

Supreme Court, Division Bench
Honorable Justice Deepak Kumar Karki
Honorable Justice Hari Prasad Phyal

Order

Date of Order: 2077/12/3 (corresponding to 16 March, 2021)

075-WO-1114

Sub: Certiorari

Petitioner: Advocate Yagya Mani Neupani, grand-son of Kapilmuni Neupane, sone of Diwakar Neupane, resident of Taplejung District, Fungling Municipality Ward No. 9

Vs.

Respondent: Tribhuvan University, Kirtipur, Kathmandu

- Universities are generally considered autonomous and free from any external interference in order to maintain academic freedom for the best interests of their students, and courts typically do not intervene in matters concerning such autonomy. However, when it comes to legal education—which is inherently connected to the broader justice system—the teaching of law at universities becomes a matter of public and judicial concern. In such cases, courts may intervene to ensure the academic development and proper functioning of universities.

(Para No. 3)

- The Constitution and laws establish that all levels of the state in Nepal require skilled legal professionals in the fields of advocacy, justice and legal services, international forums, academia, and both governmental and non-governmental institutions. To meet this need, the strengths of Nepal’s legal education system must be sustained, while its weaknesses should be identified and appropriately addressed to ensure continuous improvement.

(Para No. 10)

- Legal education should be designed not only to produce a workforce capable of meeting global and transnational requirements but also to address the practical implementation of law in society (“law in action”) and related issues such as the challenges of the rule of law, poverty, access to legal aid, prevention of corruption, and lawmaking and implementation at local and provincial levels. In this context, the legal curriculum must be aligned with national needs, international standards, and pressing societal demands, focusing on transformative change in society in accordance with values and principles enshrined in the Constitution.

(Para No. 14)

On behalf of the Petitioner: Advocate Yagya Mani Neupani

On behalf of the Respondent: Learned Advocate Rajendra Khanal

Precedents Cited:

- Supreme Court Bulletin, Year 19, Unit 20, Magh 2, 2067, Supplement 446, pg. 66

Relevant Laws:

- Constitution of Nepal
- Tribhuvan University Act, 2049

Order

Justice Hari prasad Phuyal: Pursuant to Articles 46 and 133(2) of the Constitution of Nepal, a brief summary of the writ petition, which falls within the jurisdiction of this Court, is as follows:

Facts of the Case

The contents of the writ petition states as follows: that the petitioner, Yagyamani Neupane, a law student and practicing advocate, along with petitioners Aatish Karki and Bibindra Baral, are enrolled in the 3-year LL.B. program at Nepal Law Campus. All state agencies are required to operate according to laws, rules, and established procedures and law students are the future lawmakers, interpreters of law, and pillars of the justice system. Therefore, the study and teaching in law faculties must ensure quality, effectiveness, and accountability. If law students' education lacks quality, the legal knowledge they acquire and apply in the future could negatively affect the overall functioning of the state system. At Nepal Law Campus, the following programs are taught: 5-year B.A.LL.B., 3-year LL.B., 3-year LL.M., and 2-year LL.M. Clause 4 of the *Tribhuvan University Act, 2049 (1992)* grants this institution autonomy. Regarding the subjects of study, teaching, and research, as well as determining the qualifications and criteria required for admission, such authority pursuant to Clause 12 (d) of the *Tribhuvan University Act, 2049* is vested in the Academic Council. In accordance with the authority delegated by the same parent legislation, the *Tribhuvan University Organization and Educational Administration Regulation, 2050* was passed and enforced by the Tribhuvan University Assembly. As prescribed by the said Act and Regulation, the Tribhuvan University Academic Council is authorized to evaluate the infrastructure of campuses, and based on such evaluation, and pursuant to Rule 136 (c), (k), (l), (n) and (o), the criteria and number of student admissions are determined. Neither the respondent Campus Chief nor other respondents hold any authority to increase or decrease the admission quota fixed by the Academic Council. According to the aforesaid legal provisions, in the academic year 2074/075 B.S., the admission quota for the LL.B. program was set at 500 students. On 2075/01/20 B.S. (corresponding to 3 May, 2018), the quota for Nepal Law Campus was fixed at 500 students. However, due to pressure from student organizations, the quota was increased from 500 to 800, and eventually, all applicants were admitted without restriction. As a result, in the last academic session alone, 10,858 students were admitted to the first year of the 3-year LL.B. program at Nepal Law Campus.

When students are admitted in such large numbers, the classrooms, accommodations, and teaching staff become insufficient, resulting in many students being unable to attend classes on a daily basis. The enrolled students are thus deprived of obtaining education from the campus. If law students are produced without proper teaching and learning, it will lead to the collapse of quality and raise questions about the very expertise of justice and law. Pursuant to Section 8 (i) of the *Bar Council Act, 2050*, it appears that the Council has not played any role in this regard. Owing to the admissions carried out in the fiscal year 2074/075, Nepal Law Campus has now fallen into disarray. Ignoring educational resources, professors, classrooms, and manpower, and contrary to the standards set by the Academic Council, the respondent Nepal Law Campus, without considering the quota, announced an entrance examination form on 2075/12/28 (April 11, 2019). By letter dated 2075/12/25 (corresponding to 8 April, 2019), Ref. No. 473/2075/076, the respondent Nepal Law Campus was directed regarding admissions in the LL.B. program, and based on that directive, the Campus proceeded to open admission applications. Thus, if unlimited admissions are permitted, academic quality cannot be maintained, and such action would be contrary to Chapter 41, Rule 136 (c), (k), (l), (n), (o), and (p), as well as Article 20 (9) of the Constitution of Nepal. Therefore, the petitioner prays that the letter of the respondent Dean's Office dated 2075/12/25 (corresponding to 8 April, 2019), (Ref. No. 473) and the notice regarding the submission of entrance examination forms dated 2075/12/28 (corresponding to 11 April, 2019) be quashed by issuing a writ of certiorari under Article 133(2) and (3) of the Constitution of Nepal. Furthermore, the petitioner requests that a writ of mandamus be issued directing that admissions be conducted strictly on the basis of the quota fixed by the Academic Council on 2075/1/20 (corresponding to 3 May, 2018), after assessing the capacity of Nepal Law Campus, and only those students who qualify through competitive entrance examinations

be admitted. In addition, since the notice dated 2075/12/25 (corresponding to 8 April, 2019) contradicts the Academic Council's decision of 2075/1/20 (corresponding to 3 May, 2018), the petitioner also seeks an interim order to immediately suspend the implementation of the said notice, until final adjudication of this writ petition.

A show cause notice on 2076/01/30 (corresponding to 13 May, 2019) had been issued by this court which reads as follows: "What has transpired in this matter? Why should the order as sought by the petitioner not be issued? Provided there exists any reason and grounds for not issuing the order, the respondents are directed to submit their rejoinder within 15 days excluding the period of travel, either in person or through their representatives. It is hereby ordered to provide a copy of the writ petition and to issue summon in the names of the respondents with the case file to be submitted upon receipt of the rejoinder or upon the expiry of the prescribed limitation period. With regard to the interim order as sought by the petitioner, this Bench deems it appropriate to consider the matter in the presence of both parties. Accordingly, a hearing on the request for interim order is scheduled for 2076/02/03 (corresponding to 17 May, 2019) and the parties are hereby directed to be informed.

An interim order had been issued by this court on 2076/2/3 (corresponding to 17 May, 2019) which reads as follows: Although the Academic Council had fixed a quota of 500 students for admission into the First Year 3-year LL.B. course at Nepal Law Campus, under pressure from student organizations, the number was first increased to 800, and eventually as many as 10,858 students were admitted. As a result, Nepal Law Campus has become disorganized, lacking sufficient professors, staff, and classrooms. Nevertheless, on 2075/12/28 (corresponding to 11 April, 2019), the Campus announced the call for entrance examination forms. Referring to this context, the petitioner has also requested that an interim order be issued. Rule 136 (o) of the *Tribhuvan University Organization and Educational Administration Regulation, 2050* provides that the number of students to be admitted at each level shall be recommended to the Executive Council for approval. Likewise, Rule 133 (3) stipulates that, on the basis of the recommendation of the Academic Council of the concerned institute or faculty, the student intake number at each level shall be fixed and approval for admission shall be granted accordingly. Based on the said legal provisions, it appears that after 2075/01/20 (corresponding to 3 May, 2018), the Academic Council did not duly recommend the student intake number to the Academic Council for approval, nor is there any evidence in the attached documents showing that the Academic Council determined and approved the student intake number. Without first determining and fixing the number of students that can reasonably be admitted and taught based on educational materials, the availability of necessary professors, staff, the physical infrastructure and classroom capacity of the campus, the state of the library, security conditions, and the obligations required to maintain an educational environment, admitting thousands of students far beyond the campus's capacity naturally leads to disorder. As a result, students' constitutional right to education is undermined, they are deprived of the opportunity to receive quality education, and the very objective of producing capable law graduates becomes jeopardized. Therefore, within seven (7) days of receiving this order, the Academic Council of the Faculty of Law must recommend to the Academic Council, for approval, the number of students to be admitted to the 3-Year LL.B. First Year program for the academic session 2076/077 at Nepal Law Campus, strictly on the basis of the campus's teaching and learning capacity. Such determination must also ensure inclusion as envisioned by the Constitution and Tribhuvan University's Act and Regulations, while giving representation to Nepal's geographical diversity and prioritizing poor and meritorious students. Admission must be conducted only through competitive and fair entrance examinations under the condition that students remain full-time. Furthermore, the concerned competent authority must immediately decide and grant approval regarding the appropriateness of the recommended intake number. The entrance examination for admission to 3-Year LL.B., First Year program at Nepal Law Campus must be completed within one month. Accordingly, an interim order under Rule 49 (2) (a) of the Supreme Court Rules, 2074 has been issued in the name of the respondents.

A unified rejoinder submitted by Tribhuvan University, the Academic Council, and the Dean's Office of the Faculty of Law states as follows: Since Nepal has already adopted a federal structure; there will be a need for legally trained human resources at the federal, provincial, and local levels. Moreover, the Constitution of Nepal has conferred judicial authority upon local bodies, and the individuals exercising such authority must generally possess the ability to exercise judicial reasoning. This naturally requires a sound knowledge of law even at the local level. Consequently, the demand for persons pursuing legal studies must indeed be regarded as natural. As legal education is not purely technical in nature, in certain

circumstances, even if the student-to-teacher ratio becomes disproportionately high, it does not significantly affect the students. Under the Faculty of Law, postgraduate programs and the B.A.LL.B., program are structured so that enrolled students regularly participate in seminars, internships, and court observation activities as part of their coursework whereas, in contrast, LL.B. students have already completed an undergraduate degree, such mandatory activities are not as extensive. Therefore, the claim that an increase in the number of LL.B. students would necessarily compromise the quality and effectiveness of legal education is largely hypothetical. Decisions regarding how many students to admit, the curriculum to be followed, the grading system, and the passing criteria are all responsibilities of the university. The management of classrooms, accommodation, and personnel required for teaching and learning is the responsibility of the university. The university also decides student intake based on the human resource needs of the country. This falls squarely within the university's administrative domain, and it is generally not a matter for judicial intervention. With regards to the campuses under the Faculty of Law at Tribhuvan University, there has been no formal complaint from enrolled students regarding disruptions in teaching due to a lack of teachers or classrooms. Therefore, since no credible basis or evidence supporting this assertion has been provided in the petition, the petitioner's claim that the quality of education has deteriorated appears unsubstantiated. Since Tribhuvan University is an institution funded by the Government of Nepal, the university is dependent upon the government for providing budget necessary for establishing posts deemed necessary, developing physical infrastructure, and other essential requirements of the university. Despite limited resources, it is the university's obligation to conduct entrance examinations for those seeking admission and to engage them in teaching and learning. Based on the petitioner's argument, provided, admissions were to be limited strictly according to their suggested numbers, a serious question arises as to who would manage the admission and education of the majority of students who wish to pursue higher legal education. Since law is not a purely technical subject, the quality of legal education also depends on the effort and diligence of the students themselves. Therefore, the petitioner's claim that an increase in student intake would cause irreparable harm to the justice and legal sector is speculative. In *Kritagya Dhakal vs. T.U. Kirtipur et.al.*, writ petition no. 2074-WO-0979, the Supreme Court, on 2075/4/20 (corresponding to 5 August, 2018) rejected issuing an interim order regarding student admissions stating that the matter fell within the policy domain of the university. In the present petition, although an interim order was issued on 2075/2/3 (corresponding to 17 May, 2018), the Faculty of Law Academic Council, on 2076/2/15 (corresponding to 29 May, 2019), convened and determined the student intake based on the overall situation and forwarded its recommendations to the Academic Council for final approval. The matter is still pending discussion and decision at the Academic and Executive Councils. As the process for determining student intake is ongoing and will not affect the academic session, the writ petition should be quashed.

