

## Diversification of Legal Education: Understanding the Dichotomy of Practical and Theoretical Knowledge

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### Abstract

*The legal education in Bangladesh was originally based on the British-India model. Not many reforms were done since 1971 to facilitate modern educational techniques. In order to promote independence of the legal profession and the rule of law, legal education must be professionalized. The essay offers fresh insights into the problems of legal education and the necessity of such reform. In the first segment of this paper, sufficient emphasis has been given on discussing the objectives of legal education along with the analyses of legal education in Bangladesh. The essay has indentified varied reasons which plagued legal education for years. In illuminating these problems, it also offers suggestions for how they might be approached and resolved. Further, these recommendations, offers an in-depth look into the issue on the basis of survey report conducted among students of different law schools.*

**Keyword:** Legal Education, Legal Education in Bangladesh, Banking System of Education, Orthodox Teaching Methods in Legal Education.

*“Legal Education is essentially a multi-disciplined, multi-purpose education which can develop the human resources and idealism needed to strengthen the legal system ....A lawyer, a product of such education would be able to contribute to national development and social change in a much more constructive manner.” - S.P.Sathe*

### Introduction

Diversification of legal education in Bangladesh is now a requirement. It that has become inevitable over the years as changes in every aspect of knowledge and life are visibly felt. Every day we are witnessing substantial changes in the domain of legal education as a result of rapid expansion of scientific understanding about the characteristics and needs of the people, along with social and psychological factors that add to the meaning, efficiency, and enjoyment of life. But not all the academic institutions show willingness to adopt this idea. This emerging scientific understanding leads directly to the realization that various practices and policies typical of law schools conflict with, and even obstruct, the expression of human nature and the natural development of the person. This is why Gary Bellow said, “...Well, it seems to me that ... law school is empirically irrelevant, theoretically flawed, pedagogically dysfunctional, and expensive. ...When you add to these deficiencies, the incoherence of the second and third-year course

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offerings, the amount of repetition in the curriculum, the degree to which unacknowledged ideology pervades the entire law school experience and the fact that no graduate of a law school is able to practice when graduated, you have a system of education which, I believe, is simply indefensible.”<sup>ii</sup> Empirical irrelevance, shortcomings in theory and ineffectual teaching techniques deprive the students from acquiring proper theoretical knowledge along with practical. There should be a workable mechanism in our education to fuse practical knowledge with theoretical knowledge to produce capable students who can opt for working both in the court as lawyers and in the educational institutions as academics.

In the history of legal education in Bangladesh, there is no record of any concerted effort to consider what new lawyers should know or be able to do on their first day in practice or to design a program of instruction to achieve those goals. Therefore, the reforms which are to be substantial and prolific as “a more adequate and properly formative legal education, requires a better balance among the cognitive, practical, and ethical-social apprenticeships. To achieve this balance, legal educators will have to do more than shuffle the existing pieces.”<sup>iii</sup> Legal educators must work on drawing explicit demarcation line between practical and theoretical knowledge. Both of these branches deserve to be treated as a fusion in right proportion aiming at student’s necessity.

In this article, we have offered a unified conceptual framework to understand and provide guideposts for the adaptive trends beginning to take hold in legal education. Further, this article highlights the importance of imminent reform in the realm of legal education, and begins a conversation about the perceived decline in quality education, and offers some possible explanations. Here, we will (1) point out various ways in which educational institution’s policies and teaching practices contradict fundamental needs of a law student, and thereby produce unwanted effects; (2) propose a legal education that derives from fusion of theoretical and practical knowledge by referring to recent, relevant empirical studies; and (3) propose simple, immediate steps toward harmonizing legal training with the natural needs and tendencies of law students and lawyers. These proposed amendments of prevailing legal education will for sure act as an agent for “the creation of new breed of lawyer”.<sup>iii</sup> If the urgency of immediate substantial change based on these recommendations is felt now, an effective legal education is not hard to imagine in future.

### **Objectives of Legal Education**

Teaching legal doctrines is an important issue for the colleges and universities but this cannot be the sole purpose of legal education. An exclusive system of legal training should be devised to facilitate the rising lawyers to acquire critical reasoning, determining objectives and pragmatism. A student pursuing legal education must clarify his moral and social values. He needs to incorporate himself in the past practices and the future objectives and should amalgamate a sound theoretical knowledge with it so that he can read the context of the contemporary trends and implements his knowledge into practicality.

Understanding the structure and function of the society should be considered as the quintessence of legal education and the legal institutions should give students a realistic and complete idea about it. This is necessary for establishing a safe and acceptable set of democratic values where lawyers can play an important role not only as an advocate but also as sociologists, as experts whose knowledge is technically sound. Unbridled individualism can cause anarchy and immorality and that is why the aim of legal education should be to promote the basic values of democratic society and to circumscribe immoral things.<sup>iv</sup> Values are to be carefully chosen, wisely defined and explicitly made a point of students' focus that they can apply in conceivable practical and theoretical situations. It signifies the use of social sciences as a medium through which law students can be made involved in certain values that are considered to feature the democratic values in vogue in a certain society. Thus emphasis has been placed on the interdisciplinary approach to legal education to make it more contemporary, trustworthy and pragmatic. Any subject from Sociology to Psychology, Archeology to Anthropology and Literature to Aesthetics can be incorporated into the legal education if it is found useful. This is why Larry Kramer said "Legal education must address these changes and adapt. Understanding the fundamentals of law and learning to 'think like a lawyer' are important and remain at the very heart of what it is to be a lawyer. At their best, lawyers are problem solvers and today's problems—whether in the public or private sector—require skills beyond those taught in the traditional legal curriculum."<sup>v</sup> He further adds, "How can a lawyer truly comprehend and grapple with a complex intellectual property dispute without understanding the technology at issue? What counselor can effectively advise a client about investing in China or India without understanding their particular legal structures or lack of structure, to say nothing of their different cultural expectations and norms? Lawyers today need to be educated more broadly if they are to serve their clients and society well."<sup>vi</sup> He suggested that to play their essential part, lawyers will require a new set of tools that can be forged only from a solid multidisciplinary education—a bold step that will transform modern legal education. Here a quotation from Margaret R. Caldwell will explain the situation more explicitly. She said, "The best lawyers don't just think like lawyers; they also think like clients. They understand, anticipate, and further their clients' interests, because they know their clients' needs and understand how their clients work and speak. Here is one of the chief ways in which traditional legal education falls short of its aspirations. We purport to be training young men and women to perform the multiplicity of roles that lawyers play, yet the education we currently offer remains one-dimensional."<sup>vii</sup> In conclusion, we may say that the aim of legal education is to transform students to Lawyers, with practical skills for leveling the playing field and helping them to navigate complex systems, which have tremendous capacity to make things better.

