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# Evolution of Legal Profession in Bangladesh and its Current Status

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## Abstract

The fiduciary duty of a lawyer or advocate is what places the law profession in a unique position of trust and confidence, and distinguishes it from any other calling. Once this trust and confidence is betrayed, the faith of the people not only in the individual lawyer but also in the legal profession as a whole is eroded. All members of the bar are strictly required to at all times maintain the highest degree of public confidence in the fidelity, honesty, and integrity of their profession. Lawyers treat each other with courtesy, dignity and civility. The bickering and the hostility of their clients should not affect their conduct and rapport with each other as professionals and members of the bar. As the explanation goes a business is a trade or profession at which one works regularly; an occupation is what one happens to be engaged in, and may be continuous or temporary. A profession usually implies scholarship, as the profession of law. To straight justice through chalking out fact, lawyers take place an identical and unparalleled role. It demands higher degree of devotion, determination and commitment to the entire gamut of judiciary consists of judicial officer, court staff and justice seekers. In the first world, lawyers are the real social engineers to mend robust edifice for good governance and sustainable development. The ostensible connotation of this writing is to sketch out the overall deplorable situation of dignified legal profession in the hands of so called court officers with reasons and probable recommendations to upgrade.

**Keywords:** Legal Profession, Historical Background, Islamic Perspective, Current Status, Bangladesh.

## 1.0 Introduction

The legal profession is an important part in the legal administration of justice. A lawyer would be able to contribute to national development and social change in a much more constructive manner. The present law has to meet the requirements of the society. Law has to deal with problems of diverse magnitudes and a student of law and an advocate has to be trained in professional skills to meet the challenges of globalization and universalization of law. With the beginning of multinationals in

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Bangladesh as anywhere else, the task of lawyers would be highly technical and an imperative need would arise to have competent lawyers who would be trained in the right culture of legal education. It is impossible for the state to administer justice effectively without a well-organized legal profession. The administration of justice in a legal system is run and administered by the interaction of some essential organs, as judiciary, judge, legal profession, advocates. The legal profession occupies a very important position in the legal system as it provides the necessary legal serve both the litigants and to the courts. The common proverb is that strong Bar begets strong Bench, which means the efficiency of the judges depends on the efficiency of the lawyers. The history of the legal profession is the history of struggle and in the passage of time it turns a formal stage, plays an important role in the justice system and society. Legal profession in the ancient and medieval period is very vagues and uncertain but today it possess an important part in the justice system. As one phase of our lives end with completion of school, another phase of rigorous decision making begins regarding the career path that you would like to take. The third most common choice, right after becoming a doctor or an engineer, is choosing the profession of a lawyer. In order to aid in the decision making process, here's a gist of the realities of law school and the profession itself in Bangladesh.

## **2.0 Legal Profession**

Legal profession known as 'the bar', after the railing in courtrooms, the legal profession is the vocation of the law, and its practitioners include essentially those who hold licenses to practice law granted by states or particular courts, but also those who through legal education or vocation participate in the culture or institutions of the law. Law is a profession, and, as such, it requires special knowledge and skill acquired under the supervision of a practitioner and is subject to standards of admission and regulation by elite within the profession. There were lawyers of various sorts in ancient Greece and Rome, but the legal profession in its current sense was a medieval invention. The development of a professional bench and bar in England began in the twelfth and thirteenth centuries, shortly after the rediscovery of the texts of classic Roman law led both to more sophisticated forms of legal education and to a more complex system of national and Church laws. In early medieval England, university instruction prepared young men to practice canon and admiralty law, while a loose band of full-time lawyers consolidated into various London houses or 'inns' in which the older lawyers who pled before the courts taught younger lawyers. These inns became the basis for both the schooling and the management of the bar. By the dawn of the American colonial era,

English lawyers usually studied the liberal arts at a college or university and then studied law in one of the London Inns of Court. Scotland maintained a similar institution in the College of the Faculty of Advocates.

The body of individuals qualified to practice law in a particular jurisdiction. A lawyer, according to Black's Law Dictionary is 'a person learned in the law; as an attorney, counsel or solicitor; a person licensed to practice law'. Professional judges in Cuba are elected for unlimited terms, serving until they are no longer capable or until removed by the electoral body. Persons seeking to become judges are required to pass an examination given by the Ministry of Justice.