The rejoinder submitted by Tribhuvan University Central Department of Law states as follows: upon reviewing the petition, the petitioner has not provided any reason for naming this central department as a respondent. Law is not a technical subject, and in certain cases, colleges may admit students based on historical practices or traditions regarding student intake. Other matters mentioned in the petition will be addressed by the concerned authorities and the respondent requests the petition be dismissed for having been filed against the Department without justifiable cause.

The rejoinder submitted by Nepal Bar Council states as follows: that the Nepal Bar Council, established under the *Nepal Bar Council Act, 2050*, is the statutory body directly concerned with matters related to legal practitioners. It has no direct or indirect involvement in determining or managing the quota for admission to the 3-year LL.B. program at the Faculty of Law, nor has it been asked for or provided any opinion on this matter. Since the petitioners have not been able to specify any action by the Council that contravenes the Constitution or the law, the Nepal Bar Council, through its rejoinder to this Court, requests that the writ petition against it be dismissed.

Order

As per the cause list, the present writ petition has been submitted before this Bench, wherein the petitioner and advocate Mr. Yagyamani Neupane has argued as follows: Tribhuvan University is an autonomous institution established pursuant to the *Tribhuvan University Act, 2049*. The Academic Council pursuant to the *Tribhuvan University Act, 2049* and the *Tribhuvan University Organization and Education Administration Regulations, 2050*, has the authority to prescribe the qualifications required for admission at various levels of the University and to determine the basis of such admission. No other body other than

the Academic Council may increase or decrease the number of enrollment of students. For the academic year 2074/075, the Academic Council had fixed the quota of 500 students for the LL.B. three years program. However, due to pressure from the student organizations, as many as 10,858 students were admitted at Nepal Law Campus in that year into the first year of the three-year LL.B. program. With such excessive enrollment, there are no adequate classrooms, sitting facilities, or teaching faculty available, as a result of which students have been deprived of daily learning opportunities and access to quality education. The learned counsel further pleaded that, since such substandard education would diminish the competence of students pursuing legal studies and inflict irreparable damage upon the sphere of justice and law itself, this honourable court ought to issue an order of certiorari, together with any other appropriate directives, in the name of the respondents restraining them from engaging in such acts.

In response and on behalf of the respondent Tribhuvan University, learned advocate Mr. Rajendra Khanal submitted that, under the federal structure of the country, there exists a high demand for human resources educated in law. He further argued that, since the study of law is not of a technical nature, even in circumstances where the number of students exceeds the proportion of available teachers, it does not significantly affect the students. It was further submitted on behalf of the respondent that, under the Faculty of Law, the postgraduate level and the B.A.LL.B. programs are designed in such a way that students, once admitted, are required to regularly participate in seminars, internships, moot court practices, and court observations as part of the curriculum. However, such mandatory requirements are not imposed in the three-year LL.B. program, since students admitted therein are already graduates, having completed at least one level of higher education prior to admission. Therefore, counsel argued, the mere increase in the number of students enrolled in the LL.B. program does not necessarily render the education imparted by the Faculty of Law ineffective or lacking in quality. It was also argued on behalf of the respondent that matters such as determining the number of students to be admitted, prescribing the curriculum to be taught, fixing the total marks and the pass marks, and arrangement and management of human resources required for teaching and learning, all fall within the exclusive domain of the University. Hence, such issues cannot enter the jurisdiction of the court, and therefore, the writ petition ought to be dismissed.

The writ petition has been filed on the ground that, pursuant to the *Tribhuvan University Act, 2049*, and the *Tribhuvan University Organization and Educational Administration Regulation, 2050*, the University, without obtaining the approval from the Academic Council, had fixed a quota of 500 students for the LL.B. program for the academic year 2074/075. Under pressure from student organizations, however, as many as 10,858 students were admitted into the first year of the three-year LL.B. program at Nepal Law Campus. It was contended that such excessive enrollment, has resulted in insufficient classrooms, residential facilities, and teaching staff, depriving students of daily learning opportunities and quality education, thereby diminishing their competence and causing irreparable harm to the fields of justice and law. Accordingly, it was prayed that this honorable court issue an order of certiorari and other appropriate directives restraining the respondents from engaging in such acts. In response, the rejoinder of Tribhuvan University and the Academic Council indicates that, under the federal structure of the country, there is a very high demand for human resources educated in law. Since legal education is not of a technical nature, even where the number of students exceeds the proportion of available teachers, it does not significantly affect the students. Furthermore, students admitted to the LL.B. program are already graduates, having completed at least one level of higher education, and therefore, the mere increase in enrollment does not render the education imparted by the Faculty of Law ineffective or lacking in quality. It was also submitted that the University possesses autonomy with respect to determining the number of students to be admitted in its various faculties, prescribing the curriculum, fixing the total marks and pass marks, and arranging for the human resources necessary for teaching and learning. Consequently, the writ petition lacks merit and ought to be dismissed.

In view of the facts and submissions contained in the present petition, it appears that the following issues need to be resolved:

1. In the context of the autonomy of Tribhuvan University, can this court assume jurisdiction over matters raised by the petitioner concerning the process and number of student admissions?
2. Regarding the overall state of legal education in Nepal and the reforms necessary to achieve the objectives envisaged by the Constitution, what kind of directions, if any, ought to be issued?

3. Whether an order ought to be issued as sought by the petitioner?
2. While considering the first issue regarding the autonomy of Tribhuvan University, it is noted that the establishment of Tribhuvan University, as mentioned in the Preamble of the *Tribhuvan University Act, 2049*, was aimed at preparing the skilled human resources necessary for the comprehensive development of Nepal, and that the University was founded in the year 2016 B.S. Section 4 of the *Tribhuvan University Act* explicitly recognizes the University as an autonomous institution. As an autonomous institution, the University possesses the inherent authority to independently make decisions regarding the faculties required for teaching and learning, the curriculum to be offered in those faculties, the human resources and physical infrastructure necessary, and, where permission is to be granted to other campuses to conduct teaching under any faculty of the University, to evaluate in advance the adequacy of human resources and infrastructure before granting or denying such permission. The University also retains the authority to monitor affiliated campuses. Therefore, there is no dispute that Tribhuvan University has functioned as an autonomous institution with such inherent powers. In order to maintain academic freedom for the best interests of their students, universities are generally considered independent and free from any external interference. Accordingly, courts generally do not intervene in matters concerning such autonomy. However, since legal education imparted by a university is inherently connected to the entire justice sector, and affects the functioning of the country's judicial system, it appears that the court may, in appropriate circumstances, intervene to ensure the academic standards and advancement of legal education. In this matter, the court has entered into the subject to establish and interpret the ideals and standards of legal education (norm creation). While determining the number of students to be admitted falls within the University's autonomous domain, it does not confer the authority to admit an indefinite number of students in violation of established standards without any reasonable basis, or to undertake actions that would have a lasting adverse impact on the entire legal and justice sector. When exercising its autonomy, the University must ensure that its actions are grounded in clear legal and policy principles, and they are transparent and accountable, thereby upholding the academic governance. Therefore, in this context, the court cannot concur with the arguments presented in the rejoinder and by the learned advocates on behalf of the respondents regarding the university's autonomy.
3. While considering the second issue, as to whether or not any directions need to be given regarding reforms in legal education, it is deemed necessary to undertake further analysis, since the matters raised in this petition relates to the problems and transformation of legal education in Nepal. Although the present writ petition concerns the admission of students to Nepal Law Campus, it also necessitates a review of the current overall state of legal education in the country and related issues. Formal legal education in Nepal is generally considered to have begun with the establishment of the "*Shrestha Pathshala*" in 1962 B.S., which was intended to provide legal training to clerks (lower-level administrative staff) working in the justice sector¹. The *Shrestha Pathshala* appears to have conducted examinations for its students and, upon completion of the course, issued certificates. Its curriculum was based on the provisions of the *Muluki Ain* (Country Code) that was in force at the time. Subsequently, in 2011 B.S., a three-year LL.B. program was initiated under the affiliation of Patna University. However, since the curriculum of this program was designed in accordance with Patna University, it did not adequately reflect or incorporate Nepal's legal system and socio-legal context². The establishment of Tribhuvan University in 2016 B.S and the creation of Law Faculty³ are regarded as the milestone of legal education in Nepal. The LL.B. program was conducted under this faculty. Recognizing the need for an effective system of legal education that goes beyond merely granting degrees to also enhance general knowledge of law, the curriculum, institutional arrangements, and evaluation system were revised in accordance with the new education policy of 2030 B.S. Consequently, Nepal Law College was renamed Nepal Law Campus, and teaching was organized into a two-year certificate-level program (Certificate in Law) and a three-year diploma program (Diploma

¹ Bal Bahadur Mukhiya, "Contemporary Legal Education in Nepal and Relevane of its Contributions", Tribhuvan University Law Journal, Vol XV, No.1, July 2005, p. 15.

² Ibid

³ Kathmandu Nepal Law College (Nepal Law College was established in 2011 Asadh 17 (corresponding to 1 July, 1955) and Moran Law College in Biratnagar

in Law)⁴. These two programs were later renamed as the Proficiency Certificate in Law (PCL)⁵ and the Bachelors in Law (LL.B.)⁶ programs. After 2053 B.S., Tribhuvan University replaced the Bachelors in Law program with a three-year LL.B. program that could be pursued after graduation in other disciplines, thereby phasing out the Proficiency Certificate in Law (PCL) program⁷. Subsequently, with the aim of allowing students to enroll after completing class ten plus two, Tribhuvan University commenced the five-year B.A.LL.B. program on 18/10/2067 B.S. (corresponding to 1 February, 2011)⁸. At present, in Nepal, various universities and their constituent and affiliated colleges offer a five-year B.A.LL.B. (Bachelor of Arts and Bachelor of Law) or equivalent⁹ dual-degree program at the undergraduate level, as well as a three-year LL.B. program. At the postgraduate level, two-year and three-year LL.M. programs are conducted. Furthermore, law has also been introduced in the higher secondary education (10+2) in the academic session from 2073/74¹⁰.