### **Analyses of Legal Education in Bangladesh**

There is a difficulty in striking legal problems functionally and justifying its upshot. Economic and social changes might induce the imperative changes in legal thinking. It demands long time to cause these changes. By moulding men and minds that will address themselves to legal problem, legal education can expedite this process of changing. In our country the quality and style of legal education that is prevailing from 1971 till this date is quite unsatisfactory. Right kind of setting,

enough teaching materials, books, library facilities etc. are missing from the scene. Supposedly that is why legal education has failed to pull in the students and teachers with sophisticated and intelligent first rate minds.<sup>viii</sup> Research facilities provided by libraries and different institutions are lamentable. Law teachers in our country have to feel the self-contentment with the meager salary they get to shoulder the cumbersome work load; thirty eight to forty four hours normal for full time lecturers. Instead of engaging oneself in teaching, a law graduate working for 3 to 5 years can earn a handsome amount of money at the end of the month if he practices in the High Court or in the other courts. In our country there is no tradition of legal scholarship for our law teachers to inspire and prepare them professionally.<sup>ix</sup> Further traditional law school teaching, grading, and other practices “appear to have many negative, though unintended, consequences on the most fundamental human aspects of law students. These negative consequences bear strongly on personal well-being and psychological maturity, thereby also potentially compromising the capacity for professional behavior, ethical competence, and satisfaction in life and career. These effects may be particularly acute because of the formative and developmental environment of legal training. They also reveal a functional incongruence between the educational, professional goals of most law schools and the operative effects of their policies and practices.”<sup>x</sup>

Certainly this kind of inadequacy along with poor research facilities and cumbersome teaching load is not supportable. Very few institutes have adequate number of full-time teachers; the rest are part-time teachers who are available in the campus only at the class hours. Teaching staff comprises of mostly Lecturers who are untrained. In most cases in our country, Law departments are run by one Professor along with one or two fulltime or part-time Assistant Professors and more than a few Lecturers. Lecturers are less paid, overburdened with workload and submissive to the administration, therefore law schools show more interest in hiring them.<sup>xi</sup> For this reason, most of the learners find practicing in the court more lucrative, they find the aloofness from teaching in any institute more convenient. Most Bangladeshi Law students of first rate ability deem practicing at the courts more suitable and rewarding. As a consequence energetic and talented teachers have become a rare species in Law education. We have a significant number of talented lawyers but very few of them are interested in teaching.

It may be said that the conception of teaching Law in Bangladesh is not clear enough. In most of the universities for legal education lecture method is followed universally placing emphasis on the hackneyed system of presentation and verbal analysis of the rules and doctrine. Hardly attention is paid to the policies that explain rules or to the social, economical or political circumstances which influence and often shape the legal system. As the system deals primarily with the abstract, the students must learn to evaluate concrete situations in the light of the abstract norms. In general, the students should rework or prepare the topics presented. Modern teaching methodologies and approaches do not accommodate this kind of traditional (one way) teaching method. This type of teaching method was termed as the “Charlatan’s Method” by Calamandrei.

According to Calamandrei, “the Professor monologues for an hour about his assigned topic without caring if his students are following him or not. The professor monologues and the students, in the best of cases, take notes. And in this way a routine of 50 or 60 absolutely passive

classes is established. Later, those notes are regurgitated with a certain technique onto the exam paper and the student passes the subject with a minimum of understanding. The educator places pieces of knowledge directly into the educated, but without a capacity to digest them or understand them.”<sup>xii</sup> This is what Freire denominated ‘The banking method of education’, where the student repeats like a parrot the little pieces of knowledge which the professor deposits (or tries to deposit).

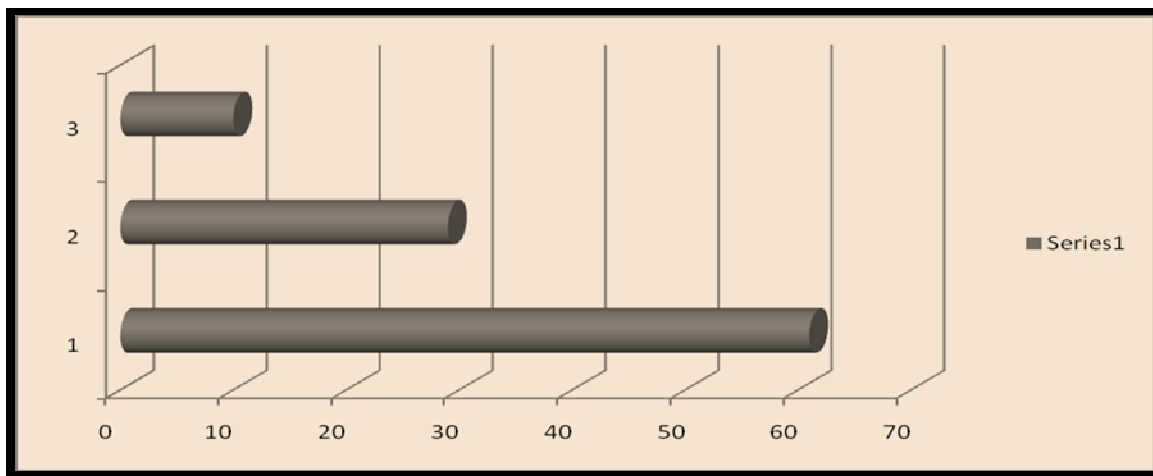
Freier describes the ‘Banking Concept of Education’ as “..The teacher talks about reality as if it were motionless, static compartmentalized and predictable. Or else he expounds on a topic completely alien to the existential experience of students. His task is to ‘fill’ the students with contents of his narration –contents which are detached from reality, disconnected from the totality that engendered them and could give them significance...Education ...becomes an act of depositing, in which the students are depositaries, and the teacher is the depositor. Instead of communicating, the teacher issues communiqués and make ‘deposit’ which the students patiently receive, memories and repeat.”<sup>xiii</sup> This method has semblance with the Audio-Lingual method of language teaching where drilling gets the priority. Through conscious drilling or practice, a kind of habit formation occurs and a piece of knowledge gets saturated in the learner’s mind. It is purely a teacher centered method.<sup>xiv</sup>

