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## International Law in India – Developing Curricula and Teaching: Some Reflections\*

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### I. INTRODUCTION

THE legal system in India, for a variety of historical reasons, is structurally and contextually influenced by the British legal system. However, in the post-independent era, it was felt that the Indian legal system inherited from the British was inadequate to respond to the challenges of modern India and to cater to the needs of her people. A survey of the both official and non-official efforts made in India<sup>1</sup> to rejuvenate the legal education from the colonial hangover and to make it more socially relevant reveals three phases of change. The first phase (1950-1965) was dominated by the endeavour to distinguish the legal education in India from the 'British' one and thereby to make it more 'Indianised'. The second phase (1966-75) was characterised by sincere efforts to reorganise the curricula and pedagogy of the professional legal education. The third phase (1976-1999) was aimed at the 'modernisation' of not only the law curricula but also to implement structural reforms in legal education, to make it a more 'intensive', 'focused' & 'socially relevant' discipline.

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1 See generally, *Report of the Bombay Legal Education Reforms Committee*, (1935); *Report of the Bombay Legal Education Committee (Chagla Committee)*, (1949); Law Commission of India, *Fourteenth Report on Reforms of Judicial Administration*, (Government of India, 1958); Indian Law Institute, *Report of the Committee on Legal Education*, (1959); SK Agrawala (ed), *Legal Education in India: Problems and Perspectives*, (Tripathi, 1973); University Grants Commission, *Towards Socially Relevant Legal Education*, (1979); University Grants Commission, *Report of the Status of Teaching and Research in the Discipline of Law*, (1981); University Grants Commission, *Report of the Curriculum Development Centre in Law*, vols I & II (1990), and Bar Council of India, *Report of the Committee on Reforms in Legal Education and Regarding Entry into Legal Profession (Ahmadi Committee)*, (1995).

## II. PLANNING AND SETTING THE STANDARDS OF LEGAL EDUCATION IN INDIA: AN INEXTRICABLY LINKED MULTI-INSTITUTIONAL DOMAIN

The planning of legal education in India and setting its 'standards' is multi-institutional. A set of statutory authorities created under the Advocates Act, 1961 (Act No 25 of 1961); the University Grants Commission Act, 1956 (Act No 3 of 1956) and the respective University Acts, Central or State,<sup>2</sup> are bestowed with the responsibility of planning legal education in India and setting its standards. The Bar Council of India (BCI), a body established under the Advocates Act, 1961, and the University Grants Commission (UGC), a body constituted by the University Grants Commission Act, 1956, are empowered to lay down and improve the standards of legal education in India. A Board of Studies in Law (BOS) and an Academic Council (AC), functioning under the respective University Acts are also expected to set and maintain standards of legal education in their respective Universities.

The Advocates Act, 1961 empowers the BCI, *inter alia*, 'to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils'. BCI prescribes standards of legal education through its statutory Legal Education Committee.<sup>3</sup> BCI is also vested with the right 'to recognise Universities' whose degree in law is a requirement for a person wishing to qualify for enrolment with it as an advocate.<sup>4</sup> The Bar Council, with this purpose, is also allowed 'to visit and inspect Universities.'

The University Grants Commission Act, 1956, providing for the co-ordination and determination of standards of education in the Indian Universities, establishes the UGC. The Act, *inter alia*, empowers the

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2 In India, Universities are set by an Act of Legislature. The Central Universities are established by an Act of Parliament while State Universities are set up by an Act of the respective State Legislature.

3 S 10(2)(b). The Legal Education Committee consists of ten members: five are elected by the BCI from amongst its members and five are co-opted (preferably academicians) by the Council.

4 The Advocates Act further enables the BCI to make Rules for discharging its functions. BCI, by the Bar Council of India Rules, 1965, (Part IV), has laid down the minimum qualifications required for admission to a course of degree in law in any recognised University and the 'standards of legal education to be observed by the Universities in India. The Rules are binding on all the Universities imparting legal education. However, the Universities can run law courses, in violation of these Rules, purely for academic purpose. If they propose to run a professional law course, the Universities have to implement the law course as prescribed by the BCI.