## 2.1 Legal Professional

A legal professional or practitioner is called an advocate. He is an agent of his/her client and an officer of the court at the same time. An advocate has a responsibility to his client as well as to the court. According to s 2(a) of the Bangladesh Legal Practitioners and Bar Council order 1972 'advocate' means an advocate entered in the roll under the provision of Bangladesh Legal Practitioners and Bar Council Order.

## 2.2 Why Legal Profession

A career in the legal profession can be intellectual challenging, personally fulfilling and financially rewarding. Below are 10 reasons to choose a career in the legal profession.<sup>2</sup>

**Financial Rewards:** The legal profession is one of the most lucrative industries in today's job market. Double-digit growth in recent years has produce healthy revenues and rising salaries. Associates the nation's largest law firms start at \$150,000 to \$180,000 and partners earn average salaries in excess of \$1.2 million. Many non-lawyers also reap significant financial rewards in the legal profession.

**Client Service:** At the heart of the legal professional role in the client service. Whether you are a lawyer representing a multinational corporate client, a paralegal assisting abused women obtain restraining orders or a law clerk researching a tax issue for a new business, the fundamental purpose of the legal profession is the help others resolve their legal problems.<sup>3</sup>

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<sup>2</sup> Sally Kane, *Rewards of a career in the law* (fourth Edition).

<sup>3</sup> *ibid*

**Diverse Legal Career Option:** The complexities of our legal system have created hundreds of legal career options that serve a variety of core and non-core legal function. From lawyers, judges and mediators to paralegals, secretaries and consultant, the legal professional's role is expanding and evolving to keep pace with the ever-changing legal system.

**Growth and Opportunity:** In the last several years, the legal profession has experienced staggering growth. A steady rise in profits and revenues, expanded headcounts and significant salary increase have provided plenty of job opportunities in a broad range of legal positions.

**Prestige:** In a culture that views high pay, impressive schooling and societal power as hallmark of success, the legal profession has long been regarded as a noble and elite profession. This image is further boosted by the portrayal of legal career in the media as exciting, glamorous, fast-paced and desired. As a result the legal profession has held its allure and careers in the law remain is one of the most sought-after professions in today's job market.<sup>4</sup>

**Global Perspective:** More firms and corporations are crossing international borders and expanding across the globe through mergers, acquisitions, consolidation and collaboration with foreign counsel. The globalization of the legal profession provides today's legal professional with a world view and the opportunity to serve international clients.

**Prosperity:** Historically, the legal profession has weathered economic downturns quite well and should do so in the future, in part due to the growing geographic and practice diversification of many law firms. In fact, some practice areas such as litigation, bankruptcy and reorganization, residential real estate foreclosure and regulatory compliance will actually benefit from an economic slowdown. As a result, legal professionals should find plenty of job opportunities in any economic climate.

**Intellectual Challenge:** Navigating an evolving legal system, advances in technology, vast bodies of case law and the demands of the legal profession creates a stimulating intellectual environment for the legal professional. Lawyers and non-lawyer alike must grapple with conceptually challenging issues, reason with logic and clarity, and analyze case and statutory law, research complex legal issues and master oral and written communications.

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<sup>4</sup> <[www.evaluationoflegalprofession.com](http://www.evaluationoflegalprofession.com)> accessed 06 February 2021.

Dynamic Environment: The legal profession is continually changing and evolving, bring new challenges and rewards. Legal professionals must be problem-solvers and innovators, willing to assume new responsibilities, tackle new challenges, master new technology and navigate an ever-evolving legal system. This dynamic legal landscape makes each day unique and fosters an enjoyable, fulfilling work experience.