4. Before analyzing Nepal's legal education system and deliberating on the reforms required therein, it is deemed appropriate to also discuss on the various aspects of the legal education systems of other countries. In order to pursue legal education in the United States of America, pre-law must be obtained prior to obtaining a bachelor degree in law. Thereafter, one becomes eligible to obtain a degree in Juris Doctor (J.D.). In addition, in order to be admitted to a law school or college, a candidate is required to appear in the Law School Admission Test (LSAT). Thereafter, upon evaluation of the results of this examination, along with the applicant's most recent academic records and based on merit, admission is granted to high-ranking listed law schools. In the United States, law is regarded as a highly complex and demanding discipline and before being admitted to the study of law, prospective students are subjected to rigorous evaluations through various methods. Law schools and colleges are recognized as "professional schools"¹¹ and are accredited by the American Bar Association¹². In addition to imparting theoretical knowledge, the curriculum of such schools and colleges places equal emphasis on practical components, such as clinical programs, internships in law firms, clerkships or assistantships in courts, and other experiential learning opportunities.
5. In the United States, the Bar examination is considered very rigorous. Each State conducts its own separate Bar examination in accordance with the guidelines of the American Bar Association. In most states, the examination lasts for two days and includes multiple-choice questions, essay questions, and work performance tests. In addition, to obtain an attorney's license, it is mandatory to undergo a character and fitness evaluation. The American Bar Association's objective in the bar examination is not merely to test the candidates' memory and knowledge, but also to assess their understanding of

⁴ Legal education has been found to have been imparted from four districts namely Kathmandu, Pokhara, Nepalgunj and Rajbiraj

⁵ After completing secondary education (SLC), students could enroll in the Proficiency Certificate in Law (PCL) program. This program was designed to produce mid-level legal professionals for the country. It included teaching both practical and theoretical aspects of law. Upon successful completion, graduates were eligible to obtain a pleader's license, allowing them to practice and argue cases in appellate courts. Criticism has been made that disregarding the capabilities of the workforce produced through this program—students who had completed secondary education and the PCL level—and expecting them to meet excessively high and ambitious standards is impractical. This program was phased out after 2052 B.S. and has not been operational since. International Commission of Jurists Nepal Section, *Legal Education in Nepal, Seminal Proceedings Report*, International Commission of Jurists, 1992, p.11-18, 35.

⁶ Ibid pp.32-34, 43-46.

⁷ Nepal Law Campus, 'A Brief History of Legal Education in Nepal', *Nepal Law Campus Official Website* available at <https://www.nlc.edu.np/>

⁸ Speech given by former Right Honorable Chief Justice Ram Prasad Shrestha on the occasion of commencement of 5-year B.A.LL.B. in Tribhuvan University Nepal Law Campus, Supreme Court Bulletin, Year 11, No. 20, Magh 2, 2067, Issue 446, pg. 66

⁹ Education on B.B.M.LL.B. (Bachelor of Business Management and Bachelor of Law) equivalent to B.A.LL.B. is also imparted. Bipin Adhikari et.al., *Towards Kathmandu University School of Law: A Preliminary Feasibility Study* (Kathmandu: Nepal Constitutional Foundation, 2012)

¹⁰ Additional information relating Law and Sports Science of Higher Secondary Education Council
<http://www.neb.gov.np/uploads/photos/hdCum2uexy160621100551.pdf>

¹¹ "Law schools in the US are categorized as "professional schools" along with medical, journalism and business schools." Please refer to John Flood, *Legal Education in the Global Context*, University of Westminster School of Law Research Paper No. (11-16), 2011, p.16.

¹² American Bar Association, Law School Accreditation, *American Bar Association Official Website*, available at https://www.americanbar.org/groups/legal_education/accreditation/

legal subjects, their ability to conduct rational analysis, and their capacity to provide logical solutions. The Bar examination should test the ability of an applicant to identify legal issues in a statement of facts, such as may be encountered in the practice of law, to engage in a reasoned analysis of the issues, and to arrive at a logical solution by the application of fundamental legal principles, in a manner which demonstrates a thorough understanding of these principles. The examination should not be designed primarily to test for information, memory, or experience. Its purpose is to protect the public, not to limit the number of lawyers admitted to practice.¹³ It appears that candidates who fail to pass the bar examination several times are not permitted to sit for the examinations repeatedly. Provided, a candidate fails more than three times, the candidate must undertake further study as determined by the Bar, or provide a clear explanation as to why they were unable to pass earlier and demonstrate and assure that such reasons will no longer exist before being allowed to reattempt the examination. In addition, with the aim of ensuring equal opportunity for all, provisions also exist to make necessary arrangements for candidates with disabilities to participate in the Bar examination.¹⁴ At present, countries such as Canada, Australia, and Japan, and other countries have also adopted a process similar to the American legal education system, recognizing the Juris Doctor (J.D.) degree as the standard for legal studies.

6. With regard to the legal education system in India, it is found that law is studied either as a three-year program after completing a bachelor's degree or as a five-year program after completing higher secondary education. There are also law universities in India where only legal studies are taught. The universities or colleges offering legal education must be accredited by the Bar Council of India.¹⁵ A major transformation in legal education in India is considered to have begun with the establishment of the National Law School of India University, Bangalore, in 1986, which was founded with the objective of creating model law colleges sponsored by the Bar Council. According to the founding professor, Dr. Madhava Menon, the purpose of establishing the National Law School was to provide competent legal professionals to the Bar and the courts, thereby making justice more effective and accessible to all. (The original objectives of setting up National Law Schools were to supply well-trained lawyers to the trial and appellate Bar as well as for judicial service so that access to justice is enlarged and the quality of justice for the common man is improved and strengthened.)¹⁶ At present, in India, there are more than 22 law schools established on the model of the National Law School, which conduct admissions through the Common Law Admission Test (CLAT). This examination evaluates candidates on English, general knowledge, reasoning, mathematics, and legal subjects. Only a fixed number of students who pass this test are admitted to pursue the five-year B.A.LL.B. program. The curriculum incorporates both theoretical and practical subjects. Practical components include exercises in writing and analytical skills, moot court practice, trial advocacy, case studies, and creative exercises. Additionally, before completing their studies, students are required to complete a mandatory internship at a law firm, organization, or institution of their choice. In other Indian universities, admission to law programs is allowed only after passing one of several entrance examinations, such as LSAT, MH CET, SLAT, or LAW CET. However, weaknesses have been identified in India's legal education system, including easy and unregulated entry, impractical

¹³ National Conference of Bar Examiners & American Bar Association Section of Legal Education and Admissions to the Bar, *Comprehensive Guide to Bar Admission Requirements 2020*, American Bar Association, 2020, p.ix.

¹⁴ "Without impairing the integrity of the examination process, the bar examining authority should adopt procedures allowing disabled applicants to have assistance, equipment, or additional time as it determines to be reasonably necessary under the circumstances to assure their fair and equal opportunity to perform on the examination. Ibid p.x

¹⁵ See, Bar Council of India, Rules of Legal Education, 2019, Rule 3 "The State Bar Council shall enroll as Advocate only such candidates, who have passed from University, approved affiliated Centre of Legal Education / Departments of the recognized University as approved by the Bar Council of India. The Bar Council of India shall notify a list of such Universities and the Centres of Legal Education prior to the commencement of each academic year in the prescribed manner and also put in website of Bar Council of India a list of universities and Centres of Legal Education as amended from time to time. Each State Bar Council shall ensure that applicants passing out from such a recognized Universities and of its approved affiliated law Centre of Legal Education are enrolled."

¹⁶ N.R. Madhava Menon, *The Transformation of Indian Legal Education*, Harvard Law School Program on the Legal Profession, 2012, p.8

teaching methods, unscientific examination procedures, outdated curricula, variability and diversity in the quality of law schools, a shortage of qualified teachers, and challenges in student placements.¹⁷

7. Pakistan, a South-Asian country offers a five-year B.A.LL.B. program for the study of law. Only universities accredited by the Bar Council are permitted to teach law, and admission to these programs requires candidates to appear in the Law Admissions Test (LAT). Until 2018, Pakistan also offered a three-year LL.B. program. However, pursuant to the order in the writ C.M.A. No. 1864 of 2010¹⁸, the program is no longer operational, making the five-year B.A.LL.B. program, which can be pursued after completion of 10+2 education, mandatory for studying law. The writ that discontinued the three-year LL.B. program issued several significant directives aimed at transforming legal education in Pakistan. These included: allowing legal studies only after passing the Law Admissions Test (LAT); requiring the Higher Education Commission to develop an appropriate curriculum; ensuring the qualifications and proper remuneration of law faculty; allocating adequate budgets to promote legal education; reforming the examination system to effectively assess students' skills and knowledge; and revoking accreditation of substandard colleges.
8. Considering legal education system in Nepal, and the academic human resources it produces, and the changes required therein, it can be observed that B.A.LL.B. program and 3 year LL.B. program are being conducted since 2009 A.D. under five and three universities respectively¹⁹. At present, the number of campuses offering legal education as well as the number of students pursuing law has comparatively increased²⁰. The growing enrollment in law colleges reflects the rising interest in the study of law. Factors such as globalization, the development of international relations, the expansion of commercial activities, and the adoption of the federal governance system in Nepal have contributed to an increasing demand for skilled human resources in the legal sector. Currently, the number of legal professionals in Nepal is insufficient²¹, and with the country's transition to federalism, this need has grown even further. This fact has also been highlighted in the 2077 B.S²². report on “**Legal Education Reform and Review**” prepared by the University Committee formed in 2076 B.S. to provide recommendations for the reform, review, and revision of higher legal education. As demand for competent legal professionals has increased, the need for quality legal education has been equally apparent. Nepal's *Fifteenth National Plan (Fiscal Years 2076/77–2080/81 B.S.)* has also incorporated the goal of “**developing the legal education and teaching system to be qualitative, competitive at the national and international levels, and responsive to the needs of society**”²³. Although human resources produced through the development of legal education in Nepal have been engaged in the fields of law and justice, in the changed context, it is necessary to pay special attention to ensuring that the graduates produced by the existing legal education system are adequate and capable of meeting the growing quantitative and qualitative demands of the legal sector.

¹⁷ Amit Dhall, “Legal Education in India: The Emerging Challenges and Prospects” in Dehradun Law Review (DLR), Volume 6, No. 1, 2014, pp. 53-54

¹⁸ C.M.A.No.1864 of 2010, Supreme Court of Pakistan

¹⁹ LLB and B.A.LL.B. programs are being conducted by Tribhuvan University and Purwanchal University, B.A.LL.B. program is being conducted by Kathmandu University and Mid-western University and LLB program is being conducted by the Open University.

²⁰ According to various data collected from various sources, the total number of students enrolled for B.A.LL.B. for the fiscal year 2078/79 was 1,214

²¹ Up to the 27th (Special) examination of lawyers, there were 448 Senior Advocates and 18,033 lawyers in Nepal.

²² In order to enhance the quality of legal education while safeguarding its importance and reputation, there is a need to ensure regular enrollment and teaching activities in the constituent and affiliated campuses of Tribhuvan University. It is necessary to systematize the student admission process in the undergraduate LL.B. and other programs under the Faculty of Law, thereby improving the quality of legal education and advancing reforms, reviews, and revisions in higher legal education in Nepal in line with the requirements of undergraduate legal education at the national and international levels. Furthermore, for students who have completed the Law subject at the 10+2 level, it has been deemed necessary to introduce a four-year LL.B. program. With regard to special (additional) programs being conducted under the Faculty of Law, the University has also decided to carry out necessary studies and consultations with stakeholders and submit a report along with suggestions. Accordingly, as per the decision of Tribhuvan University (at the Vice-Chancellor level), a nine-member high-level study committee was formed under the convenorship of Professor Mr. Purnaman Shakya.