UGC 'to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in University.' The Commission, for this purpose, is authorised to 'recommend' to any University the measures necessary for the improvement of University education (including law) and to 'advise' it (the University) on the action to be taken for implementing its (UGC) recommendations. The Commission, which is tasked with ascertaining standards of teaching, examination and research, is also empowered to cause, in consultation with the University, an inspection.<sup>5</sup>

UGC endeavours to plan legal education and to lay down 'standards' of legal education through its Law Panel. The UGC's Law Panel is usually chaired by a retired Supreme Court Judge, with a membership of about twelve scholars drawn from various states of India.<sup>6</sup>

BOS and AC, established under the respective University Act, are also concerned with the planning of legal education and monitoring it in the concerned University. BOS is generally constituted by a stipulated number of elected and nominated representatives of post-graduate and under-graduate teachers. Some teachers are also drawn from other Universities within and beyond the State. Invariably, the Dean of its Law Faculty and the Head of its Law Department sit in the BOS as members. AC, which is a composite decision making body in academic matters, is constituted by certain nominated, elected and co-opted persons representing academia. Deans of all the University Faculties and Chairmen of all the BOS of the concerned University also form a part of the AC. The University Vice-chancellor acts as Chairman of the AC.

BOS, subject to the approval of the AC, is primarily responsible for adopting the courses prescribed by the BCI; outlining contents thereof; prescribing text books for each of the prescribed courses; appointing examiners, and setting the standards of passing.

The planning of legal education in India and designing of law courses is thus a matter of concern not only for BCI and UGC, but also for the respective University's BOS & AC. The Advocates Act authorises, without any restrictions, BCI to prescribe 'standards of legal education' for the purposes of the practice of law in the courts in India, while the UGC Act obliges the UGC to co-ordinate and prescribe standards

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5 Ss 12 & 13, UGC Act.

6 However, the community of law teachers usually has no access to information concerning who the academic members of the Panel are, what agenda was discussed, and the quality of representative deliberation.

of higher education (including legal education) in India. The respective University Acts, on the other hand, empowers independent academic bodies (BOS & AC) to, *inter alia*, formulate policies pertaining to the pattern(s) of legal education & of examination; the method(s) and medium of instruction, and the standards of passing in the University Law Department as well as in the Law Colleges affiliated to the University.

However, though BCI and UGC are under the statutory obligation of 'setting' standards of legal education in India, it is pertinent to note that BCI, as evident from the legislative scheme and spirit of the Advocates Act, is concerned only with 'standards of under-graduate legal education'(LLB). BCI is not at all concerned with the planning and setting standards of higher legal education leading to a post-graduate degree in law (LLM). UGC, in collaboration with the respective BOS and AC, has an exclusive domain in planning and setting standards of the post-graduate legal education in India.

### III. DESIGNING AND TEACHING OF INTERNATIONAL LAW IN INDIA: SOME RANDOM REFLECTIONS

The development of curricula for the teaching of international law in Indian Law Schools, and the attendant problems and perspectives associated therewith, need to be understood in the light of the multi-institutional 'concern' for planning and establishing standards of legal education, as discussed above.

The present writer, against this backdrop, will endeavour to articulate and share some of his random reflections on designing international law course(s) as one of the courses offered at the graduate (LLB) as well as at the post-graduate (LLM) level in India. The development of curricula and the teaching of international law will be addressed in turn below.

#### A. *International Law at the Graduate Level (LLB): Developing Curriculum and Teaching*

Section 7 (1) (h) rw 49 (1) (af) and (d) of the Advocates Act confer very wide powers on the BCI for setting standards of legal education at the graduate level. These provisions, as stated earlier, empower the BCI both to make appropriate Rules for prescribing the minimum qualifications required for admission to a course of a degree in Law in any recognised University in India, and to recognise Universities whose degrees in Law do satisfy the requirements for enrolment as an Advocate.

BCI, exercising its rule making powers, has formulated a set of Rules for setting 'Standards of Legal Education and Recognition of Degrees

in Law for Admission as Advocates' and for monitoring the legal education at the entry level *ie*, the LLB.

In October of 1996, the BCI, probably realising the fast deteriorating quality of legal education in India,<sup>7</sup> convened an All India Consultative Meeting of the Universities imparting Legal Education, State Bar Councils (established under the Advocates Act), the UGC and State Governments. This was to solicit suggestions and recommendations for making improvements in legal education. Suggestions and recommendations of the All India Consultative Meeting were subsequently considered in November 1996 by the Legal Education Committee of the BCI and BCI, exercising powers vested in it by sections 7(h) and (j); 24 (1) (c) (iii) & (iiia) and 49 (1) (af), (ag) and (d) of the Advocates Act and the Rules made thereunder. In October 1997, the course structure of both the streams of LLB (*ie*, a 3-year and a 5-year law course) was revamped.

