

# Legal Education And Profession

—Dr. Kaisur Rahman

**T**HE legal profession is universally accepted as one of the noblest professions and the lawyers play a vital role, or rather occupy key positions in society. An example of which is that in the British parliamentary elections about thirty to forty per cent of the elected MPs are either barristers or solicitors.

This is possible because of the following main reasons: first, the rigorous training offered to the law students as evidenced in many developed societies (which may perhaps be apparent to the members of public by seeing the popular American TV series, the Paper Chase); Secondly, the hard work put in the legal practice; and, thirdly, the stimulating experience gained from the difficult and competitive legal practice. The present article attempts to consider the state of legal education and legal profession in Bangladesh, making brief references to other legal systems of the world.

In recent years the systems of legal education in many countries, especially in the developed countries, have been thoroughly reformed and updated with the aim of improving the standard of lawyers, legal profession and the wide-ranging services offered by the lawyers to the members of the public. Lawyers' services include not only dealing with client's case but also property, money and other valuables. By the very nature of their work, the lawyers are required to give trustworthy, reliable and confidential services to their clients.

For effective enjoyment of legal rights and to have legal representation in litigation the governments now offer free legal services in criminal as well as civil cases to the people of low income groups under the so-called legal aid schemes and money for such cases comes from legal aid funds created for this purpose.

Law has necessarily come to occupy an ever-increasing role, in our everyday life. This is because of gradual decline of traditional moral values and norms. Indeed, law has been and is always in the process of rapid expansion, especially in the wake of urbanization and industrialization of societies throughout the world. In many countries having either common-law or codified legal systems it is found that volumes of case law and innumerable subordinate legislation are frequently added to the existing

huge stock of cases and statute laws. Some of these statutes are either in the nature of fresh, piecemeal, or consolidated legislation. This gigantic task of finding and using all these has now been made easy by the computer. A great deal of legal information, legislative materials, precedents and the like are now computerized in many countries and sample legal forms and other legal information stored mechanically can be very quickly traced at the press of buttons.

The situation is far from being satisfactory in our country and our system is still no better than those of old times. It is unthinkable that when a deed of sale of property is registered, this has to be copied by the clerks of the Sub-Registry, taking years in many districts or areas of the country to deliver the original deed, when in a Western country such a job is done in a matter of minutes with far more accuracy than ours. This is only one example of our old-fashioned systems inherited from the British long time ago but we are still clinging on to them without doing anything effectively to reform these out-dated and old-fashioned systems.

English Law. We have inherited a great deal of English law since the arrival of British rule in India in 1757. The English legal system has been adopted by many countries and the English legal education is still considered as one of the best in the world and so thousands of students, mainly from the African and Asian countries, pour in to study there. Their system of legal education and legal profession is briefly considered here for a comparative view-point. The legal education in England during the 1970s went through substantial changes. A book called "Learning the Law" by Glanville Williams may be starting point for a new-comer to law studies. However, to qualify now as a solicitor or a barrister a student who has obtained the LL.B. degree of one of the U.K. Universities or polytechnics can proceed to either one year's solicitor or bar courses. And to be a barrister, one has to be a member of one of four Inns of Court, namely, the Inner Temple, the Middle Temple, the Gray's Inn, and the Lincon's Inn which are "unincorporated societies free from any state interference" and a student shall have to keep requisite

dining terms, in addition to passing the bar examinations, before being called to the Bar of England and Wales. The Inns of Court are of medieval origin and their traditions have been preserved as such. The bar courses are held at the Inns of Court School of Law and the examinations are conducted by the Council or Legal Education.

To qualify as a solicitor one must study one year's solicitor's course at the designated college (the College of Law) and has to be a member of the Law Society, which is the governing body of the solicitors. A solicitor has to be registered having his name on the roll of the Law Society so as to be eligible to practise. On the other hand, the senate of the Inns Court and Bar is the governing body of the barristers. The barristers and solicitors are always required to abide by their respective professional conduct and etiquette and any violation of such rules and regulations may lead to disbarment or cancellation of membership (W.W. Boulton's A Guide to conduct and Etiquette at the Bar of England and Wales). A barrister's membership with one of the four Inns of Court is for life and during his practice at the Bar he can utilize all the facilities offered by it.

A solicitor always directly deals with the clients and the solicitor have virtual monopoly in the matters, such as, writing letters on behalf of their clients, dealing with clients' day-to-day legal matters, conveyancing, etc. Conveyancing of properties has been a good part of a solicitor's work and the solicitors are mainly allowed to do conveyancing. In comparison with this, in our country conveyancing is done by the "deed-writers" and hardly any lawyer is consulted in most of the day-to-day property transactions. However, so far as the solicitor's right of audience in the courts is concerned, he can conduct cases only in the Magistrate's Courts and the County Courts.

A barrister cannot deal with the clients directly other than at a 'conference' in the presence of a solicitor. However, a solicitor normally obtains opinion of a counsel on complicated matters and the counsel settles pleadings and conducts the case. Specialized legal opinion is always sought from a counsel which also minimizes the risks of any legal action for negligence against a solicitor. A bar-

rist cannot be sued for negligence. The barristers have the right of audience virtually in all the courts and judicial proceedings and only they are eligible to appear before all the higher courts, namely, the Crown Courts, the Divisions of the High Court consisting of the Queen's Bench Division, the Chancery Division, and the Family Division, the Court of Appeal and the House of Lords.

The legal professional qualifications in England have accordingly been made of post-graduate status and the training given to the prospective lawyers is indeed thorough and to a great extent related to practice. Efficiency and high professional standard as always expected from the tough training of a prospective lawyer is generally found in both the branches of English legal professions.

The English two-tier system of legal professions is, however, not maintained in other parts of the world and proposals from the groups of young lawyers for merger of the two professions have not been approved by the senior members of the Bar and the Law Society. Merger would not only be beneficial to a great many newcomers to the legal practice but also to a good number of foreign-born barristers practising in London and other cities who are alleged to be racially discriminated against by majority while solicitors in giving them briefs.

The U.S.A.: In the U.S.A. law schools of certain universities produce very competent law graduates and a student on completion of his law degree is required to pass the Bar examination of the fifty states where he intends to practise. A U.S. attorney is like an advocate of our country. However, the system of legal education that has now been introduced in many countries of the world requires that to be qualified as a professional lawyer, a student has to first obtain his law degree and only then he can proceed towards completing his one year bar courses. One year bar courses after law graduation is a must and this is followed in many African and Central American states. And after being called to the bar one is required to complete one year's probation under a senior lawyer. In effect, the bar courses have been made early post-graduate courses, although the training given is professional in nature. (To be continued).