In the banking system of education, the teacher retains the absolute authority and he doesn’t have the endurance to digest contradiction. The teacher exercises the power in order to attain students’ complete submission. The teacher dictates the students about what and how the things should be learned. The students eventually put more emphasis on memorizing and repeating topics for pleasing the teacher. In this process student loses the courage to ask questions in the class and even become less critical in forming judgment over legal issues. This teaching approach is based upon the scheme of oppressor-oppressed, where teachers are oppressor and students are oppressed.<sup>xv</sup> However, we have seen some improvements in the recent times. For example, the Schools of Law are “beginning to give classes of a practical sort, not so repetitive, to attempt the teaching of Procedure Law through the simulation of trials.”<sup>xvi</sup> And in some universities even the students are asked to submit a proper graduate thesis.

The banking system of education in legal sector is not contributed only by the teachers as it is impossible to segregate our university education from the rest of the education system. A child at home is taught that the parents are always right. A child in school is taught that the teacher is always right. Similarly, the programs transmitted by the electronic media are considered to be true in absence of contradiction. A child’s brain is programmed to believe that all these primary sources of information always transmit the truth.<sup>xvii</sup> Therefore, “a child is taught to believe unconditionally in all the information he receives without having to process it or understand it. For that reason our children and adolescents, the majority of them, are not critical thinkers. They become passive receivers.”<sup>xviii</sup> The banking conception is perhaps nowhere more actually illustrated than in classrooms. Our system of law examinations is also, generally speaking, reflective of these paramount pedagogic traits. This type of education is designed to eliminate creativity in students.<sup>xix</sup> Despite all of this, a small percentage of these adolescents overcome this

mindset and manage to assume a critical attitude when they reach adulthood. Therefore, the whole educational system needs to be reconsidered for the development of a coherent and cohesive education system.

Now let's consider the classroom situation. To some extent the tasks that are given to students in different classroom situation are deplorable because those do not make the students delve into their creative faculty. Traditionally tutorials are there; students are assigned to submit paper on given topics rather than exploring the different fields of law by themselves; occasionally seminars are held but the frequency is very much countable. It also does not guarantee quality research. Very conventional subject matters are taught. We have conducted a survey regarding the inclusion of modern subjects in the law schools syllabus among the law students of the five universities. 300 students from different private universities took part in the survey. And most of them (61%) agreed to the fact that modern teaching method along with introduction of contemporary practice oriented subjects are necessary for the development of legal professionals in Bangladesh. 29% students are happy with their present curriculum and 10% did not bother to voice their opinion against or in favour of the current system.



*Figure 1: 3 represents percentage of students who has no comments about the issue; 2 represents percentage of students who are happy with their present curriculum; 1 represents percentage of students who agreed to the fact that modern teaching method along with introduction of contemporary practice oriented subjects are necessary for the development of legal professionals in Bangladesh.*

Further, we asked the students, whether there is a need for specialized LL.M and 75% of the students agreed that specialized post graduate degrees are essential and should be introduced in the private universities. 10% said no and 15% did not answer.

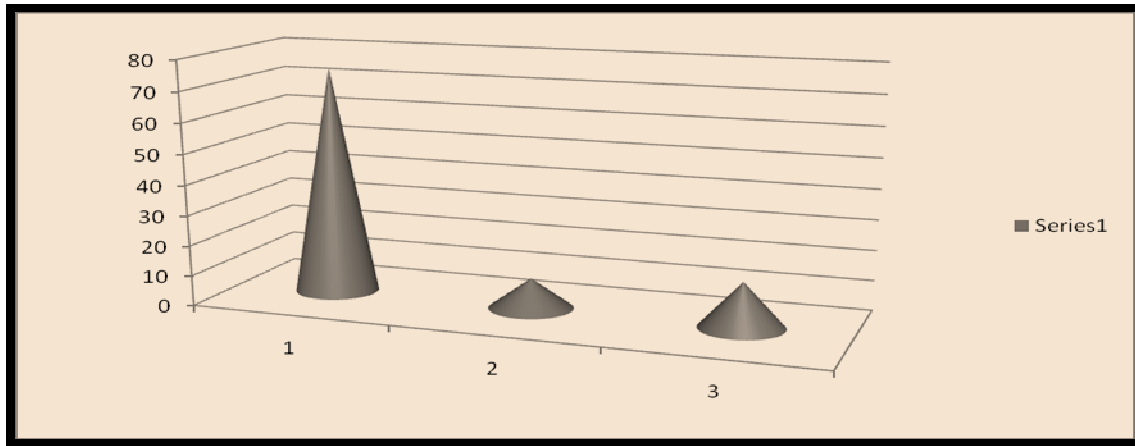


Figure 2: 1 represents percentage of students who agreed that specialized post graduate degrees are essential and should be introduced in the private universities; 2 represents percentage of students who said no to the issue; 3 represents percentage of students who did not voice for anything.