By its communication of 21st October 1997 addressed to Registrars of all the Indian Universities imparting legal education, Deans of Faculties of Law of all the Universities, and Principals of all the Law Colleges in India, the BCI communicated its Revised Curriculum for the 3-year and 5-year law courses. BCI in its Revised Curriculum for LLB prescribed 21 Compulsory Legal Papers (in addition to 4 Compulsory Practical Training Papers) and 3 Optional Papers (to be selected from the recommended 15 Optional Papers). It also further recommended that only 2 Optional Papers be taught in a year, preferably in the last three years in the case of 5-year law course. It, however, allowed Universities, if they wished, to identify and add more subjects to the list of papers prescribed by the BCI.<sup>8</sup> It also left the identification of the course contents, except the courses on Practical Training, to the respective University's Academic Bodies (BOS & AC). However, the Bar Council desired the University academic bodies to follow the course contents recommended by the Curriculum Development Centre in Law (CDC).<sup>9</sup>

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7 Bar Council of India commissioned State reports on legal education. These Reports not only disclose the deteriorating standards of legal education in the country but also make a very disturbing reading. See *Journal of the Bar Council of India*, vols 9(4) (1982) & 10(1) (1983).

8 Bar Council of India Circular LE (Cir No 4/1997) dated 21 October 1997.

9 A body of legal experts and distinguished academia drawn by the UGC from all over India for designing, with a view to promoting excellence in, & enhancing the quality of, legal education at under-graduate (LLB) and post-graduate (LLM) level and to bringing uniformity in legal education in India. For structure of different courses designed by the CDC, see University Grants Commission, *Report of the Curriculum Development Centre in Law*, vols I & II, *supra* note 1.

BCI, in unequivocal terms, directed all the Universities and Law Schools to adopt and implement the Revised Curriculum from the academic year 1998-99. It also indicated that no University and Law School would be permitted to make changes, including the combination of small papers, in the list of subjects prescribed by it.<sup>10</sup>

Public International Law, like the pre-1998 pattern, figures in the list of 'Compulsory Papers' prescribed by the BCI.

(i) *International Law Curriculum: The Two Pre-1998 Models*

The pre-1998 course on international law offered compulsorily at LLB in India was invariably limited to the 'basics' of international law. Topics that figured prominently in the course contents were: nature & sources of international law; subjects of international law; law of peace and of war, and UN Organisations. However, for a variety of reasons, international law could not acquire a high status in the teaching and research priorities either of teachers or students of international law. Teaching of, and research in, international law in India on the whole was 'conventional', if not 'mediocre'.<sup>11</sup> During 1990, the CDC in redesigning the international law curriculum and outlining its objectives lamented thus:

Much of our introductory teaching of 'international law' at the LLB level is unable to orient the students to a whole range of contemporary concerns in international law and world affairs. – The results are: (a) not many teachers of the subject develop a dynamic research interest in various fields of international law; (b) not many students acquire a rounded interest in the subject, and not many opt for advanced studies, special research interest.

However, consoling itself and entering into a caveat, CDC observed:

The foregoing does not in any way seek to denigrate international law teaching in India. Far from it, we recognize that making place, and entrenching, international law as a course offering in LLB curriculum is itself an achievement. Nor, is it denied that we have a good number of distinguished specialists in this area. In making the above observations, we are guided by the understanding of contemporary and future needs, as well as by the great explosion in international law.<sup>12</sup>

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10 See its Circular LE (Cir No 2/1998) dated 21 April 1998.

11 Upendra Baxi, Teaching of International Law in India in 2000 AD – Some Non-Utopian Proposals, in Agrawala SK (ed), *New Horizons of International Law and Developing Countries* 391 (Tripathi, 1983).

12 University Grants Commission, *Report of the Curriculum Development Centre in Law*, *supra* note 1, vol II, p 211.

Professor Upendra Baxi, who co-ordinated CDC, made 'some non-utopian proposals' for the teaching of international law in 2000 AD in another context,<sup>13</sup> observing that:

*First*, a subject called 'International Law' has ceased to exist. – The sixties and seventies have witnessed evolution of new domains: the law of human rights, international business transactions, the law of the sea and of outer space, the North-South and South-South relations law, the law of disarmament and of the right to development. 'International law' is one label but many subjects.

*Second*, we point to the dramatic and exciting growth of international law and international institutions, reflecting the rapidly developing interactions between peoples and states. Our conception of 'international law' must cater to this growth in a number of ways. – From the traditional confines of international law – especially British 'public' international law – we detect a movement of the focus towards what Jessup calls 'transnational law'. Consequently, we call for renewed efforts to appreciate the importance of international law to legal and political organisations at the state level.