²³ National Planning Commission, 15th National Plan of Nepal (F.Y. 2076-2080 and 081), pg. 297

9. The legal practices and culture of any State are reflected in the condition of its legal education²⁴. For a successful legal state, an effective legal education system that produces competent and ethical legal professionals is essential. The implementation of quality legal education not only enhances the functioning capacity of the State but also strengthens the people's right to access justice, as well as democracy and the rule of law. Legal education must provide students with the necessary theoretical, practical, and ethical knowledge. Only when law students develop reasoning skills, analytical abilities, a sense of social responsibility, and judicial activism can they become competent and skilled legal professionals, which is achievable solely through a quality and effective education system. Rule 3 (1) of the *Nepal Bar Council (Legal Education) Regulations, 2077*²⁵ regarding the objective of legal education, stipulates, that "...a person who has obtained a law degree shall be qualified to enter the legal profession as a competent, ethical, and responsible legal practitioner." Sub-rule (2) further provides that "the educational institution shall establish the level of learning outcomes in accordance with sub-rule (1)."
10. In line with the Constitution of Nepal, under the changing state structure, the need for legally knowledgeable personnel and service providers at the local level has been increasingly felt. On the one hand, it is necessary to assess whether programs such as the LL.B. and the five-year B.A.LL.B., have been able to produce human resources capable of working at the basic levels of the State. On the other hand, it must also be examined through the lens of legal education reform as to whether or not students trained in Nepal are capable of competing with those educated abroad. Upon evaluating the practicality of the education provided by our legal education system, as well as students' employability and their ability to perform effectively after completing their studies, it becomes essential to identify the need for improvements in curriculum objectives, teaching methodologies, and course content. Nepal's Constitution (2072 B.S.), which integrates principles such as federalism and inclusivity with the aim of achieving economic and social transformation, is relatively new. Concurrently, new legal codes have been enacted to address emerging demands for law reform. The primary goal of legal education is to produce skilled human resources capable of safeguarding the fundamental rights guaranteed by the Constitution, ensuring the effective functioning of the constitutional system, and facilitating the economic and social transformation envisioned therein. Moreover, new concepts and developments are emerging in various fields of law, particularly in international law, human rights law, commercial law, and environmental law. Involvement of international organizations and growth of inter-country trade have increased in Nepal. On the one hand, there is a need for legal professionals capable of formulating timely policies, representing Nepal in the international arena, and appropriately addressing the challenges and opportunities arising from globalization. On the other hand, there is also a need for personnel at the provincial and local government levels to carry out judicial functions and quasi-judicial activities, ensuring access to justice. At all levels of the State established by the Constitution and the law, there is a pronounced need for competent legal professionals in Nepal, spanning the practice of law, the judiciary and legal services, international forums, academia, as well as governmental and non-governmental institutions. To address this need, it is crucial to build upon the strengths of Nepal's legal education system, while identifying and effectively addressing its weaknesses to implement the necessary reforms. In the context of legal education, it is important to examine the following areas and consider potential improvements that may be undertaken:

- 1) **Legal Education Curriculum:** When examining the curriculum of legal education in Nepal, it is observed that in the first year of the B.A.LL.B. program, in addition to an introduction to law, subjects such as sociology, history, economics, and political science are also included. In contrast, the LL.B. program admits students who have already completed undergraduate studies in other fields, and therefore, no non-legal subjects are part of the curriculum. Competent legal professionals can be produced if the legal curriculum incorporates both theoretical and practical education. Rule 5 of the *Nepal Bar Council (Legal Education) Regulations, 2077* provides the following: (1) Educational institutions may design and

²⁴ "...law schools can provide critical intellectual guidance to the study of law, to the making of legal culture, to understanding issues of legal development and other important problems in society as well", See, International Legal Center, *Legal Education in a Changing World-Report of the Committee on Legal Education in the Developing Countries*, New York, 1975,p.51.

²⁵ This Regulation commenced from 2077/12/1 (corresponding to 14 March, 2021)

implement academic programs and curricula based on the objectives and priorities of their establishment. (2) Notwithstanding anything contained in Sub-rule (1), educational institutions offering a Bachelor's degree in law must mandatorily include the following subjects in their curriculum:

- (a) Professional responsibility and rules of professional ethics, values, and accountability,
- (b) Legal research and analysis,
- (c) Moot court practice and practical knowledge, and concepts and applications related to legal aid,
- (d) Internship at a court or legal institution for skill development.
- (e) These are indicated as the minimum standards for designing the legal education curriculum.
- (f) These are indicated as the minimum standards for designing the legal education curriculum.

These are indicated as the minimum standards for designing the legal education curriculum.

In the absence of regular classes and practical exposure, legal education that focuses solely on passing examinations by reading a few books and notes, produces incomplete and impractical human resources. Only an education system that emphasizes analytical study, teaching, logical reasoning, and skills development, supplemented with additional practical activities, can produce competent professionals. While providing legal education, students learning should not be confined to book-based knowledge; they must be encouraged to study within the context of societal complexities, critically evaluating issues and applying logical reasoning. It has been mentioned that "it is of utmost importance to cultivate critical assessment of society during the entire education process and transfer the responsibility for learning to students. The legal system should be taught in all its complexity and in touch with real examples, rather than in a linear manner as shown in the text books.²⁶" Traditional lecture-based classes should be accompanied by practical components such as drafting pleadings, moot court exercises, clinical legal aid programs, term paper presentations, court visits, and client counseling. While these components are mandatory in the B.A.LL.B., program, the curriculum and course materials of the program are observed to lack direct engagement with practical matters that are essential to legal practice. These include drafting documents directly related to legal proceedings such as complaints, rejoinders, writ petitions, claims/counterclaims in arbitration, as well as preparation of judgments and orders deemed necessary for the courts. Additionally, the program provides limited exposure to the procedures of court registries, the Office of the Attorney General, the Ministry of Law, and other judicial and quasi-judicial bodies. Given the complexities of society and the legal needs of citizens requiring assistance, it becomes evident that practical legal education (clinical law) is essential. Legal education must therefore be designed to include such experiential learning to adequately prepare students to provide legal aid and understand real-world legal challenges. Active legal aid clinics should be established under all colleges offering legal education. In this regard, the report of India's National Knowledge Commission states: "*Legal education must be socially engaged. This means that legal education programs must compulsorily expose students to the problems of poverty, social exclusion, social change, and environmental degradation through clinical legal education, legal aid programs, and through seminars and debates that sensitize and expose students to issues of social justice*²⁷." Furthermore, the report of the 3-Member Committee on Reform of Legal Education, constituted pursuant to an order of the Supreme Court of India in 2009, recommended the mandatory establishment of affordable and effective legal aid clinics in all law schools/colleges to facilitate the

²⁶ Kasap, J., Lachner, V., & Žiha, N, Through Legal Education Towards a European Education Area, *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 2018, p.268.

²⁷ National Knowledge Commission of India Working Group on Legal Education, *Report of The Working Group on Legal Education*, 2007, p.20.

transformation of legal education²⁸. Such initiatives enable law students to acquire practical knowledge, engage closely with society, understand the role of law in promoting social justice, and contribute to ensuring access to justice.

Following a study on legal education, the American Bar Association, in its 1992 *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* (MacCrata Report)²⁹, identified the fundamental skills required for a lawyer which are as follows: 1) Problem solving, 2) Legal analysis, 3) Legal research, 4) Factual investigation, 5) Communication, 6) Counseling, 7) Negotiation, 8) Litigation and Alternative Dispute Resolution, 9) Administrative skills necessary to organize and manage legal work, and 10) Recognizing and resolving ethical dilemmas. The report also emphasizes that all the essential skills required for legal professionals should be taught within law schools/colleges. In the B.A.LL.B. program, students are engaged in such practical education through various activities conducted within the college, including competitions, institutional visits, debates, and academic writing, and the curriculum is designed accordingly. Additionally, to develop presentation skills, international exposure, and, in particular, the art of argumentation students participate in moot court competitions organized within the college and at international levels. Active involvement in journal writing and international moot court competitions can further strengthen students' confidence in their ability to learn and apply legal knowledge effectively. From this perspective, the B.A.LL.B. curriculum appears to be largely effective. However, considering the national needs and the objectives of the Constitution, it is necessary to periodically update the curriculum by incorporating contemporary course materials as required. Presumably for this purpose, Rule 12 (1) of the *Nepal Bar Council (Legal Education) Regulations, 2077* also provides that the legal education curriculum must be reviewed and, if necessary, revised every five years.

Language holds significant importance in the study and practice of law. Legal documents and writings must be free from linguistic ambiguity, double meanings, or complexity, as even minor errors can have serious consequences. Legal language is technical and intricate, with its own vocabulary, terminology, and sentence structures (semantics), which necessitates careful attention to the correct use of technical terms, grammatical accuracy, word choice, and sentence construction. Consequently, linguistic proficiency is indispensable for everyone working in the field of law or justice. In today's era of globalization and trade, legal professionals in Nepal must be proficient not only in Nepali but also in the English language. Understanding legal language and possessing linguistic competence are indispensable for mastery of legal subjects. Therefore, before teaching other areas of law, it is necessary to familiarize law students with legal language and cultivate their sensitivity to language. Consequently, it is appropriate to include both Legal Nepali and Legal English as compulsory subjects in the law curriculum.

In the context of practical education, it is essential to ensure the interest and meaningful involvement of all stakeholders to make legal education and the legal profession more effective and of higher quality. As observed in countries such as India and the United States, apart from universities, it is imperative to have active participation from the courts, the Office of the Attorney General, the Bar Council, Bar Associations, and the Ministry of Law. It is appropriate to coordinate with these institutions to provide students first hand opportunities to learn and understand legal work and legal procedures. The curriculum should include content designed to enhance practical skills and professional expression through training, such as internships. The Australian Law Reform Commission has stated that "legal education must be reoriented 'around what lawyers need to be able to do' rather than remaining 'anchored around outmoded notions of what lawyers need to know'³⁰." It is therefore necessary to make internships mandatory in both the LL.B. and B.A.LL.B. programs, ensuring their effective implementation by arranging for students to gain practical experience in courts, government

²⁸ Report of the 3-Member Committee on Reform of Legal Education formed pursuant to the order of Supreme Court of India dated June 29, 2009 and October 6, 2009 in the Case of Bar Council of India v. Bonnie FOI Law College & ORS, Special Leave Petition (No.) 22337 of 2008, p. 51

²⁹ American Bar Association Section of Legal Education & Admissions to the Bar, *Report of The Task Force on Law Schools and the Profession: Narrowing the Gap*, 1992, p.135.

³⁰ Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System*, Report No 89, 1999, p288. cited in Joel Butler and Rachel Mansted, *The Student as Apprentice: Bridging the Gap Between Education, Skills and Practice*, Journal of the Australian Law Teachers Association, 2008.

agencies, law firms, non-governmental organizations, or other institutions engaged in the legal field. At present, in addition to law firms, certain government institutions such as the Ministry of Law, courts³¹, and the Office of the Attorney General also provide training to students. While this arrangement is commendable, a large number of students are unable to benefit from such programs. Therefore, it is appropriate to revise the curriculum to make knowledge and skills typically acquired through training accessible within the classroom, by inviting relevant personnel from these institutions to conduct regular sessions. Continuing the existing training programs, establishing a mandatory minimum duration³², and expanding and systematizing them would further ensure that practical training becomes an integral part of the curriculum.

- 2) **System of Legal Education:** In Nepal, the study of law is conducted under two different systems: the *semester system* in some colleges and the *annual system* in others³³. Although the semester system is relatively new in Nepal, it is widely adopted in most countries such as India, the United States, and the United Kingdom. With regard to legal education, the Bar Council of India has allowed law colleges to conduct classes either under the *semester system* or, if they wish, under the *quarterly system*³⁴. For instance, at the National Law School of India University, Bengaluru, the semester system is implemented in a quarterly format³⁵. Under this arrangement, there are three terms in an academic year, and in each term, four subjects are taught.

In the semester system, the prescribed subjects for a particular semester are studied over a period of six months, after which examinations are held. Students then proceed to the next semester where the study of new subjects commences. In contrast, under the annual system, the prescribed subjects for that academic year are studied throughout the entire year. Both systems have their own strengths. The annual system allows more time for the study of each subject, reduces the pressure and stress on students, and provides opportunities for extracurricular activities. However, this system is often regarded as a more traditional form of education. Since students are required to study the same subjects for the entire year, their interest and enthusiasm may gradually decline. Moreover, having to appear for examinations in multiple subjects simultaneously at the end of the year tends to reduce effectiveness and imposes an additional burden on students. In the semester system, each subject is studied within a few months, followed by an examination. This helps maintain students' interest in the subjects and keeps them actively engaged in their studies, as they are required to complete the prescribed courses within a fixed time frame. Since students are not only evaluated at the end of the year but periodically, they are encouraged to remain focused on their studies throughout the academic session. It has been observed that many countries around the world, as well as universities within Nepal, have adopted the semester

³¹ The Supreme Court of Nepal, through the *Directive on Court Internships, 2075*, has provided that students pursuing higher legal education should be: informed about court proceedings in accordance with the university curriculum; acquainted with the work, services, facilities, and service delivery of the courts to foster public confidence in the judiciary; and provided training (internship) in courts in an institutionalized, systematic, and regular manner. The directive also specifies the duties, expected conduct, and monitoring of participating students. Under this framework, some students are currently being offered internship opportunities in the courts.