It is pertinent to note that no university in Bangladesh is offering any specialized postgraduate degree ignoring the demand of students and professional need. 69% of the participated students indicated that their syllabuses are not properly updated and there is a need for reform. 30% are happy with the current syllabus and 1% did not answer to this question.

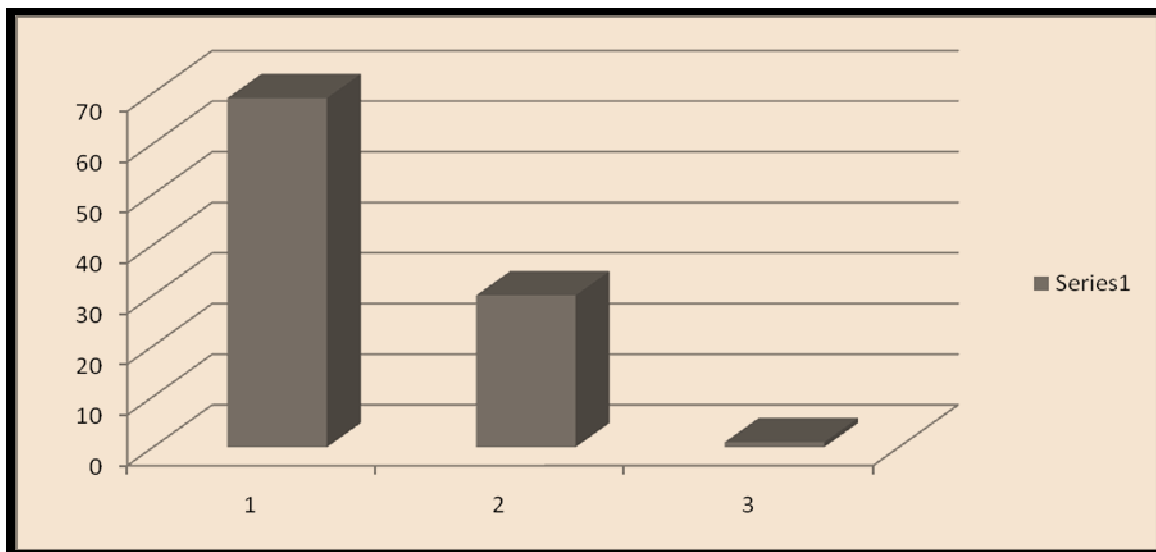
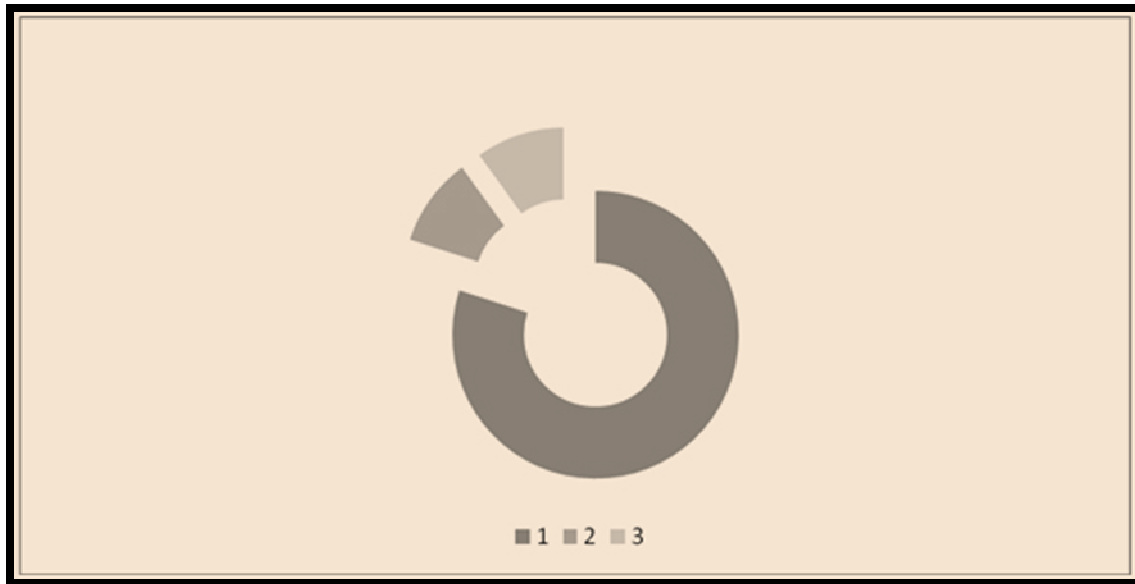


Figure 3: 1 represents percentage of students who said that their syllabus are not properly updated and there is a need for reform; 2 represents percentage of students who are happy with the current syllabus; 3 represents percentage of students who remained silent over the issue.

We conducted another survey on postgraduate students of three private universities. We asked the student whether their syllabus is abundantly helpful for the Bar Council examination. 80% of the participants answered no and 10% said yes and 10% did not answer. But most of them agreed that prevailing syllabuses to some extent were successful in providing the conceptual foundations.



*Figure 3: 1 represents percentage of students who said their syllabus is not abundantly helpful for the Bar Council examination; 2 represents percentage of students who are happy with the current syllabus which offer sufficient help for the Bar Council examination ; 3 represents percentage of students who remained silent over the issue.*

It should be mentioned that the creation of new breed of lawyer depends on the existence of a pragmatic and up-to-date syllabus. Therefore, all curricular revision attached to syllabus setting ought to be guided by one basic criterion viz. whether current doctrine and practice in particular areas of law serve to promote basic need of a practitioner. The promotion of these values matters more than anything else; the heart of the matter is not re-christening of courses but the changing of aim and emphasis.