*Third*, we note the disagreements and confusion concerning the objectives of legal education to which international law (like most other subjects) remains vulnerable.

The CDC engaged in extensive deliberations on the possible different alternatives for the radical transformation of the LLB curriculum. Keeping in view the BCI's norms for 'professional' legal education and the 'existing realities' that inhibited it (CDC) from pursuing a fundamental restructuring of the LLB curriculum, the CDC recommended 12 'compulsory' or 'core' courses and 17 'optional' courses to be mandatorily offered in all the Indian Law Schools. CDC, unlike BCI, has not only given a statement of objectives for each of the recommended courses but has also offered, in the light of the respective statement of objectives, an elaborate course design accompanied by a fairly comprehensive 'select bibliography.' International law figures in the list of recommended 'core' subjects.

Recalling the previous inability to sufficiently students of international law 'to a whole range of contemporary concerns in international law and world affairs', CDC designed a course on international law comprising the following topics (with elaborate sub-topics). They are: Historical Foundations; States as Subjects of International Law; States as Makers of International Law; Individuals, Non-State Communities and Peoples in International Law; Equitable Resource Utilisation and Just World Order; Nuclear Proliferation and Disarmament; the Laws of War, and International Economic Law.<sup>14</sup>

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13 *Supra* note 11, at 391-92.

14 For further details see, *supra* note 12, pp 211-215.



The CDC stressed that the recommended course, though it is described by a traditional title, was refashioned and modernised. However, a careful comparative glance at the pre- & post-CDC structure of the international law course hardly supports the CDC's assertion. The recommended design of the course, in the present submission, merely makes a marginal improvement over the so-called 'traditional' international law. Probably, the 'existing realities' hinted at by CDC inhibited its strong desire to seek a full modernisation of the international law curriculum.

However, against this backdrop, it is pertinent to note that a decade before the *CDC Report*, Professor Upendra Baxi apprehended that international law, if no radical changes are made in its structure and teaching, would be a 'non-subject' in India by 2001. 'The past contents and structure', according to him, 'belong to a bygone age and bygone world.' And 'to cling to them', he cautioned, 'will foster alienation and indifference towards the subject.'<sup>15</sup> Consequently, Professor Baxi proposed an innovative restructuring of the LLB international law course. Recommending 'realignment' and 'integration' of the existing international law curriculum, he suggested the abandonment of the so-called, 'Basic', 'Orientation', 'Introductory' Courses labelled as 'Public International Law', 'the Law of Peace', the Law of War' and 'International Organisation'. Instead, the traditional contents of these courses were to be distributed to other law courses to be offered at LLB. The following re-distribution of the contents of what was taught under basic international law courses was suggested:

<i>Course</i>	<i>International Law Content</i>
Legal Theory:	History of International Law – South Asian and Indian evolution.
Jurisprudence:	Problem of Conceptions and Definitions of International Law; Custom, General Principles, and Agreements as Sources of Law.
Torts:	Problem of Tortious Liability in Inter-state Relations (the so-called State liability problems).
Contracts:	Analogies between Treaties and Contracts.
Statutory Interpretation:	Problem of Treaty Interpretation.
Criminal Law:	Aspects of International Criminal Law, especially the Nuremberg Principles.
Company Law:	General Problems of TNCs.

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15 *Supra* note 11, at 395 & 396.

<i>Course</i>	<i>International Law Content</i>
Taxation:	Double-taxation Problems.
Labour Law:	The Conventions/recommendations of ILOP & India's role in the evolution of International Labour Law Jurisprudence.
Constitutional Law:	Aspects of International Human Rights Instruments and Developments.
Intellectual Property:	International Law Developments through World Intellectual Property Organisation.

Coupled with this realignment, he also recommended that subjects within international law be initiated as specific undergraduate options.<sup>16</sup>

He hoped that the recommended 'realigned & integrated' international law curriculum would expose more teachers and students to aspects of international law; enliven and sharpen international law issues in traditional legal courses, and institutionalise an awareness of the relatedness of international and national legal developments.

(ii) *International Law Curriculum: The Post-1998 BCI's Model*

It is however pertinent to note that the BCI in revising the LLB. Curriculum, for reasons known best to it, was influenced by neither the so-called 'conventional' nor 'realigned & integrated' curriculum of international law. It is submitted that 'international law' was given less significance insofar as it was clubbed together with 'human rights' in one of the 'compulsory courses' prescribed for LLB. Curiously, a set of 4 papers on specialised aspects of international law are included in the BCI's list of 'Optional Papers'. These are International Economic Law, Air and Space Laws, Intellectual Property Law and Maritime Law.