### **2.3 Has Legal Profession Been Developed?**

The legal profession as it exists in Bangladesh today had its beginning in the first years of British rule. The Hindu pundits, Muslim muftis and Portuguese lawyers who served under earlier regimes had little effect upon the system of law and legal practice that developed under British administration. At first, the prestige of the legal profession was very low. From this low state and disrepute the profession development into the most highly respect and influential one in Bangladeshi society. The most talented Bangladesh was attracted to the study and practice of law. The profession dominated the public life of the country and played a prominent role in the national struggle for freedom. ‘There was no movement in any sphere of public activities educational, cultural, or humanitarian in which the lawyers were not in the forefront’.<sup>5</sup> This paper will attempt to sketch the rise of the profession from its low state during the first hundred years, to explain the source of its respect and influence, to recount its accomplishments and contributions to the national life and, finally, to suggest some factors leading to its decline.

## **3.0 Historical Background of Legal Profession**

### **3.1 In Hindu Period**

In ancient Bangladesh as well as India the king was regarded as the fountain-head of justice. His foremost duty was to protect his subjects. He was respected as the lord of religion and was entrusted with the supreme authority of the administration of justice in his kingdom. The King’s Court was the highest court of appeal. It was also the original court in the cases of vital importance to the kingdom. Next to the king was the court of the chief justice. Apart from the chief justice, the court consisted of a board of judges to assist him. In the district headquarters the courts were presided over by the government officers under the authority of the king for the administration of justice. In the villages there existed penchants (councils) consisted of a board of five or more members to dispense justice to the

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<sup>5</sup> K. N. Katju, *The Days I Remember II* (1961).

villagers. The village penchants (councils) dealt with simple civil and criminal cases. In ancient Bangladesh the law which was administered was customary. Canon law was also recognized. Besides, dicta emanating from religion were regarded as a major source of law. This system remains operative in the country with some modifications here and there until the advent of Islam in Indian Sub-continent.<sup>6</sup>

### 3.2 In Muslim Period

Muslim period marked the beginning of a new era in the legal history of Bangladesh. The Arab Muslim first came to India in the eighth century but it did not create any impression in the minds of the people of this sub-continent. But during the continuance of the sultanate, 1206 AD to 1526 AD, the administration of justice was taking formative shape, and during the Mughal period commencing from 1526 AD a well-organized legal system took a positive shape. During the Mughal period the emperor was considered the foundation of justice. The emperor created a separate department of justice with a view to regulating and observing the proper administration of justice. A systematic gradation of courts with well-defined powers of the presiding judge's existed all over the empire. They were as follows: at Delhi, the capital of Mughal Empire, three important courts were established: the emperor's court, the chief court of the empire and the chief revenue court. The emperor's courts presided over by the emperor, was the highest court of the empire. The court had original and appellate jurisdictions to hear civil and criminal cases. The chief court of the empire, presided over by the qazi-ul-quzat (chief justice) who was appointed by the emperor, was the second important court at Delhi, the sea of the capital. The court had the original and appellate jurisdictions to hear civil and criminal cases. It also supervised the working of the provincial courts. The chief revenues court, presided over by the diwan-e-ala was the third important court established at Delhi. It was the highest court of appeal to decide revenue cases.<sup>7</sup> In each province there were three courts, namely, the governor's court and the Bench, the Chief Appellate Court and the chief revenue court. The governors own court (adalat-e-nazim-e-subah), presided over by the governor (nazim-e-subah), had original jurisdiction to hear cases arising in provincial capital. Sometime the governor presided over a bench to hear original, appellate and revision cases. The provincial chief appellate court was presided over by the Qazi-e-subah. The court had original and criminal jurisdiction. In each district (sarkar) there were four courts, namely, the chief civil and criminal court

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<sup>6</sup> A.B.M. Mafizul Islam Patwari, *Legal System of Bangladesh* (Humanist and Ethical Association of Bangladesh) 2.

<sup>7</sup> *ibid*

of district, faujdari adalat, court of kotwali and amalguzari. In each piranha there were three courts, adalat-e-paragana, court of kotwali and kachehri. At the village level the Mughal retained the ancient system of the penchants for the settlement of petty disputes. Serpent, the village-headman, was the president of the penchant. This system of law under the Mughals was effective and worked well for some centuries. Its disintegration started when the control of the Mughal emperors over the provinces became less effective. Another cause of this disintegration was the coming of the English and the infiltration of their legal system into the country. The acquisition of sovereignty over India was slowly made by imperceptible steps and ‘the sudden application of a foreign law was in the highest degree, improbable’<sup>8</sup> but ultimately the English established their sovereignty over India sub-continent and made an expansion of the common law in India<sup>9</sup>.

