

Lusterless Legal Education and its Challenges: A Case of Pakistan

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“The Rule of Law matters to all of us - to the entire human family.”
Desmond Tutu

This commentary is based on first-hand knowledge of staying in Pakistan. I am very grateful for the opportunity to teach in the Fall semester of 2022 at the newly launched law department of the National University of Sciences & Technology (NUST). Had I stayed in the United States, gaining an objective perspective and deeper understanding of Pakistani legal education and the legal system would have been impossible. Lately, there has been a massive push by the Pakistan Supreme Court, Pakistan Bar Council, and Higher Education Commission to bring changes to legal education. Fundamentally, there is a renewed sense of awakening and urgency that current legal education in practice does not meeting the needs of modern times. Therefore, significant changes need to be brought about on the challenging legal front.

The author has the benefit of studying law and practicing law as well as ‘serving on the bench’ in the US and having some familiarity with Pakistan, being born, and raised in Pakistan. Hence, this commentary attempts to bring helpful pointers based on practical experience. Pakistani and the US education systems are vastly different. Unfortunately, the type of legal education usually practiced in Pakistan was primitive, old-fashioned, and did not respond to market demands.

Cutting-edge legal education is based on the latest research and case method studies, textbooks, and legal periodicals/articles authored by the best in their fields taught in the West and the United States. At the same time, it is unfortunate that such teaching practices largely remain non-existent in Pakistan for varied reasons. The lack of financial resources is the biggest one! Understandably, some might argue that comparing the two countries and their teaching systems is fundamentally unfair. Nevertheless, Pakistani legal education should change to cope with the modern-day legal system.

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The empirical evidence has proven that the best legal education trains students ‘to think like lawyers.’ This claim implies that legal education equips students with the skills to address legal problems effectively in several ways: (1) to think critically; (2) not only think what the law is, but what it should be; (3) to think of a reasoned argument to persuade others. In advanced democracies, law teachers continuously strive to have their students as well prepared, polished, and gracious as possible.¹ Trinity College Cambridge, amongst almost all Ivy League schools, prides itself that it imparts its students with the skills not only required by successful lawyers but also successful producers, politicians, managers, journalists, diplomats, or police officers; hence, a law degree equips individuals for almost any profession that requires intellectual strength combined with a practical approach to the world. Law is complex and multifaceted, as is the scope of human endeavor and emotion.²

It is prudent to contiguously evaluate whether Pakistan's legal education provides these skills to its law students, potential jurists, and leaders. Three major contributory factors to legal education are ancient teaching, learning methods, and century-old curricula or syllabi. Most law schools/universities teach courses that do not commensurate with the rapidly changing socio-economic and legal landscape of 21 century. Lastly, the assessment and grading system is still very old-fashioned and sub-standard. This commentary discusses why legal education in Pakistan lags behind advanced countries. Some suggestions are offered for improvement. All three aspects require immediate and comprehensive changes to remain current, competitive, just, and fair to society at large. Also, a brief comparison is drawn as to *who* a typical law student is and *how* legal education is considered *prized* and consistently kept updated as demanded by the consumers of justice in advanced democracies, especially in the United States of America.

WHY DOES LEGAL EDUCATION MATTER?

A robust justice system is the backbone of any society. Adherence to the rule of law ensures security and prosperity. More than a decade ago, on July 12, 2010, Yale law professors Paul Gewirtz and Jeffrey Prescott noted that “*Building a good legal system rest on an effective legal education that cultivates creative problem-solvers that use reasoned argument as a method*

¹ What The Best Law Teachers Do by Schwartz, Hess, Sparrow published by Harvard University Press, 2013.

² https://www.trin.cam.ac.uk/subjects/law/why_study_law/#:~:text=A%20law%20degree%20can%20give,practical%20approach%20to%20the%20world

of persuading others."³ Since the American revolution was brought against the oppressive, corrupt, and unjust King George III in 1776, the founding fathers made the '*rule of law*' a driving force. Ever since, it has been ingrained in the American creed and belief that law is central to advancing their economic priority, maintaining social stability, securing their liberties, and building a more just society. Law schools are essential because the law and legal institutions are necessary. Legal education in the United States is the training ground for America's future.