The clubbing of 'international law' with 'human rights' in a single compulsory paper in the Revised BCI's LLB. Curriculum did not impress senior international law teachers and experts, as well as persons deeply concerned with the teaching of international law in India. The absence of a separate paper on international law in the Revised Curriculum, according to them, did not 'stand to reason'. Voicing their concern in the 'Consultative Meeting of Experts on Teaching of Human Rights and International Law' organised by the Association of Indian Universities (AIU), they urged the BCI 'to reconsider its decision to club together

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16 The recommended optional courses, by way of illustration, were: Law and force; Resource law and development; the United Nations; Adjudicatory and non-adjudicatory modes of dispute settlement; Symbolic and resource aspects of sovereignty of states; Human rights and international humanitarian law, and arms race, arms traffic and disarmament. For details see *ibid*, pp 397-399.

international law with human rights,' and to recommend a separate course for international law, they observed:

In view of the growing importance of international law in an era of globalization, the absence of a separate course on it does not stand to reason. International law, we hardly need to stress, has come to impinge on core aspects of national life – economic, social, and cultural. This is *inter alia* reflected in a number of recent decisions of the Supreme Court of India in which it has been compelled to refer to developments in international law. The fact that successive governments have been vigorously pursuing policies of liberalization, calling for greater integration to the world economy, is only going to increase the intervention of international law in national life. It is, therefore, imperative that the future law graduate has a sound understanding of the subject. The Curriculum finalised by the Bar Council appears to recognise this in as much as it includes in the list of optional papers four subjects on different branches of international law *viz*, International Economic Law, Air and Space Law, Intellectual Property Law, and Maritime Law. However, it needs to be appreciated that these specialised optional courses cannot be taught without secure foundations in the fundamentals of international law.<sup>17</sup>

The Consultative Group drew up a model course on international law<sup>18</sup> in the hope that the BCI would reconsider its decision of clubbing international law with human rights and recommend a separate paper on international law. The BCI has not responded positively to this appeal, nor has it adopted the recommended international law curriculum of the Consultative Group of Experts of International Law.

Most of the recognised Universities and Law Schools in India, probably apprehending that the BCI may de-recognise them and disallow their law graduates to register as advocates with the respective Bar Councils,

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17 Association of Indian Universities, *Report of the Consultative Meeting of Experts on Teaching of Human Rights and International Law*, at 2. (AIU, New Delhi, 1998).

18 *Ibid*, pp 4-6. Topics included in the model courses on international law were: Historical & Theoretical Foundations of International Law; Basic Principles of International Law; Sources of International Law; Relationship between International and Internal Law; Subjects of International Law; Jurisdiction of States; Law of State Responsibility, Peaceful Settlement of International Disputes (with reference to Art 33 of UN Charter); Law of the Sea; Law of Air and Outer Space; International Economic law; International Environmental Law; International Human Rights and Refugee Law, and Legal Control of International Conflicts.

Topics recommended for the proposed one semester course on international law were: Historical & Theoretical Foundations of International; Sources of International Law; Relationship between International and Internal Law; Subjects of International Law; Jurisdiction of States; State Responsibility, and Peaceful Settlement of Disputes.

have implemented the BCI's revised curriculum. Thus, rather than being taught as a general course, international law is clubbed with the topic of human rights in their respective LLB curriculum. The absence of statements of international law course objectives or a detailed elaboration of how this course may be structured (as provided for other courses), coupled with the freedom accorded to academic bodies (BOS & AC) by the BCI in designing international law (and other) courses, has resulted in a lack of uniformity in terms of international law course contents in India's various Universities and Law Schools. University academic bodies are merely advised, rather than directed to adopt and incorporate the course structure and contents recommended by the CDC.<sup>19</sup>

To this writer's knowledge, international law courses in most Indian Universities and Law Schools are restricted to covering the 'basics' of international law such as nature, scope, sources, subjects, settlement of disputes, UN and ICJ. The suggestions of this writer, who is a member of BOS of a couple of Universities in the State of Maharashtra and outside, for incorporating certain current topics in international law courses and for prescribing standard references as text books for the subject have unfortunately been resisted by other BOS members, particularly representatives of the affiliated law colleges. This is on the ground that it would be too impracticable to teach the suggested topics in their colleges, given the lack of qualified teacher and the insufficiency of available reading material and resources.