As we said earlier that improvement of legal education largely depends on the teachers who “generally lack formal education about assessment and its importance. Law teachers often confess that they teach as they were taught. Of course, they have different models of teaching from which to choose. It may be that they choose the teaching style that is most in accord with their personality, or that was most effective for the students.”<sup>xx</sup> Further, “there is relatively limited meaningful assessment of student performance in individual classes (since one-shot exams are so commonly used and students are graded on the curve), and virtually no longitudinal analysis of student performance apart from performance in individual courses. Rigorous institutional analysis



of programs or overall trends is episodic at best.”<sup>xxi</sup> Therefore orthodox teaching methods and teachers mindset must be fiddled with the prescribed amendments. Further, Law Schools must show their “commitment to improve the preparation of their students for practice, clarify and expand their educational objectives, improve and diversify methods for delivering instruction, and give more attention to evaluating the success of their programs of instruction.”<sup>xxii</sup>

The importance of accomplishing these goals were explained by Greg Munro: “A law school can best achieve excellence and have the most effective academic program when it possesses a clear mission, a plan to achieve that mission, and the capacity and willingness to measure its success or failure. Absent a defined mission and the identification of attendant student and institutional outcomes, a law school lacks focus and its curriculum becomes a collection of discrete activities without coherence. If a school does not assess its performance, it can easily be deluded about its success, the effectiveness of its pedagogical methods, the relevance of its curriculum, and the value of its services to its constituencies. A law school that fails to assess student performance or its performance as an institution, or that uses the wrong measures in doing so, has no real evidence that it is achieving any goals or objectives. A law school that lacks evidence of achievement invites demands for accountability.”<sup>xxiii</sup>

Law schools should re-examine their current practices and make adjustments to enhance their students’ chances of passing a bar examination on their first attempt. At the very least, law schools should help students in understanding what they are expected to know to succeed in bar examinations and help them locate resources that contain that information.<sup>xxiv</sup> Here let us quote William M. Sullivan who said, “Making part of the standard legal curriculum students’ preparation for the transition to practice is likely to make law school a better support for the legal profession as a whole by providing more breadth and balance in students’ educations”.<sup>xxv</sup>

In addition, we think that practice-oriented courses can provide important motivation for engaging with the moral dimensions of professional life, a motivation that is rarely accorded status or emphasis in the present curriculum. As we said previously that Legal educational institutions fails to teach students how to practice law – it fails to develop in them practical skills necessary for the competent performance of lawyers’ work. And this view was supported by Anthony G. Amsterdam. He claimed that “But I think this criticism, while just to some extent, conceals a deeper, more important problem, a problem that I think Judge Wallace was alluding to when he said we should be training law students to be problem-solvers.”<sup>xxvi</sup> He further said, “Legal education is too narrow because it fails to develop the students’ ways of thinking within and about the role of lawyers – methods of critical analysis, planning and decision-making that are not themselves practical skills but rather the conceptual foundations for practical skills and for much else, just as case reading and doctrinal analysis are foundations for practical skills and for much else.”<sup>xxvii</sup>

Despite all these negatives, private universities like ASA University Bangladesh promote a ‘help program’ run by qualified professionals for the professors and young Lecturers for enhancing their teaching skills. This program offers regular workshops, seminars and courses related to the

educational process. In this way, the young professors are given important tools to prepare and conduct classes, carry out the process of evaluation with more agility and precision and help with his or her manner with and towards the students. This means that the Professor has more confidence in himself and interacts better with the students.

To rescue legal education from the existing stagnant situation, measures must be taken. The following points are to be addressed to reconcile theoretical knowledge with practical knowledge for the sake of greater effect:

### **The Importance of Augmentation of Knowledge and Integration**

Expanding students' knowledge of the world, people and their tradition, culture and ideas in vogue should be the part of practical education. Studying all these through law will not suffice. Acquiring of knowledge of law must be complemented through the study of literature and language; sociology and history; arts and music; science and economics; politics and anthropology.

For students of legal education it has become a challenge that describes how these theoretical and practical knowledge can be combined together. In technical subjects like Computer Science, Electronics and Communication Engineering, Textile Engineering, we find theory and practical knowledge are juxtaposed for obtaining optimum output. Legal education is no less than a technical subject. Generally a kind of forgetfulness works in us about how policies embedded in law affect common mass. We can hardly expect our lawyers to be inconsiderate, unreasonable or tactless in the social and cultural milieu where we live and work.

Knowledge from different disciplines is essential for developing critical, analytical and precise thinking among the lawyers. Choice of words, precise use of grammar use and precision of meaning must be taken care of, because it makes legal practice accurate and syllogistic. Sound knowledge of language is conducive to sound legal practice. Literature is another field from where advocates can gather knowledge about society, tradition, culture, norms and practices which can facilitate them in understanding people for whom they are advocating.

In this connection we can mention the play *The Merchant of Venice* by William Shakespeare where in Act 4, Scene 1 we find the most famous 'Trial Scene'. Here the climax consummates as well as all the intrigues against the protagonist get revealed. Thus we get the denouement. Here we see a character namely Portia in disguise of Doctor Balthazar representing the case of Antonio who is a friend of her husband, Bassanio. Very tactfully and intelligently she placed logic to support Antonio's case and came out of the court as a winner. Shylock, the plaintiff, lost the battle utterly to the logic and quick wit of Portia, the lawyer in disguise. In her proceedings of the case Portia at first tried to pacify the plaintiff and convince him to show mercy to the defendant, Antonio but Shylock became more obdurate and harder to be convinced.

Still, Portia, the lawyer, tried to be persuasive. At one stage, when negotiation did not work, like a veteran lawyer, she started placing her arguments one after another and at the end Shylock's malicious intention of mutilating Antonio by demanding a pound of flesh from his bosom in return of Antonio's debt to Shylock was divulged. Thus Shylock lost his case.