³² In India, the minimum duration of internships has been prescribed as 12 weeks for the three-year LL.B. program and 20 weeks for the five-year B.A.LL.B., program. The *Rules of Legal Education, 2019* of the Bar Council of India state: "Each registered student shall have completed a minimum of 12 weeks of internship over the Three Year Course stream and 20 weeks in the case of the Five Year Course during the entire period of legal studies." Additionally, the State Bar Councils are required to prepare a list of senior advocates, with at least ten years of experience, who are willing to guide law students during internships. The Bar Council of India publishes this list on its website and makes it available to educational institutions. "The State Bar Councils shall be required to prepare a list of suggested Senior Advocates District-wise with at least ten years' experience who are willing to take under internship students during the vacation period. The Bar Council of India shall then publish the list of senior lawyers willing to guide students under internship on the website as well as make the list available with the institutions." (See: Bar Council of India, Rules of Legal Education, 2019, Rules 25 and 26)

³³ B.A.LL.B. program is conducted under the semester system at t Nepal Law Campus, as well as in the law colleges under Tribhuvan University and Kathmandu University. In other colleges, however, the program is run under the annual system. The LLB program is found to be conducted only under the annual system.

³⁴ "Semester system: The course leading to either Degree in law, unitary or integrated degree, shall be conducted in semester system in not less than 15 weeks (6 days a week)/18 weeks (5 days a week).....Provided further Universities will be free to adopt trimester system with appropriate division of courses per trimester with each of the trimester not less than 12 weeks in 72 working days excluding examination and seminars." Please refer to Bar Council of India, Rules of Legal Education, 2019, Rule 25, 26. Bar Council of India, Rules of Legal Education, 2019, Rule 10.

³⁵ Official Website of National Law School of India Univeristy, available at <https://www.nls.ac.in/programme/ba-llb-hons/>

system across most academic disciplines. Given the advantages of this system, it may also be considered an appropriate framework for legal education. In this context, conducting research on the potential effectiveness of the semester system in the study of law in Nepal would be worthwhile. Such an initiative would contribute to greater consistency in teaching methods and academic activities across law colleges through the standardization of the academic calendar. Adopting such a system would allow the scheduling of teaching and examinations in a predetermined manner, enabling graduates from any law college to plan for the Bar and Judicial Service examinations, pursue higher education in national or international institutions, and develop their professional careers. For this purpose, the University Grants Commission, law-teaching universities, and the Bar Council need to conduct necessary research and studies to identify the most effective path for the future of legal education. By granting universities the autonomy to design courses, including how to teach and study each subject according to the education system and curriculum, both students and professors can engage in the learning process more effectively and enjoyably.

- 3) **Number of Students:** Ensuring the issue of student enrollment is an important aspect of strengthening the legal education system. The matter raised by the petitioner in the present writ petition is also related to the number of students admitted. Problems arising from student numbers cannot be ignored. Tribhuvan University (TU) has clearly determined the intake of students in a program each year. Specific quotas have also been established for various groups, including indigenous communities, women, Madhesi, Dalit, persons with disabilities, disadvantaged groups, Muslims, Tharu, and others³⁶. While enrolling in colleges, it is mandatory to follow this system. To achieve the inclusive objectives of the Constitution, the university must mandatorily determine, for the campuses under its jurisdiction, the number of students to be admitted based on the college's physical infrastructure and the number of teachers and the Bar Council must play a monitoring role and see as to whether or not the provisions are being followed.
- 4) **Entrance Examination and Admission Process:** Just like other professional subjects, a competitive, inclusive, and transparent entrance examination system must be established for studying law as well. In most countries around the world, legal education is regarded as a professional and complex subject and in order to pursue law studies various entrance examinations have been implemented - such as **LSAT** in the USA, Canada, and Australia; **CLAT, AILET, LSAT** in India; and **CLT, LNAT** in the UK and some European countries³⁷. These examinations do not test a student's legal knowledge, but rather assess their aptitude for studying law. Most of these tests generally include subjects like English, Mathematics, Reasoning, Logical Ability, and General Knowledge.

In Nepal, Tribhuvan University (TU) admits students into the B.A.LL.B., program solely on the basis of an entrance examination. Most law schools/colleges under other universities also appear to conduct entrance exams. Similarly, admission for LL.B., programs, should also mandatorily be conducted through entrance examinations. However, the nature of the entrance exam and how students are evaluated are not clearly defined, and there is a lack of uniformity in the process. At law colleges under Tribhuvan University, the entrance examination typically carries and includes objective multiple-choice questions (MCQs), subjective questions, and creative writing in English to assess language proficiency³⁸. In contrast, Kathmandu University conducts an entrance test called KULSAT, which includes English, a legal motivation test, and an interview to evaluate the applicants. Likewise, law colleges under Purbanchal University and Mid-Western University conduct their own independently designed entrance examinations based on procedures determined by the respective colleges themselves.

In this context, the **Report on Reform and Review of Legal Education, 2077 (2020 A.D.)** recommends that the number of students admitted should be determined based on the physical and human infrastructure of the educational institutions. It also suggests that a minimum academic percentage should be required to fill out the application form; a minimum score of 40% should be

³⁶ Nepal Law Campus Official Website available at <https://www.nlc.edu.np/programmes/ballb/>

³⁷ The LNAT is used by universities to help them select people for their undergraduate law courses. The test doesn't test your knowledge of law or any other subject. Instead, it helps universities assess your aptitude for the skills required to study law add other citations as well." Please see Official Website of National Admission Test for Law available at <https://lnat.ac.uk/what-is-lnat/>

³⁸ Nepal Law Campus Official Website available at <https://www.nlc.edu.np/programmes/ballb/>

required to pass the entrance examination; at least 75% attendance should be mandatory in each semester; and a minimum of 45% marks should be required to pass the final examination. Additionally, the report recommends that legal studies should be conducted on a full-time basis³⁹. Therefore, in the context of Nepal, it is important to assess whether the current entrance examinations for studying law are able to fairly and accurately evaluate students' aptitude and interest in pursuing legal education. Moreover, it must be considered whether maintaining separate entrance examinations is appropriate, or whether it is necessary to establish a uniform entrance system, similar to that practiced in other countries. In this regard, universities, and more importantly, the Bar Council, must play a responsible role in reaching an appropriate and effective solution.

- 5) **Teaching Faculty:** An important aspect of legal education is the faculty members who teach law. The Bar Council and universities should periodically assess the quality and qualifications of the teaching personnel engaged in undergraduate and postgraduate legal education. It is deemed appropriate that any teacher teaching legal subjects should at least have a postgraduate degree and should also possess teaching experience or relevant experience in the legal field. In India's legal education system, programs such as LL.M., M.Phil. and Ph.D. are often pursued specifically to enter the field of legal teaching and research. Legal practice and legal teaching are distinct professions, each requiring different skills and qualifications. Keeping this in mind, India has distinguished legal practice and legal teaching as separate professions. Although there is no restriction in engaging in these professions simultaneously, the *Advocates (Right to take up Law Teaching) Rules, 1979* allows advocates to teach for a maximum period of three hours per day⁴⁰. Just as students are assessed by teachers, it is equally important that teachers are also evaluated by the students. Doing this, enables universities to understand the needs and expectations of students, and allows teachers to identify and improve upon their weaknesses, which in turn helps create a more conducive and effective learning environment.

It is also deemed necessary that teachers and professors involved in legal education are appropriately remunerated. In Pakistan, in a writ petition C.M.A. No. 1864 of 2010, issued in 2018 concerning legal education reform, emphasized that professors who leave legal practice to enter teaching should be provided not only with adequate remuneration but also a non-practicing allowance⁴¹. In comparison to other countries, the remuneration received for working in the academic field of law is comparatively low in Nepal. As a result, qualified legal educators tend to engage more in non-teaching activities, and are often unable to dedicate their full time and effort to teaching. There is a notable lack of full-time professionals involved in the academic field of law in Nepal. The Report on Legal Education Reform and Review, 2077, also notes that many law professors are simultaneously engaged in legal practice, limiting their time in teaching. Therefore, the report recommends that long-term plans should be made to provide necessary facilities and arrangements to encourage full-time engagement of faculty in legal academia⁴².

Legal education plays a crucial role in shaping the legal system of any State, and law professors are an integral part of the legal education. The perception and practice that individuals resort to teaching only when they fail to advance in their profession, job, or business must be changed, and in this regard, the universities and the Nepal Bar Council need to take an active and responsible role. Law teachers bear the responsibility of producing competent legal professionals and ensuring public's right to access justice. To ensure quality legal education and produce competent legal professionals, it is essential to identify qualified and experienced professors in the field. In order to enhance the overall quality of Nepal's legal education, law teachers must be provided with due recognition, respect, and adequate remuneration, and should be encouraged to serve full-time. It is also necessary for universities and the Nepal Bar Council to take appropriate measures and policies to engage full-time teachers and

³⁹ Committee formed to submit recommendation on reform and review of higher legal education: Report on Reform and Review of Legal Education, 2077, pg. 14-15

⁴⁰ Notwithstanding anything to the contrary contained in any rule made under the Act, an advocate may, while practising, take up teaching of law in any educational institution which is affiliated to a university within the meaning of the University Grants Commission Act, 1956 (3 of 1956), so long as the hours during which he is so engaged in the teaching of law do not exceed three hours in a day." *हेतुहेतु* Advocates (Right to take up Law teaching) Rules, 1979, Section 3.

⁴¹ C.M.A.No.1864 of 2010, Supreme Court of Pakistan, p.13.

⁴² Committee formed to submit recommendation on reform and review of higher legal education: Report on Reform and Review of Legal Education, 2077, pg. 21

professors in research and in conducting studies on various aspects of the state and its legal system and develop them as resource persons for legal analysis and judicial reform. Additionally, it is deemed appropriate to designate either LL.M. or M.Phil. program as a specialized academic discipline for producing law teachers, thereby strengthening the legal education framework in Nepal.

- 6) **Teaching Methodology:** In addition to the curriculum, teaching methodology is also a crucial aspect of legal education. It is essential for colleges and in particular professors to take an active role in determining which teaching methods are most effective for each subject. The study of law should not only impart subject-specific knowledge, but also aim to develop in students' logical and analytical thinking, ethical awareness, and a sense of belonging toward the legal profession and the judiciary. To achieve this, it is important for colleges and professors to adopt and implement effective and skillful teaching methods in legal education. At the undergraduate level, legal education is generally broad-based rather than specialized, and therefore includes a wide range of subjects. Depending upon the subject matter, the students' interests and levels of understanding may also vary. In any academic discipline, students not only have the opportunity to learn from their professors but also from their peers. Moreover, practical activities such as courtroom exercises and interactions with clients are often carried out in groups. Even after entering the legal profession, most tasks are typically performed collaboratively rather than individually. Provided, collaborative methods are used while teaching, the teaching-learning environment can become more dynamic and engaging. A student or a group of students may be involved in an in-depth research on a particular subject, and later they could teach or present their findings to the rest of the class. When students study together, make classroom presentations, and explain their concepts to their peers, it not only broadens their understanding but also fosters the development of important skills such as leadership, problem-solving, communication skills, and creative thinking. In some colleges in other countries, it is common practice to involve senior students in teaching or mentoring newly admitted students, as well as engaging them in moot court activities and project work. Such collaborative learning method not only help the students to achieve better academic results, but also enhances their interest in social work⁴³ and contributes to their professional development. Therefore, collaborative learning methodology holds a significant importance in legal education, and it should be incorporated into the teaching methodology of law colleges.