### 3.3 In British Period

The English first came to India as trading companies under a series of charters granted by successive English sovereigns. The earliest was of Elisabeth in 1600 AD it gave the company power to make reasonable bye-laws, ordinances for the good government of the company and its servants provided they were not contrary to ‘the laws, statutes or customs of the English realm’. Sir James Stephen thought that this first introduced the laws of England into India.<sup>10</sup> In 1726 AD the crown granted letters patent creating mayors courts in the presidency towns of Calcutta, Bombay and Madras.<sup>11</sup> These were not the company’s courts but courts of the king of England. These courts consisted of the mayors and certain aldermen and were authorized ‘to try, hear and determine all civil suits, actions and pleas’ and ‘to give judgment and sentence according to justice and rights’. The charter creating the mayors courts did not expressly state that the law to be applied by these courts was to be the law of England. But the decision of the Privy Council was that the charter introduce into the presidency towns the law of England- both common law and statute law- as it stood in 1726.<sup>12</sup> Morley differing from the view expressed by Sir James Stephen also reached the similar conclusion.<sup>13</sup> In course of time the activities of the companies were not confined to the factories; and their

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<sup>8</sup> *Mayor of Lyons v East Indian Co*, (1836) MLA 175, per lord brougham at p 277.

<sup>9</sup> *ibid*

<sup>10</sup> Justice Vivian Bose, ‘The Migration of the Common Law’ (1960) 76 *The Law Quarterly Review* 59.

<sup>11</sup> Letters patent of 24<sup>th</sup> September, 1726, the 13 year of the reign of George I.

<sup>12</sup> *Advocate- General of Bengal v Ranee Surname Dossee*, (1863) 9 MIA 424.

<sup>13</sup> Bose (n 10) 60.

officers gradually assumed the management of affairs in the interior of the country as well. They defeated the Nawab of Bengal in 1757 AD and established the political supremacy in Bengal, Bihar and Orissa. In 1765 AD, Clive successfully persuaded Mughal emperor Shah Alam to grant to the company Diwani for the collection and administration of revenue of Bengal, Bihar and Orisa. 'This involved the establishment, not only of officers to collect the revenue, but also of courts to administer civil and criminal justice'.<sup>14</sup> Professor Alan Gledhill regarded it 'the *de jure* recognition of supreme control of the British'.<sup>15</sup> After the acquisition of Diwani in 1765 AD the company introduced *adalat* or court system in 1772 AD for the administration of justice in Mufassil each revenue district. For civil justice, provincial civil court styled Mufassil Diwani Adalat was established in each collectorate and a chief civil court styled Sader Diwani Adalat with appellate power was established in beyond the presidency town of Calcutta and set up two types of courts in Calcutta. A Supreme Court of Judicature replacing the Mayor's court was established in Calcutta by a charter of the 26 March, 1774 AD, pursuant to the regulation Act of 1773 AD<sup>16</sup> passed by British Parliament. It had jurisdiction of a common law court and also the powers of the court of chancery in Britain. In 1862 AD the High Court of Calcutta was established pursuant to the provisions of the High Courts Act 1861.<sup>17</sup> These High Courts replaced the Supreme Court and Chief Civil Court or Sader Diwani Adalat. All the original and appellate jurisdictions of the Supreme Court, the appellate jurisdiction of Sader Diwani Adalat and Sader Nizamat Adalat became vested in the said High Court. Provision for appeal from the High Court to the Privy Council was made under certain circumstances. The provisions of the High Court Act 1861, were modified by the Indian High Court Act 1911<sup>18</sup>. The Government of Indian Act 1915<sup>19</sup> re-enacted all provisions made by the Indian High Courts Acts of 1861 and 1911 in relation to the High Courts. The Government of India Act 1935<sup>20</sup> retained many provisions regulating the establishment, constitution, jurisdiction and powers of the High Courts. The Government of India Act 1935 also provided for the establishment of a Federal Court which was given exclusive original jurisdiction to decide cases between the centre and the constituent units. Its advisory jurisdiction was limited only to those cases

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<sup>14</sup> Patwari (n 6) 6.