This play *The Merchant of Venice* is worth reading for the students of literature and law alike. The students who are taking legal education can have an insight into the legal system of Venice in the sixteenth-century. Legal historians in recent years have tended to see the trial as reflection of the sixteenth-century concern with equity and its relation to common law.

We will find such incidents related to legal procedure in many other literary pieces, reading of which can increase law students' understanding of legal proceeding with practiced acumen. What we are trying to emphasize here is that reading texts related to literature and language outside the prescribed texts for legal education equips students and advocates with the better understanding of legal phenomena, its background, and socioeconomic structure along with history of a particular society which is necessary for effective legal practice. In the trial scene we see because of the faulty language and structure of the contractual agreement that was signed between Shylock and Antonio, Shylock lost the case. This can be an instance for our students and advocates from where they can have this idea that sound knowledge of language is a pre-requisite for becoming a good lawyer.

### **Morality, Conscience, Originality and Augmentation**

For individual success within the ambit of social demands, conscience and morality play the pivotal role. As time passes on, these faculties that we reckon as personal traits become authority which in time set the outline for good or evil, just or unjust, polite or impolite, civilized or uncivilized, etc to steer our full-grown behavior. Virtually all major religions give prominence to these subjective faculties. In all culture children are trained of social and cultural values, mores and practices and thus provided with a solid platform to gain lifelong lessons on morality and conscience. All these standards that allow individuals and societies to flourish through ages get endorsed by generations after generations and become completely fossilized in the individuals as the guiding yardstick for leading a successful and socially accepted life. At the same time, religious codes and parental training contribute significantly in the formation of personal integrity. A grown up individual will gradually amplify both capacities in his or her personality, so that he or she will be veracious and authentic about him/herself. Accordingly he will learn to act in the culturally accepted ways (do not harm people, encroach upon any private property, misappropriate others' wealth or money, etc.). It is commonly believed that regularity and stability are important baselines for life, yet people run after development and progress but at the same time people fear of being inert or stagnant. Man desires to achieve a striking social end – peace worldwide, justice, society void of disparity or class distinction, or a humble personal aspiration. In doing so man tries new recipe, learns new skills, innovates new schemes, earns money, makes friends, buys better things and gains experiences of vigor, meaning and purpose. Personal development is an infinite source of satisfaction. It is this deep-seated urge for progress

in many ways that bring people to different institutes to study law and practice law ultimately. Upholding all these moral perspectives can be a part of formal legal education. Text related to morality or that preach conscience or that demonstrates ethical norms can be incorporated here to raise good, conscientious advocates for future. As per Sossin,<sup>xxviii</sup> there are at least five ways to teach legal ethics:

- (1) the “integrated” or “pervasive” method, where there is no dedicated ethics course, but rather ethical issues are integrated throughout the curriculum’s offerings;
- (2) the clinical method, whereby all students have some exposure to the real-world issues of working with clients through the clinical setting;
- (3) the combined method, where legal ethics and professionalism is integrated into another course, such as legal research and writing or civil litigation;
- (4) the dedicated course method, either mandatory or elective; and
- (5) not at all, on the assumption that the bar admission course will contain an ethics component.

The deficiency in teaching legal ethics and the lack of consistency is particularly noteworthy in legal education in Bangladesh. Here in our country, a code of conduct for lawyers has been prescribed by the Bar Council, which is often violated by the advocates. If the code of conduct could have been introduced in the graduate level, it could have helped to mould the mentality of our fresh learners. In some countries this is the practice. For example, in the UK the students enroll in the BVC (Bar Vocation Course) and often deal with problem types of questions based on ethical issues/ professional conduct issues. By solving this kind of questions a BVC student becomes familiar with professional conduct issues and the consequences that evolve from the violation of this. Whereas in Bangladesh even a postgraduate student is not familiar with professional conduct issues which lead a lawyer to demonstrate a kind of unprofessionalism. Therefore, we propose an ambitious non-traditional program of teaching legal ethics through a three-week intensive course for first-year students, which will for sure produce effective results by making students more ethic porn.

### **Inclusion of Practice Oriented Courses in the Syllabus**

Anthony G. Amsterdam once said, “Legal education is often criticized for being too narrow because it fails to teach students how to practice law – it fails to develop in them practical skills necessary for the competent performance of lawyers’ work. ...Legal education is too narrow because it fails to developing students’ ways of thinking within and about the role of lawyers – methods of critical analysis, planning and decision-making that are not themselves practical skills but rather the conceptual foundations for practical skills and for much else, just as case reading and doctrinal analysis are foundations for practical skills and for much else.”<sup>xxix</sup> Recent research findings indicate that cooperative learning activities like Mock Trial and other Practice Oriented Courses (POC) encourage significant cognitive achievement among students from a variety of backgrounds and also improve students’ attitudes toward legal education.<sup>xxx</sup> Participation in practice oriented courses (POC) and mock trials help the students to understand better the roles

that the various actors play in the justicial system and the difficult conflicts those persons resolve daily in performing their jobs. On a more complex level, these courses also provide students with an excellent medium for studying fundamental law-related concepts as authority and fairness. Furthermore, it helps students in gaining a basic understanding of the legal mechanism through which society chooses to resolve many of its disputes.<sup>xxx</sup> In the framework of existing legal education, little effort is used for implementing practice oriented courses (POC) and mock trials. Some private universities have mock trial room, but they lack properly trained instructor, and mootings takes place occasionally with poor preparation.

As we said earlier, theoretical knowledge does not always suffice for possible optimum professionalism. Simulation - artificially devised real world phenomenon - certainly can help to enhance professionalism. If Practice Oriented Courses (POC) are introduced more along with theoretical courses, it can do a lot to reach the desired goal-real learning.