(iii) *International Law at the Post-Graduate Level (LLM): Developing Curriculum and Teaching*

BCI, by virtue of the Advocates Act, as mentioned earlier, is empowered to promote legal education and to lay down the standards of legal education for purposes of admission to the Bar. Given the existing requirement (of the LLB Degree) for the enrolment of advocates and provisions of the UGC Act entrusting the UGC with the setting of standards of higher education (including legal education) and of the respective University Acts vesting in the academic bodies (BOS & AC) the responsibility of setting academic standards of legal education,

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19 The major topics included in the CDC's course on international law are: Historical foundations; States as subjects of international law; States as makers of international law; Individuals, non-State communities and peoples in international law; Equitable resource utilisation and just world order; Nuclear proliferation and disarmament; the laws of war, and International economic law. For details see University Grants Commission, *Report of the Curriculum Development Centre in Law*, *supra* note 1, vol II, pp 211-15.

the BCI is not concerned with the planning and setting standards of higher legal education leading to a post-graduate degree in law (LLM). UGC, in collaboration with the respective BOS and AC, has an exclusive domain over post-graduate legal education in India. In the final analysis, respected Universities are fully authorised to prescribe courses (and to design their structure) for LLM. This has inevitably resulted into wide variations in LLM curricula of the Indian Universities and Law Schools.

A careful glance at the LLM Curricula in vogue in the Indian Universities reveals two 'outlooks' or 'patterns'. First, some Universities treat the LLM as an extension of LLB courses with the objective of producing 'specialists' in chosen fields of law. The whole curriculum for the two year LLM programme is generally divided into 'core' or 'compulsory' and 'optional' courses, the former to be studied in the first-year and the latter to be opted in the second-year. Invariably, 4 'core' papers (such as Constitutional law; Legal theory; Legal history, Principles of Legislation) are prescribed for the first part of LLM. In the second part a student has to study 4 papers out of a list of number of optional subjects.<sup>20</sup> The second 'pattern', on the other hand, perceives the LLM as a highly advanced course with a research orientation and with no *a priori* division of subjects between 'compulsory' and 'optional'. It offers a wide range of choice of subject groups with respect to which a student may opt to engage in intensive study.<sup>21</sup>

Less than half of the Indian Universities imparting higher legal education, irrespective of their 'outlook', offer 'international law' at their post-graduate law (LLM) degree.<sup>22</sup> The course(s) offered pertain

20 For example, see the LLM pattern adopted by the University of Pune, Pune and the Cochin University of Science and Technology, Kochi. Such a combination has undoubtedly led the Universities to offer a superficial treatment to the even so-called 'fundamentals' of international law.

21 For example see the LLM pattern adopted by the University of Mumbai, Mumbai; University of Delhi, Delhi; Shivaji University, Kolhapur, and Lucknow University, Lucknow.

22 Out of the 73 Indian Universities listed in the latest edition of the *Universities Handbook*, only the following 33 Universities offer international law course(s), as optional(s), at their Masters Degree in Law (LLM). They are: Andhra University, Vishakhapatam (AP); Awadesh Pratap Singh University, Rewa (MP); Deen Dayal Upadhyaya University, Gorakhpur (UP); Dr Babasaheb Ambedkar Marathwada University, Aurangabad (Maharashtra); Dr Bhimrao Ambedkar University, Agra (UP); Dr Harisingh Gaur Vishvidyalaya, Sagar (MP); Gujarat University, Ahmedabad (Gujarat); Jai Narayan Vyas University, Jodhpur (Rajasthan); Jiwaji University, Gwalior (MP); University of Kerala, Thiruvanthapuram (Kerala); Kurukshetra University, Kurukshetra (Haryana); Lucknow University, Lucknow (UP); University

to either the Law of Peace,<sup>23</sup> or the Law of War and Neutrality or both.<sup>24</sup> Some of the Universities, however, concentrate on either of the courses. The curricula, with different emphasis and approach, do invariably concentrate on the traditional core fields of international law and they are 'optional' or 'elective'.