<sup>15</sup> Alan Gledhill, *Pakistan: The Development of Its LOCHS and Constitution* (London: Stevens and Sons 1967) 17.

<sup>16</sup> Patwari (n 6) 6.

<sup>17</sup> *ibid* 6 [3.]

<sup>18</sup> *ibid*

<sup>19</sup> *ibid* 6 [4].

<sup>20</sup> *ibid* 7 [1].

which were referred to it by the Governor-General for its advice on any legal question of public importance. It also exercised appellate jurisdiction from the decisions of the High Courts but it was a very limited one. The Act made provision for an appeal to the Privy Council from the Federal Court. This judicial system continued up to 1974 AD, when two independent dominions, India and Pakistan, were created under the Indian Independence Act 1947.<sup>21</sup> Before closing the discussion on the legal system under the British period a brief discussion on the codification of law should be made. The legal system prevailing in Indian Sub-continent near about the beginning of the 19 century was full of confusion and chaos. Law in all the Presidency Towns was not uniform. Judicial decisions introduced some difference therein. There was uncertainty whether a particular proposition of law was applicable or not either in the Mofussil or in the Presidency Towns till the highest court had given a verdict. 'The non-Hindu and non-Muslim sections of population were subject to different laws as according as they resided in the Mofussil or in the Presidency Towns, and this caused them great inconvenience'.<sup>22</sup> The condition of law at that period provoked comments and criticisms from many leading people who put emphasis on the codification of law.<sup>23</sup> The creation of an all India Legislative Council in 1833 under the Charter Act of 1833<sup>24</sup> and creation of Law Commission of 1835, 1853, 1861, and 1879, were the direct reflections of those comment and criticisms,<sup>25</sup> and the promulgation of the Indian Penal Code 1860 (ACT XLV of 1860), marked 'the beginning of the period of codification of substantive law'.<sup>26</sup> In 1872 the famous Indian Evidence Act (Act I of 1872) and Indian Contract Act (Act IX of 1872) were passed. All these Acts were based on the common law of England and made remarkable few departures from it.<sup>27</sup> Within a few years a number of Acts were passed which provided the laws according to the provision of which administration of justice was maintained. In this way 'the English brought into India not only the mass of legal rules strictly known as the common law but also their traditions, outlooks and techniques in establishing, maintaining and developing the judicial system'<sup>28</sup> the far reaching impact of which will not be removed in the near future.

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<sup>21</sup> *ibid* 7 [3].

<sup>22</sup> Hansard's Debates, Third Series, Vol. XVffl, 729 (1833). See also *Musleah v Musleah*, Ind. Dec. (OS) HI, p 147.

<sup>23</sup> M. P. Jain, *Outlines of Indian Legal History* (Bombay: N. M. Tripathi Private Ltd 1972) 500-505.

<sup>24</sup> 3 & 4 Will. IV C. 85.

<sup>25</sup> Jain (n 22) 511-551.

<sup>26</sup> *ibid* 55 [3].

<sup>27</sup> Bose (n 10) 60.

<sup>28</sup> M. C. Setelvad, (London: Stevens and Sons Limited 1960) 3.