### **Significance of Introducing Small Practice Session (SPS) in Legal Educational System**

Small Practice Session (SPS) is a specific technique through which a group of students shall gain knowledge by using interactive and simulation learning technique. Certain conditions are attached to Small Practice Session (SPS) which include (a) a learning climate that provides emotional support to students, (b) an opportunity for them to practice an analytical attitude through controlled observation, (c) an opportunity to experience varied and realistic learning situations, (d) an opportunity for experimentation with new concepts, and (e) an opportunity for the students to obtain feedback concerning others' reactions to his or her newly developed ideas.<sup>xxxii</sup> SPS has strong resemblance with the Problem Posing Method which involves dialogue between the teacher and the taught. This type of truly liberating education consists in acts of cognition, not transmission of information. Act of cognition is the foundation stone of SPS system. The Problem Posing Method was defined by Freire as "It .....does not "dichotomize the activity of the teacher-student, He (teacher) is not 'cognitive' at one point and 'narrative' at another. He is always cognitive, whether preparing a project or engaging in a dialogue with the students. He does not regard cognizable objects as his private property but as an object of reflection by himself and the students. In this way, the problem posing constantly reforms his reflection in the reflection of the students."<sup>xxxiii</sup> Small Practice Session (SPS) is primarily designed to serve the following purposes:

1. It increases the understanding and control over the course content as law students get more opportunity to interact with the teacher and other law students of SPS.
2. Since students can communicate freely within SPS, without any inhibition, they find it easy to involve them in the interaction which enhance motivation and generate greater students' involvement.
3. In SPS the law students get an opportunity to express themselves. Through discussion many misconceptions get demystified which help students to set positive attitudes toward the later use of presented material.

4. Participants' of SPS becomes a real life problem solver as they learn problem-solving skills specific to the course content based on real event. In SPS, through discussion, students learn how to solve difficult problems and how to minimize gap between argument and altercation.
5. SPS provides slots for the application of concepts and information to practical problems. As the platform for discussion is open for all, students without hesitation can apply their theoretical concepts in solving problems practically.
6. It generates ideas among students concerning ways of applying acquired knowledge. Students get the chance to explore different alleys of ways to use their gained knowledge in resolving problems.
7. It develops law students' commitment to use the recommended ways of handling problems. In SPS different remarks, constructive criticism, suggestions and advice are placed within the ambit of discussion which for the participants can be guideposts in tackling problems of different kinds.
8. SPS facilitates discussion on specific problem or issue which is not always possible in the classroom situation as there is always a pressure of completing syllabus within the stipulated time of a semester.
9. SPS proceeds with instruction when content experts are scarce or not available.<sup>xxxiv</sup> Getting an expert on an especial field is not always easy. SPS can help the students to understand any complex problem through group discussion. In this case instruction from peers along with instructors can prove handy.

The aims of SPS are quite similar with that of 'case-method'. The essence of 'case-method', in its principal version, is to involve a class of students who have read their assigned cases and materials in a discussion on finer points of law and policy. Both the teacher and the student, in this method, are to recognize that the sociological reality is complex, spread through space and time, and that all solutions to difficult problems are tentative.... Under this method students does not study the authoritative legal materials merely to know what existed in the past and what now exists but they study them with a view to transcend them.<sup>xxxv</sup>

Small Practice Session (SPS) includes "not more than 16 students in a class possessing a common goal for learning, a reasonable degree of cohesiveness, norms conducive to learning, and patterns of effective communication... This is an arbitrary definition; however, experience strongly supports the view that instructional effectiveness is reduced when a group consists of more than 16 students. But any number less than 16 can be readily managed in most learning situations. The mere reduction of class size to less than 20 individuals does not ensure the effective use of a Small Practice Session (SPS) for educational purposes."<sup>xxxvi</sup> A Small Practice Session possesses (a) a common goal for learning, (b) a reasonable degree of cohesiveness, (c) norms conducive to learning, and (d) patterns of effective communication - in short, a learning culture. Small Practice Session is designed to systematically use these group forces to influence and increase learning. This can be accomplished by discussing issues or problems and, in some instances, arriving at

decisions about how they might be handled. Because “the group resolves problems with each student participating, members are committed to solutions through the functioning of group norms endorsing the new ideas or behaviors. Under this rationale, two purposes are assumed to be accomplished: (a) students get new insights into problems by hearing different viewpoints and by having their ideas critiqued, and (b) they learn and commit to new behaviors from group discussion and decision.”<sup>xxxvii</sup>

Indeed SPS will be conducive to boost up students’ learning; surprisingly it is not in vogue that much in our universities. Discussion sessions or group discussions are only limited in few conferences, symposiums and seminars. Chief obstacle for implementing SPS is the coherent teacher-student proportion. Surely the number of teachers does not go with the number of students. For instance, in most of the universities, the teacher-student ratio found in Law Departments is 1/40 (one teacher for 40 students). With such kind of teacher-students ratio, implementing SPS seems preposterous. This unusual and absurd teacher-students ratio must be redressed for better teaching-learning situation.

### **Importance of Introducing Focus Groups in the Law Schools**

Law student comes from diverse background. In private universities most of the students come from rural areas. Students who come from distant part of Bangladesh to study Law in the capital city or district headquarter, often find themselves emotionally exhausted and experience distress and individual’s rejection in public. Thus becoming a lawyer creates a deleterious effect on their well-being. Regardless of how the class looks from the podium, many students experience their arrival at Law School feeling very much outside the students’ mainstream. A survey was conducted, and the number of the participants were 100 practitioners who had completed their LL.B and came from outer cities, 73% of them said they had faced individual’s rejection and became subject to alienation while studying in the Law Schools which undoubtedly hampered their results. Therefore, Law Schools should invite students to participate in focus groups to help the institutions in understanding how they are experiencing the academic environment. This not only equips the faculty and administration with insight and sensitivity but also empowers students to understand that their experience matters, that the institution recognizes its responsibility for the environment in which they study.<sup>xxxviii</sup> Carole Buckner has written an article to help explain the tendencies of particular groups to prefer particular learning styles and advocates, among other things, injecting small-group work into classes to meet the different learning styles of different racial and ethnic groups.<sup>xxxix</sup> In addition, perhaps with the results of the focus groups discussed above, a sensitive and seasoned faculty members can develop a ‘peer helping peer’ platform to help other colleagues to understand ‘individual student’s learning techniques difference’ so that teachers can conceive that all students have different age, social status, family background etc. A show of awareness for the differences in the class is felt as respect by the outsider student, while a failure to show such awareness is experienced as disrespect. Having a single dean or single faculty member who is a good listener is insufficient. To listen to help is not enough. What students have to say about their experiences at law school needs to be heard by the entire faculty and administration and give rise to change if indicated.<sup>xl</sup>