The legal profession is considered hugely prestigious in advanced democracies compared to the developing world, i.e., Pakistan. Historically, Americans have known, accepted, and expected that many senior government officials would be graduates of leading U.S. law schools. In 2008, President Obama, Vice President Biden, and Secretary of State Clinton; all had law degrees. When President Obama met with his whole "Cabinet" – the heads of all the central U.S. government departments – 40 percent of those in the room had a legal education. A significant percentage of U.S. corporate CEOs are former lawyers, and many social organizations were founded or are directed by someone with legal training. Law schools in the United States prepare their graduates to practice law, teach law, and play leading roles in government, business, foreign affairs, and the full range of institutions that influence policy and society.⁴

In comparison, the perception of legal education (lawyers/judges in general) in Pakistan is inferior and utterly harmful. Not only the general public perceives that bright and promising students choose to pursue the studying disciplines of sciences, technology, and medicine. Instead, society encourages and compels children to do so. Unlike those who cannot enter such lucrative and prestigious areas of study, enter law school. Tragically, the prevailing perception (defective or otherwise) is that Pakistani law students have been the 'leftovers' and 'lowest academic achievers' with very few exceptions. Historically, the poor perception of the legal profession had been mainly construed into reality by the masses. In the leading newspapers, alarming headlines such as *lawless country*.⁵ *We're all to blame for lawlessness.* . . . Legal and law enforcement experts say the police, law, and

³ [https://law.yale.edu/sites/default/files/china law documents/point_of_order_why_legal_education_matters.pdf](https://law.yale.edu/sites/default/files/china%20law%20documents/point_of_order_why_legal_education_matters.pdf).

⁴ Id.

⁵ <https://www.nation.com.pk/10-Oct-2013/a-lawless-country>.

the general public are all to blame.⁶ “*Karachi: Saga of the Crime City of Pakistan, a hotbed of lawlessness.*”⁷ “*Of lawlessness . . .* Pakistan Today. A lawless society, generally speaking, is steeped in corruption, bribery, and increased degrees of acts that may only be deemed criminal . . .”⁸

In light of the preceding headlines, among other things, it is unsurprising that according to the World Justice Project, out of 140 countries, Pakistan ranked 129; the almost lowest score in the region, i.e., India ranked 77, Iran 119, Bangladesh 127, and Afghanistan 138.⁹ The World Justice Project (WJP) Rule of Index calculates scores and ranking for eight factors and 44 sub-factors.

The perception of legal education (law in general), whether *it is right or wrong*, has been harmful to the legal profession collectively beyond any stretch of the imagination. This must change. Real and concrete efforts would be needed to change this perception. Law students have the ability to prove that they are as bright as students of any other discipline, such as sciences and medicine. The negative perception will only change by actions of the legal community going forward.

WHAT TEACHING AND LEARNING METHODOLOGIES ARE BEING USED IN LEGAL INSTITUTIONS?

With the preceding context, it is unsurprising that legal education must deliver resolutions to current societal problems. Available data reveals that generally, professors provide lectures with very little and no student participation. Unlike the western method of instruction, the classroom is primarily a *teacher’s showtime*. The ‘PowerPoint culture’ is taking a stronghold and has become quite fashionable lately. Teachers mostly display PowerPoint slides and read and run through them. Students memorize slides rather than delve into reading case textbooks, law review journals, and related legal periodicals. Most of these resources are not part of the curriculum in most law schools. Incorporating the case study method, the latest law review journals, the assignment of reading materials in advance, and using class time for discussion are crucial for critical and analytical thinking.

⁶ <https://tribune.com.pk/story/63641/we%E2%80%99re-all-to-blame-for-lawlessness>.

⁷ <https://theprint.in/world/karachi-saga-of-crime-city-of-pakistan-hotbed-of-lawlessness/1133252/>

⁸ <https://archive.pakistantoday.com.pk/2015/08/25/of-lawlessness/>

⁹ <https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-open-government-index/global-scores-rankings>.

With few exceptions, class discussion and engagement are mainly absent. The western, particularly the American *case method*¹⁰ of studying, is non-existent in Pakistan's legal education. Almost a century after its independence, no substantive legal scholarship has been developed for publishing original case books and law journals. Very few law journals are in existence. The law school journals, if there are any, are not engaged in critique and analytical evaluations of the judicial decisions and opinions. As it is well documented, an American student comes to school and utilizes class time to discuss and exchange ideas with his fellow students and law professors. This conception is virtually non-existent in Pakistan's legal education, except a few private law schools.

WHO IS A TYPICAL AMERICAN LAW STUDENT?

Law students in America have already completed a four-year undergraduate degree in some other field before starting a three-year law school program. Many students work for several years before entering law school. Hence, students come to legal education with a diverse set of background values and educational experiences. On the other hand, a Pakistani law student is an undergraduate enrolled in a program of five (5) years Bachelor of Law (LL.B.). The academic and maturity levels are vastly different, and it is unrealistic and perhaps unfair to have same expectations.

