the enhancement of the Indian Judiciary, it has been enshrined with immense norms in order to regulate and scrutinize the legal system in India. The BCI which stands as the pillar of support in the enforcement of quality legal education should be crowned with more powers and authorities that the Indian legal system shall enhance and increase in its quality.

#### **CONCLUSION**

The National Knowledge Commission 2006, reported to enhance an Independent Regulatory Authority for Higher Education in regards with various standing committees including one for legal education, as per the stated issues, the Advocates Act, 1961 would have to be amended accordingly. Stakeholders shall be represented on the new Standing Committee

on legal education, as the new regulator would be bound by the recommendations stated by them. This way the Legal Education would be rehabilitated to face the consequences of all sections of the society in the next fifty years.

#### **REFERENCES:**

1. "About the Bar Council of India". Bar Council of India. Retrieved 3 May 2014.
2. "The Indian Legal Profession" (PDF). President and Fellows of Harvard College. Retrieved June 4, 2014.
3. "Advocates Act, 1961" (PDF). Parliament of India. 1961. Retrieved 3 May 2014.
4. "History of Bar Council of India". Bar Council of India. Archived from the original on 14 March 2014. Retrieved 4 June 2014.
5. "Office Bearers of Bar Council of India « The Bar Council of India". [www.barcouncilofindia.org](http://www.barcouncilofindia.org). Retrieved 2016-11-21.
6. "Office bearers of the Bar Council of India". Bar Council of India. Archived from the original on 28 March 2014. Retrieved 4 June 2014.
7. "Committees of Bar Council of India". Bar Council of India. Archived from the original on 28 March 2014. Retrieved 4 June 2014.
8. "All India Bar Examination (AIBE)". Bar Council of India. Retrieved 14 May 2014.
9. "All India Bar Exam". West Bengal Bar Council of India. Retrieved 14 May 2014.
10. "The All India Bar Examination 2015".
11. "bar council rules". Retrieved 3 February 2017.
12. "Office bearers of the Bar Council of India". Bar Council of India. Archived from the original on 28 March 2014. Retrieved 4 June 2014.
13. "Committees of Bar Council of India". Bar Council of India. Archived from the original on 28 March 2014. Retrieved 4 June 2014.
14. "All India Bar Examination (AIBE)". Bar Council of India. Retrieved 14 May 2014.
15. "All India Bar Exam". West Bengal Bar Council of India. Retrieved 14 May 2014.
16. "The All India Bar Examination 2015".
17. "bar council rules". Retrieved 3 February 2017.
18. <http://barcouncilofindia.org/>
19. <http://www.allindiabarexamination.com/>

20. First qualifying exam for law grads today
21. Dr.Lakshmi T and Rajeshkumar S “In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes”, International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.
- 22.Trishala A , Lakshmi T and Rajeshkumar S,“ Physicochemical profile of Acacia catechu bark extract –An In vitro study”, International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 4, P.No 26-30, April 2018.

**BOOKS:**

1. Legal education and research methodology, 2015 edition.
2. Vision of legal education, edited by MAL GEN, NILENDRA KUMAR.

**WEBSITES:**

1. <http://www.delhihighcourt.nic.in/library/articles/Role%20of%20the%20Bar%20in%20the%20Development%20of%20Legal%20Education%20in%20India.doc>
2. <https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUKEwi194HU-MnRAhVIpY8KHQWdCdoQFggzMAQ&url=http%3A%2F%2Fspeakingthreads.org%2F2016%2F02%2F09%2Frole-of-lawyers-and-law-firms-in-the-development-of-legal-education%2F&usg=AFQjCNGPQQ3EzpYIeK-Z6QvT0i4EFLRvlg&sig2=eh0z2OZgdz9WEqdT33xvow>