### 3.4 After Independence

After independence of India Sub-continent in 1947 AD, Bangladesh became a province of Pakistan which was run in accordance with the provisions of the Government of India Act 1935, read with the Indian Independence Act 1947. Under the new constitutional arrangement, a new Federal Court of Pakistan was set up at Karachi.<sup>29</sup> The Federal Court (Enlargement of jurisdiction) Act 1950 provided that appeals which previously lay to the privy council would lie to the Federal Court and the Privy Council (Abolition of jurisprudence) Act 1950,<sup>30</sup> transferred on the 22<sup>nd</sup> April 1950, to the federal court all the appellate jurisdiction of the privy council in respect of Pakistan. To exercise powers and jurisdiction over the territory comprising the then province of East Bengal a new high court for East Bengal was set up at Dhaka in 1947.<sup>31</sup> This High Court had exercise same power and authority in the administration of justice as the High Court of Calcutta did. After the emergence of Bangladesh the High Court of East Pakistan was replaced by the High Court of Bangladesh<sup>32</sup> and later on by the Supreme Court of Bangladesh under the Constitution of Bangladesh 1972. The Supreme Court of Bangladesh administers justice according to those laws which were in force in Bangladesh on the 25 March 1971,<sup>33</sup> subject to the provision of the Constitution of Bangladesh and the consequential changes made by the competent authority. From the above discussion it is revealed that the present legal system of Bangladesh is not an outcome of a revolution but evolution starting from an undated ancient Hindu period. It passed though the Muslim period for some centuries and took a positive shape at the latter part of the British period. So, it emanates from a mixed system of indo-Mughal and English law, common law and equity, the English law predominating. After the end of the British rule in 1947, though sovereignty and independence of the people of this region have been established but no change in the basic structure of the legal system as established by the British has yet been made.

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<sup>29</sup> The Federal Court Order, 1947 (G. G. O. 3 of 1947). *See* Constitutional Documents (Pakistan) vol IV-B, (Karachi: Government of Pakistan Press 1964) 919.

<sup>30</sup> The Federal Court Order 1947 (G. G. O. 3 of 1947). *See* Constitutional Documents (Pakistan) vol I ff, p 73.

<sup>31</sup> The High Court (Bengal) Order 1947. For the text *see* Constitutional Documents (Pakistan), vol IV-B, p 915.

<sup>32</sup> *See* High Court of Bangladesh Order 1972.

<sup>33</sup> *See* Proclamation of Independence 1971, read with Laws Continuance Enforcement Order 1971.

#### **4.0 Legal Profession in Islamic Perspective**

The Holy Quran: Surah Al-Anbiya (21): 78-79 says ‘We also bestowed favours upon Daud and Sulayman when the two were judging a case regarding the field into which the sheep of certain people had strayed by night and were watching them to arrive at the right decision although we had given wisdom and knowledge to both of them’. Surah Yusuf (12): 22-29 says ‘Yusuf said: it was she who attempted to seduce me. At this one accusing the other, one member of her own family bore witness saying if his shirt is ripped from the front, then she is speaking the truth and he is lying. But if it is ripped from behind then he is speaking the truth and she is lying’.

Sumh An-Nisaa (4): 105 says that representation in giving testimony in law of evidence, "We have revealed to you book with the truth so that you may judge between people in accordance with the right way which Allah has shown you so be not an advocate for those who betray trust, seek Allah forgiveness, surely Allah is forgiving, Merciful’.

Hadith: Hadith Ummu Salamah reported that the messenger of Allah declared; ‘I’m only a human being and you bring your disputes to me Perhaps some of you indulge in logic to prove your assertions and it may be that I give my decision or the strength of your argumentation. Should I therefore give one that which his brother entitled to he should not take it, for it would be as if I am giving him a coal of fire?’ Hadith: ‘If anyone walks with an oppressor to strengthen him, knowing that he is an oppressor he has gone forth from Allah’.

#### **5.0 Current Scenario of Legal Profession in Bangladesh**

Legal education is also substantively relevant for other spheres of national life related to law-making and law-enforcing, governance and administration, corporate legal counselling and alternative dispute resolution. Besides, lawyers, judges and law-graduates engaged in their respective professions requiring expert understanding and application of law have an obligation before the people at large to facilitate their access to justice, not only by way of application of law, but also by promoting mass legal awareness, sensitizing people to social as well as national issues, upholding and propagating, thereby, social values of law. These have great bearing on the rule of law, democracy and socio-economic development of a nation. Importance of legal education which plays a major role in catering to the above needs, therefore, can hardly be exaggerated. It is important to know what are the law schools in the