The Socratic Method is considered another effective approach in legal education. The Socratic Method of learning⁴⁴, based on questioning and inductive reasoning, is regarded effective for studying law. Rather than directly providing answers to a topic or problem, the Socratic Method poses questions that encourage students to explore and discover the answers themselves. During classroom learning, when any student is asked a subject-specific question at any moment, they are compelled to think on the spot, which reveals their actual understanding. As more questions are asked, that understanding may become stronger or becomes more evolved. This process compels students to engage in critical thinking⁴⁵. Lectures tend to confine students' knowledge within the scope of that lecture, whereas, teaching through questions can broaden their horizon of understanding and thought processes. Furthermore, the question posed through this method encourages students to think analytically, reason effectively, and engage in meaningful discussions⁴⁶.

In the study of law, this method is primarily used for discussions on deep and complex subjects as well as for the analysis of case studies. Law colleges in other countries have adopted this approach, and it is necessary for law colleges in Nepal to also consider incorporating this method. It helps develop logical thinking among legal professionals and broadens their knowledge. For this purpose, it is appropriate to engage the best talents who are not only proficient in legal subjects but also skilled in philosophy,

⁴³ Janet Weinstein et al, *Teaching Teamwork to Law Students*, Journal of Legal Education, Volume 63, Number 1 (2013) p.37-39

⁴⁴ The method of inquiry and teaching developed by the Greek philosopher Socrates is known as the Socratic Method. Socrates would ask his students questions continuously to understand their viewpoints and to encourage them to think logically, as long as no contradictions were revealed in their reasoning. When contradictions arose from the students' own answers, it prompted them to think more deeply and clarify their understanding.

⁴⁵ Stanford University, The Socratic Method: What it is and How to Use it in the Classroom, *Stanford University Official Website*, available at <https://tomprouf.stanford.edu/posting/810>

⁴⁶ Haris Delić and Senad Bećirović, *Socratic Method as an Approach to Teaching*, European Researcher. Series A, Vol.111, 10, 2016, p.561-562.

teaching methodologies, and related areas in legal education. In a developing country like Nepal, the role of law also includes contributing to social transformation. The legal professionals produced by law colleges must not only be skilled lawyers but also social activists. Owing to economic poverty, various forms of social discrimination, lack of awareness, and legal literacy, there exists a significant justice gap in Nepal. To reduce this gap, legal professionals must play and should play diverse roles. Law colleges need to approach topics such as human rights and social justice as both complex, and crucial, and accordingly develop an education system that reflects this. In some cases, although students enter legal studies motivated by the desire to ensure human rights and social justice, the traditional education system or other factors may lead them to become disillusioned or pessimistic. (A traditional law school curriculum can effectively extinguish students' fire in the belly for social justice.⁴⁷) To prevent such disillusionment, universities and other concerned bodies need to create appropriate curricula, teaching methods, and learning environments that maintain students' enthusiasm and commitment toward social justice. It is important for stakeholders, including the Nepal Bar Council, to actively work toward developing an education system that teaches legal professionals their responsibility to reduce disparities in access to justice and ensure social justice.

- 7) **Evaluation and Examination System:** In reviewing the examination system in legal education, it is evident that the existing model is primarily aimed at granting degrees. Within a fixed time frame, most universities offering legal education assess students mainly through written examinations conducted at the end of each semester or academic year. This system tends to emphasize passing exams often through reliance on notes, guidebooks, and other shortcuts, rather than encouraging students to be active in the classroom, engage in analytical study, or develop practical skills. As a result, the focus shifts away from deep learning and critical engagement with the subject matter. In addition to written examinations, seminar papers, term papers, and thesis are also to some extent used as basis for student evaluation. However, to truly support the development of writing and research skills, there is a need for a revised examination system that includes strict measures against plagiarism and copying, which must not be tolerated under any circumstances. In India's National Law Universities, a clear and effective evaluation system has been established through the *National Law School of India University, B.A.LL.B. (Hons.) Academic and Examination Regulations, 2020*. According to this Regulation, in addition to a 60-mark written exam at the end of each semester, student evaluation is also conducted through research-based project assignments and viva voce⁴⁸. Similarly, in Nepal, Section 15 of the recently introduced *Bar Council (Legal Education Regulations), 2077*, states "In cases where the relevant university's Act or Regulations do not clearly specify the examination procedures, the academic institutions offering legal education must conduct examinations as per the following provisions:"

- (a) External examination 60 percent
- (b) Internal examination 40 percent
- (3) Pursuant to Sub-rule (1), the discrepancy between the scores must not exceed 20 percent. Provided, the discrepancy in the external examination score exceeds 20 percent, the scoring of internal examination shall be reduced proportionally and adjusted accordingly.

Continuing an education system that prioritizes in earning a degree over the development of adequate legal knowledge, practical skills, and logical and analytical abilities may result in the public being deprived of access to competent legal professionals. Such a trend also demotivates diligent and honest students. Only an evaluation system that goes beyond traditional written examinations - one that also measures students through various other methods can ensure a fair and accurate assessment of their capabilities. When designing question papers and evaluating answer sheets, it is necessary to reform the practice where students can score high marks simply by memorizing and reproducing content from guides. The question-setting and evaluation process should be improved to ensure that rote-based answers no longer yield high scores. There is a need to evaluate whether such practices are being applied consistently across all universities and to expand and standardize methods that assess not just

⁴⁷ Vanita S. Snow, *The Untold Story of the Justice Gap: Integrating Poverty Law into the Law School Curriculum*, 37 Pace Law Review, 642, 2017, p. 643.

⁴⁸ National Law School of India University, *National Law School of India University Academic and Examination Regulation, 2020* available at <https://www.nls.ac.in/about/rules-and-regulations/>.

memory but actual legal knowledge and skills. Moving beyond traditional methods, Nepal should study best practices from leading law schools around the world to develop an effective examination system that avoids placing unnecessary burden on students while ensuring fair and meaningful evaluation. The Nepal Bar Council must take appropriate initiatives to implement such reforms.

- 8) **Infrastructure:** Adequate physical infrastructure is a fundamental prerequisite for effective teaching. With regards to the minimum physical structures and facilities that must be present in colleges offering legal education, Rule (1) of the *Bar Council (Legal Education Regulations), 2077*, prescribes the following standards: (1) classrooms must have adequate physical infrastructure with natural ventilation and lighting, providing a conducive environment for both teaching and learning. (2) there must be separate and appropriate restrooms for male and female students. (3) there must be provision for facilities such as a moot court room, seminar hall, and group discussion rooms equipped with suitable amenities. In this context, looking at the example of India, the Bar Council of India has provided a comprehensive list of physical infrastructure requirements for law colleges. These includes: classrooms that can accommodate 60 students at a time, a moot court hall, a common hall, computers with internet access, a library capable of seating at least 25 percent of the total number of students and sufficient and adequate reading and reference materials⁴⁹.

In Nepal's law colleges and campuses, there must be adequately spacious classrooms furnished with proper seating arrangements and equipped to facilitate learning through modern information technologies such as multimedia. Facilities for moot court practice, debate halls, and similar spaces should also be made available. Furthermore, well-stocked libraries with sufficient study materials and reliable internet access are essential. Where such infrastructure is lacking, necessary arrangements must be made to ensure their provision. For law students, the library serves as an essential laboratory⁵⁰. Therefore, it is imperative that university and college libraries are adequately resourced. Additionally, there should be seamless access to judgments from the Supreme Court and other courts to facilitate effective study and teaching. Access to both domestic and international legal libraries, as well as to comprehensive legal research databases such as LexisNexis, Westlaw, and HeinOnline—which house journals, articles, and collections of foreign case laws—should also be ensured. At present, such facilities and access are not adequately available in Nepal's law colleges. Hence, the Nepal Bar Council must assume a proactive and influential role in addressing these gaps and promoting access to these vital resources. “...as a practical matter, only the wealthy have access to a university education or to law school, we deny a large segment of society access to the tools it takes to effectively advocate for justice in our constitutional democracy.”

- (9) **Tuition Fees:** At present, legal education in Nepal is comparatively not expensive. The tuition fees for law programs vary depending on the college. Currently, in Nepal, the tuition fees for the LL.B. program range from approximately NPR 25,000 to NPR 60,000, while the B.A. LL.B. program ranges from around NPR 350,000 to NPR 1,000,000. In comparison, at the National Law School of India University, Bengaluru, the annual tuition fee under the general category for the first year is INR 288,855, and under the reserved category, it is INR 285,445 and tuition fees at other National Law Schools in India are also found to be in a similar range⁵¹. Similarly, in the United States, tuition fees for legal education have been increasing every year by USD 1,068 annually, and by 2021, the average cost of studying law had reached approximately USD 205,744⁵². Due to such high costs, legal education has become prohibitively expensive, creating a situation where only the wealthy can afford to pursue it. “...as a practical matter, only the wealthy have access to a university education or to law school, we deny a large segment of society access to the tools it takes to effectively advocate for

⁴⁹ Bar Council of India, Rules of Legal Education, 2019, Schedule III.

⁵⁰ Describing the importance of libraries in the lives of law students, Christopher Columbus Langdell, First Dean of Harvard Law School opines the following: “[L]aw is a science, and ... all the available materials of that science are contained in printed books. ... We have also constantly inculcated the idea that the library is the proper workshop of professors and students alike; that it is to us all that the laboratories of the university are to the chemists and physicists, the museum of natural history to the zoologists, the botanical garden to the botanists.” Christopher Columbus Langdell, The Harvard Law School, 3 *Law Quarterly Review* 123, 1887, p.124

⁵¹ National Law School of India University Official Website available at <https://www.nls.ac.in/programme/ba-llb-hons/>

⁵² Hanson, Melanie, ‘Average Cost of Law School’ 30 November 2021, *Education Data Initiative Official Website*, available at <https://educationdata.org/average-cost-of-law-school>

*justice in our constitutional democracy*⁵³.” Although, comparatively, the cost of studying law in Nepal is relatively low, in the present context where students’ interest in legal education is increasing, there is no restriction on private law colleges raising tuition fees, as a result, the cost of legal education may rise. If this is not regulated, the study of law may become inaccessible, and only those who are economically and socially well-off will be able to pursue it. If legal education becomes expensive, the legal profession itself will also become more costly, which could ultimately deprive ordinary Nepali people of access to justice. There is an importance of legal experts and the legal profession in government and non-governmental institutions, the international arena, and the business sector. However, it is even more essential for legal practitioners to play an active role in addressing the problems of ordinary people at the local level. Therefore, it is deemed necessary to establish proper standards and regulate the monitoring of tuition fees set by universities and law schools/colleges, as well as to impose limits to prevent unreasonable fee hikes. Likewise, based on the principles of inclusiveness and proportionality embraced by the Constitution of Nepal, it is necessary to draw attention as to whether or not opportunities for scholarships have been created, targeting economically disadvantaged students, in order to ensure access to the study of law for the poor and underprivileged sections of society. It is therefore considered both appropriate and indispensable for the Nepal Bar Council to assume a supervisory role in this regard.