The leading country in legal education and litigation, the USA, adopted the 'Socratic method'¹¹, where a professor interrogates students to demonstrate 'how to analyze court cases.' It typically graded students through a make-or-break final exam. But it has evolved by replacing stereotypical finals with a series of exams, writing journals, drafting complaints, interviewing clients, and engaging in clinics under the supervision of seasoned and skilled practitioners.

¹⁰ The case method in legal education was invented by Christopher Columbus Langdell, Dean of Harvard Law School, from 1870 to 1895. Langdell conceived a way to systematize and simplify legal education by focusing on previous case law that furthered principles or doctrines". To that end, Langdell wrote the first casebook, *A Selection of Cases on the Law of Contracts*, a collection of settled cases that would illuminate the current state of contract law. Students read the topics and came prepared to analyze them during Socratic question-and-answer sessions in class.

¹¹ <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2016-10-06/choose-a-law-school-based-on-teaching-style>.

Another area that could be improved in Pakistan's educational system is memorizing and cramming laws without understanding their reasoning and logic. Bare memorization prevents applying rules of law to different factual scenarios. Paul Bateman, a professor at Southwestern Law School, says cramming does not work in law school, and students benefit from frequent feedback, which can serve as a wake-up call when they are off track. "Going to law school is akin to studying a foreign language or using a musical instrument, he says. "You have to practice every day."¹²

Students in Pakistan mostly cram old books and name of some statutes. But legal learning is more than memorizing cases and statutes. In American and western legal education systems, acquiring the skills of thinking like a lawyer comes with substantial practice. Law is the language society uses to define relationships, explain rights and obligations, and regulate interactions between individuals and society. Robots can be taught the basics, but law students develop an affinity for the subject by being exposed to different writers and arguments and exploring the social phenomena and other intellectual disciplines implicated in legal problems. In a law degree, one learns to read and interpret primary sources, put them in context, evaluate them, and make a decision. Developing these critical skills and this contextual understanding takes time and commitment. Most of the preceding teaching characteristics are absent in Pakistan's current legal education.

Law school teachers contend that they are helpless due to the inactions of bureaucracy and heavy-handed practices of bar associations. There is merit in their contentions. Nevertheless, there is a lot under their control; for example, assigning the case method studying, using class time for discussion, weekly journal writing, and quizzes. It requires a lot of hard work on the part of teachers. The question is whether a teacher is willing to do so rather than passing the buck by blaming the system. *A change demands sacrifice.*

Do law school teachers want to undertake this challenge to change Pakistan's legal system for the greater good? Only time will tell!

SYLLABUS

A cursory look at a typical law school syllabus reveals that it is still largely fixated on old-fashioned legal issues. Case method teaching, as noted earlier, is non-existent. Unfortunately, the syllabus is not being tailored, which forces law students to analyze legal problems from a critical

¹² Id.

perspective. Rather the students are *only* primarily focused and bent on *reading and memorizing*, which goes against the core and spirit of learning law. By its very nature, law requires critical thinking. The essence of a lawyer's job is to identify weaknesses and strengths in the opponent's evidence and argument. Not only searching for persuasive evidence and argument but also delivering it effectively to convince the court to rule in your favor. The present syllabus does not fit this mold by any stretch of the imagination.

Additionally, law students in Pakistan do not get exposed to the existing challenging issues, such as climate justice, cybersecurity, artificial intelligence, economic sanctions, gender discrimination, and negotiation for lawyers for speedy resolutions of cases; to name a few. Although syllabi are not public documents, a few available online reveal course descriptions tailored to resolutions of practical and prevalent legal issues. Students learning objectives/outcomes are essential, are kept in focus, and constantly evaluated and tested to determine whether it is being delivered. Required readings, as well as recommended readings, are selected from very current, reputed, and leading scholars. This is how students are kept abreast with the current legal issues.¹³

EXAMINATION AND EVALUATION

As noted above, examination system in Pakistani law schools is still largely an old-fashioned, i.e., essay writing, compared to the western approach. By way of an example: A Mock Trial Course Syllabus from the University of Texas at Dallas is presented here.

Evaluation and Grading

Grades in this course are based on participation, preparation, and performance. Specifically:

- Class participation – 25%
- Performance in the tournament – 25%
- Peer evaluations - Members of your class team will evaluate your contribution at the end of the semester - 20%
- Written direct/response with a trial partner – 15%
- Trial Binder- 15%

¹⁴ Eight <https://dox.utdallas.edu/sy151805>.

- Special Participation – 5% - recruit a qualified judge for UTD Regional Tournament
- Bonus: Visit court/observe actual trial – 10% (proof must be in a section of your trial binder). Grading is subjective. It would be best if you came prepared to participate in class, individual team meetings, and tournaments.¹⁴

The author teaches Negotiation for Lawyers at Quinnipiac Law School. The following is an example of the grading system he uses for his course. Many of the teachers at the same law school are using a similar grading system.