The CDC in formulating its recommendations considered both the 'group model' and 'cafeteria' model of the LLM curriculum, without taking sides in the controversy concerning these patterns. These recommendations followed 'extensive' and 'agonising' deliberations on the courses to be offered at LLM and were offered in the appreciation that 'existing realities' would not be 'fully receptive' to the much desired innovative higher legal education. The CDC recommended a set of 4 compulsory 'Foundational Courses'<sup>25</sup> (in addition to a dissertation) to be offered in the first two semesters of the LLM programme. In tandem with this, a set of 9 elective 'Optional Courses' (in a group)<sup>26</sup> out of

of Madras, Chennai (Tamil Nadu); MJP Rohilkhand University, Bareilly (UP); Mohanlal Sukhadia University, Udaipur (Rajasthan); University of Mumbai, Mumbai (Maharashtra); University of Mysore, Mysore (Karnataka); Nagpur University, Nagpur (Maharashtra); National Law School of India University, Bangalore (Karnataka); Osmania University, Hyderabad (AP); University of Pune, Pune (Maharashtra); Punjabi University, Patiala (Punjab); University of Rajasthan, Jaipur (Rajasthan); Rani Durgavati Vishwavidyalaya, Jabalpur (MP); Sambalpur University, Sambalpur (Orissa); Saurashtra University, Rajkot (Gujarat); Shivaji University, Kolhapur (Maharashtra); South Gujarat University, Surat (Gujarat); Shri Padmavathi Mahila Visvavidyalayam, Tirupati (AP); Sri Venkateswara University Tirupati (AP); Utkal University, Bhubaneswar (Orissa); Vikram University, Ujjain (MP), and Jawaharlal Nehru University, New Delhi. [Source: Association of Indian Universities, *Universities Handbook* (AIU, New Delhi, 2000).

- 23 Topics included under the course are: Perspectives and nature of International law; Sources of International law; State responsibility; Law of the sea, sea-bed and ocean floor; Human rights, and Law of outer space.
- 24 Topics invariably included under the course are: Treaties; Use of force by States; Use of force by International Institutions; Principles of war and neutrality; Economic warfare, and Punishment of war crimes.
- 25 The recommended courses are: (i) Law and Social Transformation in Colonial India, (ii) Law and Social Transformation in Contemporary India, (iii) Comparative Analysis of Law and Economy, and (iv) Social Science and Legal Research. For further structure of these Groups see, University Grants Commission, *Report of the Curriculum Development Centre in Law*, *supra* note 1, vol II, 479 *et seq.*
- 26 The recommended groups are: (i) International Law and Organisation, (ii) Law and Deviance, (iii) Law and Economic Regulation, (iv) Labour, Capital and Law; (v) Ecology, Natural Resources and the Legal Order, (vi) Jurisprudence, (vii) Democratic Aspirations and Legal Order, (viii) Feminist Critique of Legal Order, and (ix) Science, Technology and Law. For further structure of these Groups see, *ibid*, p 503 *et seq.*

which 2 groups (with all the courses listed thereunder) were to be offered at the third and fourth semesters of the course.

'International Law and Organisation' is one of the 'Groups' recommended by CDC. The International Law Group comprises the following 6 comprehensively designed (in the light of the stated 'Objectives' of the respective course) one-semester courses: (i) International Organisations: Law, Practice, Future, (ii) Disarmament and Peace Strategies, (iii) International Humanitarian Law, (iv) Law and Diplomacy, (v) Law of the Sea, and (vi) 'Sustainable Development', New International Economic Order, and Aspects of International Equity.

However, almost all the Indian Universities, (plausibly due to 'existing realities', such as lack of 'expertise' at their disposal to handle the recommended courses; very 'few takers' of international law, and inadequate library resources), have greeted the CDC's proposals with a great deal of insensitivity and apathy. A careful perusal of the latest 'Handbook' of University Law Departments & of Law Schools and the course contents of the Indian Universities compiled in the AIU's *Universities Handbook*, reveals that almost every University Law Department and Law School in India, even after a decade of the CDC's proposed LLM Curriculum (including that of the International Law Group), still cleaves to its own 'model' of the curriculum, 'group' or 'cafeteria'.

The current curricula of LLB and LLM programmes continue to the traditional 'dimensions' and 'concerns' of international law. They hardly deal with the 'current concerns' of contemporary international law which relate to the emerging 'transboundary concerns' of the Community of Nations, in ever expanding fields.

When one starts learning international law in India at the LLB level, his attention is not drawn to the entire gamut of contemporary international law but focused on the 'fundamentals' of the discipline. A student of international law, therefore, is obviously unable to comprehend either the whole range of contemporary 'concerns of international law' or the 'world legal order'. This limited exposure to international law is unable to enable students to generate a sustained interest in the subject. Most students of international law are therefore reluctant to opt for advanced studies in international law and to take special research interest in the area. Consequently, there are only a few 'takers' for international law at the LLM level. Discouraged by the 'few takers' of international law at their Masters Degree Programme, in combination with other inhibiting factors, many teachers of international law in India (barring a few overseas trained senior teachers) have not developed sustained research interest in various fields of international law.