country, and how are they doing. It is also important to know what is being taught there, and who are teaching as well as who are being taught and how they are being taught. Finally, it is immensely important to know the products of law schools - the law graduates - with what legal knowledge, practical skills and values they pass out of the law schools.<sup>34</sup> There is a general consensus amongst experts and concerned persons that existing legal education in Bangladesh does not sufficiently correspond to the needs of the nation, and hence it needs to be reviewed and reformed. In the last several years, there has been lot of discussions, seminars, workshops and conferences of lawyers, judges, law teachers and students and members of the civil society, who underlined the need for such reform. There have also been institutional participations in these discussions-government, education commission, law-teachers' association, law students' association, bar, law faculties and colleges. Lot of constructive resolutions and recommendations has been made. These recommendations contain striking similarities as regards underlining the need for reforms and the contents of proposed reforms. Piles of files have accumulated, but alas, only for dust to settle on them.<sup>35</sup> For the first time a specialized national body like Law Commission of Bangladesh has undertaken a project for comprehensive review of legal education. It is believed this project would be able to mobilize the best minds of the country, solicit people's interest and opinion, take a fresh view of the problems of legal education, discuss them in detail, rationalize the existing recommendations, look for new recommendations, work them out and formulate a national charter of demands for reforms of legal education, and put it before the government and relevant bodies for implementation. It is also believed, sponsorship of the project by CIDA would contribute greatly to its sustainability. Issues and problems of legal education in Bangladesh, many of them already identified at different times in the past at different levels and by different bodies and individual experts, may be enumerated as below.

1. Objectives of legal education meaning what national goals we would pursue with the education we receive in the law schools.
2. Policies and standards of legal education which in keeping with the objectives of legal education would set the requirements and conditions of high quality of legal education.
3. Nature of legal education, shedding light on dichotomy of academic and vocational legal education.

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<sup>34</sup> See Present Position of Legal Profession in Bangladesh.

<sup>35</sup> *ibid*

4. System of legal education, focusing on different types of law schools which provide legal education in Bangladesh and the degrees they award.
5. Curriculum development & teaching methodology.
6. Clinical legal education which means not merely methodology of teaching, but also service to the community.
7. Students' pre-qualifications for admission to law schools and the procedures for admission.
8. Duration of law courses; examination and evaluation of the students.
9. Qualification, recruitment and remuneration of teachers.
10. Evaluation and accountability of teachers.
11. Education & training of the teachers and teaching materials.
12. Medium of instruction i.e. language.
13. The question whether basic legal education should be introduced in secondary and higher secondary levels of our national education system.
14. Role of certain national bodies like Bar Council and University Grants Commission in legal education.
15. Whether having a national agency on legal education with sufficient monitoring and controlling power would assist in providing quality legal education.<sup>36</sup>

## **6.0 Conclusion and Recommendations**

### **6.1 Conclusion**

Law is a dynamic and practical subject. It keeps on changing responding to the changing needs of the society. Besides, its depth and vastness can only be realized in the process of its application. Acquiring legal knowledge, therefore, becomes a life-long professional and intellectual pursuit. Powers, programmes and functions of the Judicial Administration and Training Institute (JATI) of Bangladesh may be broadened to provide compulsory continuing legal education and training to the judges of the subordinate judiciary for a considerable period of time. Bangladesh Bar Council

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<sup>36</sup> Background Paper on the Review of Legal Education in Bangladesh, Prepared by CIDA, Law Commission Report, Published on 2006.

initially introduced continuing legal education for young lawyers and law graduates. Now it has introduced Bar Vocational Courses as requirements for enrolment in the bar. The administration of justice in a legal system is run and administered by the interaction of some essential organs one of which is legal profession. Legal profession is noble, prestigious and service oriented task from time primordial from pole to pole. It demands higher degree of devotion, determination and commitment to the entire gamut of judiciary consists of judicial officer, court staff and justice seekers. A career in legal profession can be intellectual, challenging, personally fulfilling and financially rewarding. Increased segmentation and specialization in the legal profession has spawned a growing number of legal specialties and sub-specialties that cater to almost every legal interest. Vast bodies of case law and the demands of the legal profession create a stimulating intellectual environment for the legal professional. In Bangladesh Lawyers, have a role in upholding the rule of law. Lawyers have played a vital role in shaping the social and political life of Bangladesh. Most of the frontline leadership for independence was from the legal profession. In all subsequent events of national importance, when citizens' rights and individual liberty have been at stake, Lawyers have remained staunch defenders of the rule of law and basic human rights.