- (10) **Role of the Nepal Bar Council:** With regards to legal education, the Bar Council in the United States is found to have a significant role. The American Bar Association grants accreditation to law colleges, partnerships in developing curriculum, and monitors law colleges. It is also found that the Section of Legal Education and Admissions to the Bar also operates under the Bar⁵⁴. For the purpose of promoting and coordinating legal education⁵⁵ in India, the *Bar Council of India, Rules of Legal Education, 2019* has entrusted the Bar with policy-making, structural, and supervisory responsibilities. In the context of Nepal, it is necessary that Nepal Bar Council play an active role in making the legal education effective, competent, and inclusive. With the objective of making the legal education “standardized and competitive” the *Bar Council (Legal Education Regulation, 2077)* has been enacted. Section 3 sets forth the objective of legal education, Section 4, 5 relates to curriculum, Section 7, 8 teaching and learning, Section 9 infrastructure and Section 15 provisions relating to examinations and has also prescribed provisions for inspection of educational institutions through various mechanisms. In order to carry out the prescribed responsibilities, Rule 22 of the said Regulation provides for the formation of a Legal Education Committee. Through these Regulations, specific duties and functions regarding legal education have been assigned to the Bar Council, thereby broadening its role. However, it is for the Nepal Bar Council to reconsider whether its existing Act, organizational structure, human resources, and budget are, in totality, adequate and capable of fulfilling its objectives and fundamentally improving legal education.

In the United States, alongside universities, law firms, government and non-government organizations, research institutions, major corporations, and think tanks also play an active role in legal education and the professional development of law students. In Nepal too, if various institutions engage with law colleges and students not only when they need legal professionals but from the very stage of legal education, it would create greater opportunities for students’ professional growth and foster stronger motivation to pursue their careers. For this purpose, the Council can, in coordination with such institutions, organize subject-specific and skill-based training, national-level moot court competitions to enhance debating skills, discussions with law students, and similar programs to further support student learning. Moreover, when students represent Nepal by participating in various international competitions and academic programs in the field of law, financial support from the concerned institutions would further encourage and motivate them. Therefore, the attention of the Bar Council and universities is also required in this regard. Such practices would enable the legal

⁵³ Leo P. Martinez, *Legal Education in a Modern World: Evolution at Work*, 9 Charleston Law Review 267, 2015, p.302.

⁵⁴ The mission of the Section of Legal Education and Admissions to the Bar, the ABA’s first section, is: To be a creative national force in providing leadership and services to those responsible for and those who benefit from a sound program of legal education and bar admissions, to provide a fair, effective, and efficient accrediting system for American law schools that promotes quality legal education, and to continue to serve, through its Council, as the nationally recognized accrediting body for American law schools.” Please also visit: American Bar Association Official Website available at https://www.americanbar.org/groups/legal_education/about_us/

⁵⁵ Bar Council of India, Rules of Legal Education, 2019, Preamble.

professionals produced in Nepal not only to fulfill the domestic demand of the country's legal sector but also to pursue further education in law at world-renowned universities. As a result, they would not be deprived of opportunities due to financial reasons, and qualified human resources capable of representing Nepal in important institutions, including the United Nations, would be produced. Therefore, in the context of legal education in Nepal, it appears necessary for the Nepal Bar Council to play a more effective role as a policy-making, supportive, monitoring, and advisory body.

To examine more precisely the strengths and weaknesses of the legal education system, it is necessary first to collect disaggregated data on which Nepali universities have produced how many graduates and in which sectors those graduates are employed; whether they have the qualifications to gain admission to top international law schools for higher studies; whether the graduates are based in Nepal or abroad; and to take into account ethnic, gender, and other forms of diversity. On the basis of such disaggregated data, a more effective analysis of different dimensions of legal education can be carried out. This would make it possible to evaluate the areas in which Nepal's legal professionals are lagging and those in which they are excelling. Accordingly, the concerned authorities should revise curricula where necessary, expand educational infrastructure, increase opportunities for extracurricular engagement, and design specialized training programs to strengthen the overall quality of legal education. Since universities and the Bar Council already possess concrete information regarding law students and legal professionals, and new data can be collected with relative ease, it is essential for the Nepal Bar Council to play a responsible role in coordinating with universities and other relevant institutions to ensure the collection of accurate data on the status of Nepal's legal human resources.

11. To promote the legal education system, it is deemed necessary to implement the aforementioned policy, practical, and structural reforms, as well as to improve perspectives toward the field of law. In the United States, based on established standards and excellence, *The U.S. News' Best Law Schools* prepares a list of law schools. These criteria are developed to identify the essential foundations for excellence in legal education, which include: quality assessment based on the opinions of professors, judges, and lawyers; student selectivity in admissions; placement success of graduates; and the availability of faculty, law school, and library resources relative to the student body⁵⁶. Similarly, in Nepal, the Nepal Bar Council needs to focus on these elements, along with the reforms mentioned above, and take necessary steps to enhance the quality of universities and colleges providing legal education.
12. Regarding the initial study of law, it appears that, based on the decision of the Higher Secondary Education Council in its meeting dated 2073/3/15 (corresponding to 29 June, 2016), admission to the higher secondary level (Grade 11) for the Law Group could be granted to students who obtained a "D Plus" grade in English, Nepali, and Social Studies in the former School Leaving Certificate (SLC) examination. This suggests a general perception that anyone can enter legal education⁵⁷. However, the view that law is a subject chosen as a last resort when admission to other streams is not possible still persists to some extent. In recent years, there has been an increase in students' interest in law, with capable and talented students choosing to enroll in legal studies. It appears that students are pursuing law not merely to obtain a degree but with the purpose of dedicating themselves to work in the legal field. This indicates a need to reconsider and revise the admission process for legal education. Regarding LL.B. studies, since the study of law is not purely technical, in some instances, even when the student-to-teacher ratio is high, it is reported by the respondent Tribhuvan University, the Academic Council, and the Office of the Dean of the Faculty of Law at Tribhuvan University that this does not significantly affect the students' learning outcomes. Although the study of law is not classified entirely as a technical subject, it is nonetheless a professional and vocational field. In many other countries, law is recognized as a specialized professional discipline. Legal language, writing, and procedural skills are inherently technical in nature. Formal education in law is not pursued merely to acquire knowledge of the subject; upon completing a law degree, one can obtain

⁵⁶ US News, Methodology: 2022 Best Law Schools Ranking, *US News Official Website* available at <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology>

⁵⁷ Amended information relating to admission of students at Higher Secondary Level for academic session 2073/74
<<http://www.hseb.edu.np/uploads/photos/YJNFMWUBwD160629100502.pdf>>

certification as a legal professional, practice law professionally, and engage in other related legal fields. LL.B. is not pursued merely to gain knowledge of law after completing a degree in another subject. After obtaining an LL.B., graduates are eligible, like those who have completed the five-year B.A.LL.B., program, to sit for the legal professional examination and engage in the practice of law. LL.B. graduates are also qualified to perform any professional functions for which B.A.LL.B., graduates are eligible. While the career path after graduation is essentially the same, the curriculum and teaching methods differ between these two programs. These programs do not operate entirely in parallel. The notion that a higher student-to-teacher ratio affects B.A.LL.B., students but not LL.B. students is incorrect. A student's personal effort primarily determines their competence, but the institution, its faculty, and teaching methods serve as shared indicators of overall quality.

13. Regarding the differences in human resources between LL.B. and B.A.LL.B., programs, the report on the reform and review of legal education submitted by the Committee constituted to provide recommendations for the improvement, review, and modification of higher legal education (2077) notes that the B.A.LL.B. curriculum, education system, and the graduates it produces are of good quality. However, in the LL.B. program, issues have been observed such as poor student attendance, a lack of practical legal subjects in the curriculum, and tendencies for students to pass examinations by relying on guides or capsule notes rather than genuine understanding⁵⁸. Since an LL.B. program requires prior completion of a bachelor's degree in another discipline, it does not necessitate introductory subjects like those included in the B.A.LL.B. curriculum. However, legal subjects in the LL.B. program should be designed to provide both in-depth theoretical and practical knowledge, similar to the B.A.LL.B. program. Legal language and writing are somewhat different from ordinary language and are inherently technical. Skills such as advocacy, client counseling, drafting legal documents, writing judgments, interpreting laws, drafting commercial and contractual documents, practical understanding of forensic science, and the formulation and interpretation of international treaties cannot be acquired merely through self-study or by listening to limited classroom instruction. For this purpose, law students must have the opportunity to engage practically in these activities and observe them closely. When a single teacher instructs thousands of students using a limited lecture-based method, it becomes difficult for students to acquire even theoretical knowledge. With a large number of students, there is little scope for classroom discussion, question-and-answer interactions, or for students to clarify concepts and gain additional understanding. Therefore, the argument that law is not a technical subject and that the number of students does not affect the quality of legal human resources is outdated. To ensure quality legal education, this perspective needs to be revised. Although a large number of legal professionals are produced through the prevalent LL.B. program, since these graduates primarily enter legal practice and the judiciary, relying on inadequately trained human resources for legal and judicial services would inflict long-term harm not only on the country but also on the public's right to quality justice. The LL.B. program admits mature students who have already completed a degree in another discipline and provides them with legal knowledge that is useful even in fields in which they are not directly engaged. However, it is necessary to consider the extent to which this program has contributed to the advancement and development of the legal sector.
14. Primarily, legal education appears to be viewed as a subject focused on memorizing legal concepts. While emphasis is placed on what is written in law books, little attention is given to the functional application of law in practice (*Law in Action*)⁵⁹. The selection of curriculum seems to remain traditional and formalistic. Legal education should not only aim to produce human resources capable of meeting globalization and international requirements, but it should also focus on the practical application of law in society (*Law in Action*). Attention must be given to issues such as challenges in the rule of law, poverty, and access to legal aid, corruption prevention, and lawmaking and implementation at local and provincial levels. The law curriculum should be aligned with national needs, international standards, and urgent societal requirements, and it should be oriented toward societal transformation in accordance with the values and principles enshrined in the Constitution.

⁵⁸ Committee formed to submit recommendation on reform and review of higher legal education: Report on Reform and Review of Legal Education, 2077, pg. 4, 14

⁵⁹ Hage, Markus Y. "Mainstreaming the Progressive Law Approach to the Legal Education." SSRN Electronic Journal n. available at https://www.academia.edu/27668060/Mainstreaming_the_Progressive_Law_Approach_to_the_Legal_Education

15. In the context of Nepal, the debate on separating and specializing legal education from legal practice has remained at a general level. The overall development of legal education is closely linked to full-time teachers and students. Law teachers and professors should be engaged in the study and research of national legal needs, along with involving students in such activities. Therefore, legal education should not only produce graduates capable of meeting national, international, and regional legal needs but also periodically evaluate how effectively it addresses societal requirements and the demands of the legal services sector. A formal platform for such discussions and assessments should be established, which could be facilitated by the Nepal Bar Council. Today, there is a clear need for a formal mechanism to provide guidance, consultation, and regular review regarding legal education policy and programs, textbooks and study materials, the state and required reforms in law teaching, and the teaching capacity of law faculty.
16. It is essential for legal professionals working in the fields of justice and law to possess in-depth knowledge of the subject. By maintaining the strengths of the B.A.LL.B. program and implementing the reforms outlined in the preceding paragraphs, the program can produce graduates capable of effectively and efficiently meeting Nepal's demand for legal human resources. Students in the B.A.LL.B. program begin full-time legal studies immediately after higher secondary education. During the initial years, the curriculum provides foundational knowledge, equipping students with the essential learning required to comprehend more advanced and complex legal subjects in the later years of the program. The duration of study in the LL.B. program is relatively short, and most students have already completed a degree in another discipline or are engaged in some profession, as a result, they do not study law as intensively or systematically as B.A.LL.B. students. Skilled and competent legal professionals cannot be expected to be produced by undergoing a superficial study in the LL.B. program. In the United States, legal studies are undertaken only after completing a four-year undergraduate degree. Legal education in the US is highly rigorous; admission is allowed only after careful evaluation, and students are required to engage full-time in three years of intensive legal study. In the context of Nepal, the LL.B. program does not follow such standard. Currently, even within the B.A.LL.B. program, innovative and multidimensional dual-degree programs such as B.Ec.LL.B. and B.B.M.LL.B. are being introduced into Nepal's legal education system. By modifying and expanding the B.A.LL.B. program according to national needs and slightly increasing annual student intake, it is possible for graduates of this program to adequately meet the demand and requirements of Nepal's legal sector. In this context, the necessity of the LL.B. program is likely to diminish over time. Similarly, in the United States, following the introduction of the reformed and more effective J.D. program, the LL.B. was phased out. Therefore, at present, reforms and improvements should continue in both the LL.B. and B.A.LL.B. programs. However, once the B.A.LL.B. program consistently produces a sufficient number of well-trained legal professionals; consideration should be given to gradually phasing out the LL.B. program.
17. As long as the LL.B. program remains in operation, it is necessary to introduce practical and contemporary subjects into the curriculum. Attendance requirements should be made mandatory with clearly defined percentages, allowing exceptions only in extraordinary circumstances. Admission should be based on a compulsory entrance examination, and the number of students admitted should be predetermined. It is also essential to require students to complete mandatory training or internships. Additionally, the LL.B. program should include activities such as court visits and trial advocacy to ensure practical exposure. Furthermore, in both the LL.B. and B.A.LL.B. programs, it is necessary to determine a fixed number of students, make entrance examinations compulsory, and review the curriculum to include contemporary and practical subjects. Elective courses should be expanded, and the examination system should be modernized to test actual skills and knowledge. Regarding physical infrastructure, classrooms and other facilities should be proportional to student numbers, libraries should be stocked with sufficient study materials, and modern resources such as internet access, moot court rooms, and other technologies that make learning more engaging and effective and should be made widely available.
18. Legal education in Nepal has also commenced at the higher secondary level (+2), with the curriculum including subjects such as Constitutional Law, Procedural Law, and Nepal's Legal System. During the time when the Faculty of Law offered the certificate-level (I.L.) program,