### **Abolition of Extra Favor for Socially Privileged Class Students**

Faculty members can also work to eliminate the ways in which the system favors educationally and economically privileged students. Teachers may consider refraining from one-on-one examination preparation session with students who are already socially and financially privileged, for it might make them overprivileged and cause ‘feeling of deprivation’ among the less privileged students eliminating the level playing field for examination. In such situation, privileged students will feel encouraged to visit the teachers more frequently than less privileged students. This kind of practices should be avoided before the situation aggravates. Instead of following this track, faculty members might ask students to email questions, to which faculty can respond by sending reply e-mail or in an open session. “As the exam approaches, faculty can level the playing field by limiting conversations about course material to conversations that are shared with the entire class. Law schools can affirmatively assure improvements in the classroom climate by changing the criteria for merit evaluations of law professors. The best way to measure the success of law teachers is to measure the success of their students. Students may be getting the knowledge they need, but that does not end the professor’s work. Until we equip students to respond in a healthy and productive manner to the law school environment and the profession, we deserve low scores on our merit evaluations.”<sup>xli</sup>

### **Introduction of Pupilage in Legal Education**

We are advocating for a legal education system which will promote theoretical learning along with Practice Oriented Courses. Thus introduction of Pupilage in Legal Education of Bangladesh is essential. Introduction of Pupilage in graduate level will place a great deal of emphasis on ensuring the quality of advocacy. In order to ensure that our graduates are fully prepared to practice in the court, a series of exercises in which students compete against each other in mock court hearing, based on real case scenario under the guidance of a pupil-master outside university parameter, is highly recommended. In the United Kingdom, pupilage is considered to be the final stage to be a Barrister, after completion of BVC and usually it lasts for one year. This one year is bifurcated into two sixes. In the first six month (non-practicing six) of the pupilage, the participant accompanies and follows the pupil-master. In this phase, the participant spends his time in observing and assessing the pupil-master or pupil-supervisor. After the successful completion of the first six, a pupil gets the chance to dispose of a case and deal with clients as a junior with the help of experienced Barristers. Here pupil’s contribution gets recognition, and he achieves confidence. At the end of pupilage, a pupil will officially practice and take his own work, as well as become seasoned to endure pressure and carry on responsibilities. The second six will articulate a pupil’s maturation in the field of law practice where he can work independently. During the pupilage, a pupil is remunerated regularly with a standard amount of money, which indeed encourages and helps the pupils to learn the law eloquently.

Unfortunately in our country this pupilage system is absent in the legal arena. Our students often obtain apprentice certificate for enrolling in Bar Council, without attending chambers. Moreover, there exist malpractices not to remunerate apprentices sufficiently from the chambers. The



existing law chambers do not have framework to support apprenticeship properly. It is truly frustrating. For the betterment of the practitioners, four years Honors course can be reduced to three years the last one year being complemented by pupillage system.

In BBA, last six months is dedicated for internship, where student must work with a company. After completing his internship, he submits his report to the department and thus, his Honors in BBA comes to completion. In the same fashion, with some radical changes that meet the demand of law education, pupillage system can be introduced in LL.B (Hons). This will certainly qualify our law students as proficient practitioners in future.

## Conclusion

Surely imparting education to the Law students does not mean spoon feeding our students with the rules, statutes, and technical terms, for theoretical education will not suffice in facilitating effective student-learning. It must be enriched by the judicious application of all these in real life practice along with the practical lessons and simulation of real life situation inside the class or outside the class. Different practical sessions like SPS can work miracle for building up students' confidence and enhancing knowledge through the intimate discussion among the students and the teachers. Mock Trials, Negotiation & Mediation Sessions and other simulated courses incorporate a wide array of options resembling reality, allow students to reason through a clinical problem. It permits the students to make serious errors without hurting a real client's interests, provide instant feedback so they can correct a mistaken action, and evaluate their performance on clinical problems. Further, exposure to real life like situations can range from something as simple as requiring students to observe judicial or administrative proceedings related to the subject of the course to something as complex as coordinating a course with an in-house clinic in which students assume responsibility for providing legal services to clients. Moreover, interdisciplinary approach to legal education can heighten and flourish students' perception of Law. Relevant books from World Literature, Sociology, Anthropology, History, etc should be used to supplement students' understanding. Besides these, moral footing of students should be fortified by disseminating ethics formally in the classroom which might have a long lasting effect on the students' mental disposition. The recommendations which we propose in this article may help the researchers to reconfigure their own views and solutions for reforming the prevailing legal education in Bangladesh. The goals of these recommendations are to broaden and deepen our understanding of professionalism, ethics, and lawyering, and the relationship between theory and practice of Law. It is designed to bring together academic program, career and professional development, and student leadership. If the proposed changes are implemented then the Law students will enjoy more job prospect which indeed will help them to be more professional than now.

**Limitations:** The issues discussed in this article need further empirical, interdisciplinary, and comparative research. In acknowledgement of the needs in this area, if the Law School Deans and other academicians promote the idea of creating a research institution to undertake high quality, interdisciplinary research on the legal education, the students will certainly be benefitted.

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