## 6.2 Recommendations

In a bid to understand the level of professional ethics we can explore the answers of the following questions that are directly linked to ethics and to take note that the existing legal education system do not teach the law students or graduates the ethics or professional responsibility. There is no conceptual framework that to be a good lawyer a student needs to learn and develop good ethics and as such, there is no subject called legal ethics in the official curriculum of any of the law degree of our country.

Does an advocate get any systematic training during their process of making to build up a state of mind or attitude whereby they become committed to uphold the moral and ethical values which help them to ensure the rule of law?

What level of care are our legal professional bodies and the legal education system is providing to produce a lawyer or a law graduate to practice and appreciate the ethics to ensure the 'rule of law'?

1. Immediate need for massive reforms and overhauling of collage legal education by (a) extension of duration of courses from existing two years to three years with emphasis on practical course in the final year, (b) introduction of admission tests, (c) limiting number of seats for

- admission, (d) mandatory appointment of full time teachers, (e) provision for government financial assistance, (f) provision for adequate infrastructural facilities like class rooms, library, books, computers etc, and (g) provision for effective supervision of the college or University.
2. Establishment of government sponsored model law colleges or university to set the norms and standard of modern legal education.
  3. Evaluation and examination of students by problem oriented question.
  4. Introduction of basic legal education at SSC and HSC levels as a part of general legal awareness, and as a stage of prequalification for higher studies in law. Ministry of education is to provide necessary directive and frame rules to incorporate fundamentals of law of the landing SSC and HSC curriculum.
  5. Inclusion of legal education in governments' policy priorities, and to undertake concrete step to improve its quality.
  6. Formation of a council of legal education for overall control, monitoring and supervision of legal education in Bangladesh. The Council will exercise its function in collaborate with the Bar Council and the University Grants Commission. Necessary law is to be enacted for the formation of the Council, which is would also entail amendment of the Bangladesh Legal Practitioners and Bar Council Order 1972, in so far as it concerns legal education.
  7. To form legal education committee in the University Grant Commission consisting of the representatives of the law schools and with this end in view to make necessary amendments in the University Grants Order 1972 and the relevant rules.
  8. Provision for additional vocational course up to one year for law graduates as prequalification for appearing at the bar examination. How this course would be designed and run would be determine by the proposed council of legal education.
  9. Rational combination of academic and the vocational character of legal education to make sure law graduates acquire knowledge, skill and competency for legal practice as well a law related general service. It is necessary to provide for more practical method of teaching law i.e. Socratic method, problem method, case studies, moot court & mock trial, clinical legal education etc.
  10. Promotion of inter-disciplinary approach to curriculum to help student better understand the societal problems. Subject like national history,

economic, political science, sociology, logic etc could be included in the law curriculum.

11. Inclusion of new law course (subject) in the curriculum to response to the needs of modern economy, ICT and globalization. Subject such as corporate law, international economic law, e-commerce, intellectual property law, environmental law, medical jurisprudence need to be included.
12. To include in the curriculum separate courses on ADR, legal ethics, research, drafting and conveyance.
13. Need for emphasizing transnational aspects of law to include more subjects on public and private international law and comparative law.
14. To enhance human rights and gender sensibility of legal education, separate papers on these issues are suggested to be included in the syllabus.
15. Narrowing down the gap between collage legal education and university legal education by including more subjects in collage curriculum and extending its duration.
16. Introduction of clinical legal education which means learning law by providing legal service to the community. Students need to be involved in various ADR activities where they will be expose to real life situations and get opportunities to apply their knowledge of law as well as be sensitized to the rights of the marginalized sections of the community.
17. To preserve the present bilingual character of medium of instruction for law with an emphasis on effective learning of English.
18. Provision for training of the teacher.
19. Besides legal profession of a lawyer and a judge, to create more diversified professional jobs opportunities for the law graduates in various government and non-government departments. One of the ways to do it is to create by competitive examination BCS cadre service (legal) for law graduates to perform law related works in various government and autonomous bodies.
20. To provide for institutional accountability of teachers, and their evaluation by the students, details of the procedures accountability and evaluation would need to be worked out.

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