Further, the teaching methods followed in most of the Indian Universities for teaching international law, unfortunately do not sustain the interest of those students committed to international law. International law teachers, keeping in view the examination pattern controlled by the prescribed syllabus, have little choice in having to rely solely upon the prescribed 'text books' and 'further references', if any, of international law texts authored by foreign scholars.<sup>27</sup> They have, by way of compulsion, to 'structure' their class-room instructions and the students' home assignments in accordance with the plan set out in these so-called prescribed 'text-books'. An Indian student of international law may unconsciously think about international law in terms of the structure and perspectives contained in text-books authored by foreign scholars, without paying attention to the differing international policy, practice and concerns of different states.

#### IV. CONCLUDING REMARKS

Universities and Law Schools in India still pursue the international law curricula reflecting traditional narrow 'perceptions' and 'dimensions' of international law. The emerging varied horizons of contemporary international law and world affairs undoubtedly call for appropriate changes in the international law curricula to make them more relevant and to acquaint the Indian students with the complex, multifaceted aspects of emerging international law.

The international law curricula recommended and structured by the CDC for LLB and LLM do reflect some of these dimensions. But unfortunately the Indian Universities and Law Schools, exercising their so-called academic freedom in designing their courses, have, owing to existing realities', not shown equal concern and sensitivity to these curricula.

BCI, the statutory authority empowered to lay down the standards of legal education at LLB level, has, by combining 'international law' with 'human rights' in a single paper to be compulsorily taught at LLB, manifested, perhaps unconsciously, its traditional approach to international law. This has hindered the development of international law teaching at LLB level and consequently, advanced training, teaching

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27 The general practice in most of the Indian Universities is to prescribe a few books as 'text books' written by British or American authors. Popular text books of international law are: Starke, *Introduction to International Law*; Ian Brownlie, *International Law*, and Oppenheim, *International Law*. However, some of the Indian Universities, expect their students to acquaint themselves with Indian cases and materials and to perceive international law from the Indian perspective.



and research in international law at the Master of Laws level. Further, in the absence of either a statement of objectives or a catalogue major topics (or broad themes) which could harmonise the construction of international law courses by various law faculties, the various University academic bodies have designed international law courses according to their varied perceptions and understanding. These academic bodies, contrary to the expectations of BCI, have not given effect to the CDC's recommended course outline of international law. They are also, it seems, not significantly influenced by the AIU Consultative Group's model structure of international law curriculum.

Similarly, University Law Departments and Law Schools that implement Master of Laws (LLM) programme have evidenced a very cool response to the CDC's recommended international law course design. A decade after the CDC's recommendation, they continue to offer the traditional courses or international law at the LLM level.

Keeping in view the emerging trends of international law and its increasing importance and relevance in the current international affairs, it is high time for the BCI and the Universities to positively respond respectively to the appeal of the AIU Consultative Group by prescribing a separate paper on international law at LLB and by incorporating in their LLM Programme the CDC's international law course design.

The present writer, however, is well aware of the fact that the recommended advanced curricula require a battalion of 'alert'; 'committed' and 'expert' teachers of international law. In the emerging multifaceted and complex horizons of international law, these teachers will have to work not in a single *cursus honorum* but as a team of specialists. They will also have to make every possible effort to prepare qualitative literature on international law reflecting the Indian 'perspective' and 'practice' to inspire the interests of Indian students in studying the widening tentacles of international law and to sustain the such interest in the subject. It obviously requires a well-designed perspective plan. UGC and Indian Society of International Law (ISIL) will be of a great help in devising and executing the proposed plan.

Developing in Asia a Resource Centre for International Law, probably on the lines of the Max Planck Institute for Comparative International Law a, Heidelberg, to cater to needs of the Universities and Law Schools in the region would also be a welcome step in this direction. The proposed Centre could be financed by all the Asian States, but it is this writer's view that it be manned by a select team of acclaimed international legal scholars who are sensitive to, and familiar with, the specific needs and problems of Asian states. Among its projects,

such a Centre could undertake to develop qualitative educational and scholarly international law literature (in the form of treatises, case-books and compilation of material and State Reports) focusing on the Asian context and incorporating Asian perspectives. The establishment of regional networking of library resources in Asia, with a view to enhancing 'specialisation' in international law and 'facilitating' international law research, would indeed go a long way in servicing the needs of budding international legal scholars in India.