Course Grading: Your grade for the course will be based on the following:

- A) **Preparation, Attendance, and Participation.** (25% of the grade.) You are expected to read the assigned material before class and prepare for and participate in class discussions, in-class exercises, and role-plays. Because this is a participatory class with trusted role-plays, your classmates and professors must depend on your attendance in each category. If you must miss a lesson or are late, please communicate to me your likely absence or tardiness before class and let me know the reason. If you are prepared and participate in good faith during the course, you will receive an A for this grading component for the week. If you have an unexcused absence, you will receive a grade of D for the week. Your weekly participation grades will be averaged and count as twenty-five percent of your course grade. (An excused absence will not affect your rate, so please let me know if you cannot participate in a class. I know stuff sometimes happens.)
- B) **Journals.** (25% of the grade.) Your Journal answers and critiques, as explained above in 3, will count as twenty-five percent of your quality.
- C) **Final Examination or Paper/Project/Presentation.** (50% of the grade.) There will be an open book exam (meaning you may use your textbook and outline prepared by you). The exam format will be an essay, a short answer, or a combination of the two. The examination will be based on reading assignments and class discussions. By the end of week six, students may opt to write an approved paper or complete an approved project/presentation instead of the exam. If you are interested in this

¹⁴ Id.

option, you must meet with Professors during the first weeks of the semester to discuss and get approval for your project or paper.

D) Grade Range:	A	93+
	A-	89-92
	B+	85-88
	B	81-84
	B-	77-80
	C+	73-76
	C	69-72

* Grading system in Pakistan is significantly lower than in the U.S. It is widely reported that the passing rate for bar licenses is 100% in Pakistan.

According to the U.S. National Conference of Bar Examiners (NCBE), July 2022 Bar Exam results show that the pass rate is 52% for the State of California and 66% for New York.¹⁵

* It is mind-boggling to learn that the passing rate for a bar license is 100% in Pakistan, while students' success rates in the two leading states, California, and New York, in the most advanced country, the US, are 52% and 66% respectively. There is something amiss here. Handing out bar licenses to undeserving and unqualified candidates is unspeakable injustice to the justice system and the country. This practice has dire consequences for the legal profession. It must stop forthwith for its credibility and survival.

RECOMMENDATIONS

Pakistan faces tough challenges, but it should not deter policymakers from introducing changes, provided they have the will to change, which they must, for nothing else but for its survival! Adopting the following measures (this is not an exhaustive list) in the context of legal teaching and learning could be beneficial.

- The lecture format must be modified with assignments of cases, articles, role-plays, and presentations from both sides – the plaintiff and the defendant.

¹⁵ <https://www.ncbex.org/statistics-and-research/bar-exam-results/>.

- Engaging students to apply the law to various factual situations – learning by doing it is critical. Most class time must be devoted to discussing court cases and leading articles/research on the specific topic.
- Seminars should be incorporated and must focus on drafting/communication skills.
- Provision of adequate support for teachers’ professional development.
- High-quality scholarship in legal education - hiring and retaining experienced and highly qualified teachers who are incredibly motivated to change, as is the need of the hour.
- Introduction of teacher awards and recognition of outstanding research and publication.
- The workload must be reasonable, and not overburdening teachers is highly recommended. Burnt-out teachers send discouraging and depressing vibes – which are not desirable for impressionable minds.
- The concept of internship with courts, law firms, prosecutor’s offices, public defender’s offices, and private and public industry must be introduced. Law students must be exposed to this modern trend – very much need of the hour.
- Clinical Education is critical for today’s law students. It is a vital need of the hour. Not implementing this needed skill is simply not keeping up with the reality of modern practice and is unjust to the students.
- The only way to get rid of sub-standard, merely descriptive legal journals without any substantive critique and analysis of court decisions and opinions law professors should engage in scholarly research and publication. It must be encouraged by law schools.
- Cases books (latest editions), latest law journals & periodicals must be incorporated into the syllabi and be part of the quizzes, writing weekly journals, midterms, and finals.
- 100 % passing bar license tests must stop. Only qualified candidates must be given the bar license to practice law.

- * Continuing legal education must be a prerequisite for renewal of law license on an annual basis. This is critical for regaining professional prestige and dignity.

History has taught us that the nations that do not adhere to the rule of law in letter and spirit do not survive long. We must heed the warning signs and read the writings on the wall before it gets too late. For its collective benefit, i.e., national security and prosperity, Pakistan's legal education has no choice but to evolve and adapt to the changing methodologies in ever-changing times.