graduates from this program were able to enter the judiciary at the non-gazetted entry-level positions. Currently, a significant gap in human resources produced by such programs has become evident, highlighting the continued need for such foundational legal education. The practice of beginning legal studies immediately after Grade 10 is uncommon in other countries. Given the limited number of law colleges in Nepal, students who wish to study law at the higher secondary level (+2) may be unable to secure admission to government colleges, and if they cannot afford private colleges, they risk being deprived of opportunities for higher education altogether. This issue requires serious consideration. Additionally, the program should be further analyzed to determine whether it effectively produces the human resources required by the judiciary. The Nepal Bar Council should also examine how graduates from such programs are utilized, the original purpose of introducing law at the +2 level, and the policies that should be adopted if this practice is to continue, thereby contributing to the modification and improvement of the program.

19. Turning to the third question of as to whether or not an order should be issued as requested in the petition, Tribhuvan University is an autonomous institution. However, exercising autonomy does not mean that the institution can act without any limitations. Its operations and the execution of its functions must be carried out in a manner consistent with the law, for which the *Tribhuvan University Act, 2049*, provides the legal framework. Sections 5(a) through 5(i) of this Act specify the functions, duties, and powers of the University. In this way, the law establishes clarity in the University's operations, ensures that its functions are carried out in accordance with legal provisions, and validates the propriety and legality of actions undertaken by the institution.
20. Section 5(h) of the *Tribhuvan University Act, 2049*, also grants the University the authority to make necessary rules. Exercising this authority, Rule 136(c) of the *Tribhuvan University Regulations on Organization and Academic Administration, 2050*, provides that the Academic Council shall determine the minimum qualifications, selection criteria, and procedures for student admissions. Under this provision, without the recommendation of the Academic Council, no campus is legally permitted to admit more students than the number prescribed. On 2075/12/25 (corresponding to 8 April, 2019), the Faculty of Law at Tribhuvan University published a notice regarding admissions for the first year of the three-year LL.B. program for the academic year 2074/75. Following this notice, campuses including Nepal Law Campus published their own admission notices. On 2075/1/20 (corresponding to 3 May 2018), the Tribhuvan University Academic Council recommended that, based on their physical infrastructures, Nepal Law Campus and other campuses for the first year of the three-year LL.B. program, could admit a maximum of 800 and 500 students respectively. After this date, no formal recommendation appears to have been submitted to the Executive Council regarding approval of the number of student admissions at Nepal Law Campus or other campuses. For the academic year 2075/076, no recommendation appears to have been made by the Academic Council regarding the number of students to be admitted to the first year of the three-year LL.B. program. This contradicts the legal provisions under Rule 136(o) of the *Tribhuvan University Regulations on Organization and Academic Administration, 2050*, which require submission of a recommendation to the Executive Council for approval of the number of students to be admitted at each level. Rule 133(3) further provides that, based on the recommendation of the Academic Council of the relevant institution and faculty, the number of students for each level shall be determined and admission approval granted accordingly. Rejoinders from Tribhuvan University indicate that campuses affiliated with the Faculty of Law, including Nepal Law Campus, admitted more students than the approved number relative to their physical infrastructure. Thus, it is deemed that Tribhuvan University did not comply with the aforementioned legal provisions when admitting students to the first year of the three-year LL.B. program for the academic year 2075/076.
21. When considering whether it would be appropriate to prevent students from continuing their studies who were admitted to the first year of the three-year LL.B. program for the academic year 2075/076 at law campuses in numbers far exceeding their capacity, without complying with the aforementioned legal provisions and without the recommendation of the Academic Council, it is noted that the petitioner in the writ petition sought an interim order to halt such actions, including the notice published on 2075/12/25 (corresponding 8 April, 2019) by the Faculty of Law, Tribhuvan University. Regarding this request, on 2077/2/3 (corresponding 16 May, 2020), this court observed that under Rule 136(o) of the *Tribhuvan University Regulations on Organization and Academic Administration, 2050*, the number of students to be admitted at each level must be recommended to

the Executive Council for approval, and under Rule 133(3), the number of students to be admitted is to be determined based on the recommendation of the Academic Council of the relevant institution and faculty. According to the official records, after 2075/1/20 (corresponding to 3 May, 2018), no formal recommendation was submitted by the Academic Council to the Executive Council for approval of student intake, nor did the Executive Council grant approval. Enrolling thousands of students beyond the capacity of the campuses, without determining and approving a suitable number based on academic materials, faculty availability, staff strength, physical infrastructure, classroom capacity, library resources, security, and the maintenance of an academic environment, will cause disruptions in the campus, undermines students' constitutionally guaranteed right to education, deprives them of quality learning opportunities, and hinders the goal of producing competent graduates. Consequently, an interim order was issued in the names of the respondents under Rule 49(2) (a) of the *Supreme Court Rules, 2074*, directing that within seven days of receiving the order, the Academic Council of the Faculty of Law shall recommend to the Executive Council the number of students for the first year of the three-year LL.B. program for the academic session 2076/077 at Nepal Law Campus. This determination must be based on the campus's actual capacity to conduct teaching and learning, include full-time study conditions, reflect inclusivity and representation of meritorious and underprivileged students in accordance with the Constitution and the Tribhuvan University Act and Regulations, and be conducted through a competitive and transparent entrance examination. The relevant authority shall promptly approve the recommendation, and the entrance examination for the first-year intake shall be conducted within one month. From the rejoinders of the respondents' legal representatives, it is evident that the Faculty of Law under Tribhuvan University conducted student admissions for the academic year 2075/076 in accordance with the interim order. During this period, students were admitted to and have been studying in the three-year LL.B. program at campuses affiliated with Tribhuvan University, and nearly two years have already elapsed as of the date of this order. Similarly, in a related writ petition filed by petitioner Kritiyagya Dhakal against Tribhuvan University (074-WO-0979), this Court, on 2075/4/20 (corresponding to 5 August, 2018), held that student admissions fall under the policy domain of the University and did not issue an interim order and a final decision was rendered on 2075/7/20 (corresponding to 6 November, 2018). In this context, issuing a writ based on the notice published on 2075/12/25 (corresponding to 8 April, 2019), will adversely affect students who have already been admitted and completed approximately two-thirds of their studies, and thereby disrupting their ongoing education, is not considered justifiable and therefore, it is not justifiable to issue a writ.

22. Therefore, based on the grounds and reasons discussed above, the subject matter sought in the present writ petition regarding student admissions has already been addressed, and therefore there is no justification for issuing the writ and accordingly, the writ petition is hereby dismissed. However, the issues raised in the petition concerning Nepal's legal education system are of a serious nature and have the potential to affect the overall justice system. Addressing these issues is essential to produce competent human resources for Nepal's law and justice sectors. To promote quality legal education, the Nepal Bar Council, in consultation with universities, has a role in recommending and monitoring appropriate academic standards for the entire justice sector and the legal profession. Accordingly, a directive order is issued in the name of the Nepal Bar Council and its Chairperson, who is also the Attorney General, to carry out the following actions:
 - a) A high-level study committee shall be formed through the Nepal Bar Council to examine and recommend improvements in legal education, including curriculum, the system of legal studies, student intake, entrance examinations and admission procedures, teaching personnel, assessment and examination systems, infrastructure, and tuition fees. This committee shall conduct consultations with relevant stakeholders to ensure that the reforms achieve the objectives envisioned by the Constitution, foster an inclusive and pro-disadvantaged character, meet national needs, and provide legal education capable of competing internationally. The committee shall initiate the reform process promptly, ensuring that legal education contributes to safeguarding the state and protecting the public's right to justice, and shall report the progress to the Judgment Execution Directorate of this court.
 - b) As universities have been conducting separate entrance qualifications and examinations for admission to law programs according to their own preferences, a uniform standard to maintain consistency and quality shall be established immediately. A unified entrance examination shall be

developed and arrangements shall be made to implement or cause to implement this system across all universities.

- c) The Higher Secondary Education Board shall be directed to establish the eligibility criteria for admission to the law subject at the higher secondary level (+2), stipulating that only students who have obtained grade of C or above, or an equivalent score, shall be eligible for admission.
- d) Until the aforementioned studies are completed, the following arrangements shall be made regarding the legal education system and infrastructure, in coordination and collaboration with the universities:
 - 1. The minimum infrastructure requirements of the educational institution shall be determined, and based on the available infrastructure and teaching personnel, necessary arrangements shall be made to determine the appropriate number of students.
 - 2. In accordance with the changing global context, the existing legal education curriculum shall be revised or caused to be revised to include subject matter that balances theoretical and practical aspects, in order to produce competent and competitive human resources necessary for Nepal's law and justice system.
 - 3. Taking into account studies already conducted, to ensure uniformity in the legal education system, arrangements shall be made to gradually implement a consistent study system - whether annual, semester, or any other system across universities and their affiliated colleges
 - 4. An evaluation shall be conducted to assess whether the legal human resources produced from the secondary level (+2) meet the needs of the justice sector, and, based on the findings, the necessary reform process shall be or cause to be initiated through the Secondary Education Board.
- e) Necessary amendments shall be made or cause to be made to the existing legal framework of the Nepal Bar Council to ensure appropriate organizational structure, human resources, and budget, and to establish a dedicated division responsible for legal education, equipped with adequate senior personnel and financial resources.
- f) A directive order has been issued in the name of the Vice-Chancellor of Tribhuvan University to take the necessary measures to establish Nepal Law Campus, as the parent institution of legal education in Nepal, as a specialized teaching institution for legal studies.

For the implementation of this order, a copy of the order shall be provided to the respondents through the Office of the Attorney General. Additionally, a copy of the order shall be submitted to the Judgment Execution Directorate of this court, and it is hereby ordered to remove the case file from the registry and submit the case file to the Record Section.

Consenting with the above Opinion:

Honorable Justice Deepak Kumar Karki

Bench Officer : Navaraj Joshi/Shiva Bahadur Thapa

Research Assistant : Shreya Sanjel (Section Officer)

Dated: Year 2077 of the Month of Chaitra Date 3 Day 3

(Corresponding to Year 2021 of the Month of March Date 16 Day 3)