

## DYNAMICS OF DEVELOPMENT: LEGAL EDUCATION AND DEVELOPING COUNTRIES

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President Kenneth Kaunda, in an address to the Law Society of Zambia observed: "I consider law to be perhaps the most important of all instruments of social order because without it the whole structure of society can but inevitably collapse. . . . It is the means by which order within society is maintained and society itself preserved. The law . . . is not something independent of society it regulates and purports to preserve . . . it would be presumptuous for anyone to criticise the concepts and rules of some other society without the deepest knowledge and understanding of the history, traditions and present day character of that society . . . law of any society must inevitably reflect the character and needs of that society. . . . Neither the character nor the needs of any given society can remain static, and if the law is to fulfil its proper function it must keep pace with the changes . . . if law is to be an effective instrument of social order it must be a stabilising influence, but it must be flexible and it must be progressive, else it will hinder society in its progress and development instead of advancing it . . . ." He then referred to the role of lawyers in working "out solutions to the social and economic problems of society" and in altering the [(received or imposed colonial)] law ". . . to the needs of the type of society Zambia aspires to be. The lawyer," he added, "is better fitted than anyone else to work out solutions to the social and economic problems of society. . . . He must understand the society if he is to be able to participate in the development and advancement of the economic and social well-being of its members. . . . The developing countries—and Zambia is no exception—have a tremendous need for increasing the number of lawyers. . . ." <sup>1</sup> Speaking at the eleventh graduation ceremony of the University of Zambia he pointed out that a national university "like the University of Zambia should be seen and act as a true national resource". Referring to the role of the university he observed ". . . problem definition and clarification demands expertise", if the university is to pursue an "active search for effective solutions to national problems . . . university needs to be seen to be actively involved in community problem-solving", the majority of its courses must "provide a meaningful link between the world of learning and that of real work . . . ." <sup>2</sup>

Copious reference to the views above imply a meaningful message to social scientists and more particularly the lawyers who have been described as social engineers. It is not rhetoric which is contained in the aforesaid views. It reflects and transmits a challenge to lawyers and the academicians of developing countries. The term "revolution" might present phantoms to some in the light of aberrations in the functioning of the political system in some of the developing countries of the world. The term rightly understood, however, means a revolution of rising expectations, revolution for development from a backward rural subsistence economy to a self-sustained industrial economy catering for rapid economic growth based on distributive justice—a task which brooks no

delay and in which the lawyers of the developing world have a tryst with destiny in being active participants in and carriers of change rather than being "court-centric", rule-oriented elites largely on the pattern of their counterparts in the developed countries of the world. One of the strategies for this colossal task facing the developing countries is integrated development encouraging activities which would improve the living conditions of faceless victims of mass poverty and improve their living conditions. The training aspect is most important in any development process. If an institution could help train the right personnel to manage the new economic structures then it would be doing half the job in this exercise. The sociologist, the anthropologists and economists have, relatively speaking, produced personnel as well as studies regarding this aspect. The lawyers have, by and large, hitherto, taken a back-seat in this process in the developing world. Herein lies the task that faces legal education educators in the developing world. It is within these parameters that it is proposed to offer certain tentative perspectives about "dynamics of development, legal education and developing countries".

### **Law, legal institutions and development**

Though need has long been felt and expressed by scholars in the developing countries of Asia, Africa and Latin America to plan and relate legal education to the developmental needs, no systematic empirical, in-depth study of the problem has been made barring attempts initiated in the United States since the 1960's though even there "monumental ignorance or misunderstanding exists about the relation between law and development", nor have "original concepts and insights" or an action-oriented research programme been formulated.<sup>3</sup> The data is scarce and information scanty. This makes the task of any authentic survey difficult. The report of the International Legal Centre pertinently points out the need for a "drastic rethinking of objectives and methods of legal education"<sup>4</sup> more so because law is a sociological phenomenon inevitably conditioned by the indigenous contemporary social context, and felt and desired social needs in changing plural societies of the developing world wherein planned and systematic empirical studies must precede the articulation or presentation of aims as well as models of legal education attuned to the task of dynamics of development. Generalisations are neither proper nor desirable and yet there are a good many elements which developing countries share in common and which may be tackled through legal development and by tailoring legal education to achieve the desired ends in the light of certain common perspectives and strategies. Tools and techniques will have to be modelled to local needs and means for "community problem solving, problem definition and clarification and field component" in the system of legal education are likely to vary from country to country.

Massive poverty, monumental economic under-development lacking even the skeletal infrastructure for economic development and growth is but one of the legacies of colonial rule which developing countries share in common. The colonial regime in developing countries having a pluralistic society left a system of government based on an alien system of rules,<sup>5</sup> with an embryonic educational system estranged from local needs and vastly unprepared in terms of men and personnel who could take up and successfully handle the challenging task of development.<sup>6</sup> The "legal legacy was one of extreme complication, fraught with internal conflict . . . without considerations of its suitability

to local conditions".<sup>7</sup> In short, the colonial contribution was merely a veneer on an indigenous political, cultural and social structure which is of direct importance to the lawyer.<sup>8</sup> The received law was unprepared to meet the emerging needs of development.<sup>9</sup> Inevitably strains consequently appeared after independence and in most cases widened still further the gap between the law and the people and worked as a brake on developmental needs.<sup>10</sup> One of the primary tasks, therefore, was the "strengthening of law and legal institutions" which constitute "a precondition for planned economic development, social change and for having a modernising and innovative impact on the social order"<sup>11</sup>—more so because neither the indigenous systems of customary law addressed themselves to any of the important issues of development<sup>12</sup> nor was there an effort or an indigenous body of legal literature which examined law in a developmental socio-economic context.<sup>13</sup> The system of legal education replicated foreign models ill suited to the indigenous milieu and the professional legal community was committed to the values of received legal culture.<sup>14</sup> In most of the developing countries of Asia, Africa and Latin America, however, law must be used as an instrument of change and development. In such countries, therefore, a heavy burden is laid on law, the legal system and institutions of legal education and research of discharging an effective role in the process of planned and directed all-round development.<sup>15</sup> This warrants a comprehension of the importance of the role of law in the overall process of development and of the measure and means by which this can keep pace with the fast emerging ongoing needs.<sup>16</sup>

### **Dynamics of development: problems and perspectives**

The First and the Second United Nations Development Decade commencing respectively in 1961 and 1971 were aimed at accelerating the process of development in developing countries so as to remove poverty and provide programmes as well as assistance for achieving this objective. Due to a complex set of factors, not excluding the unwillingness of the developed countries to provide adequate material support and complacent reliance by the developing countries on such support, the results hitherto achieved have been far from satisfactory.

The 1965 mid-point report of the First Development Decade attributed failure in this effort, without providing any empirical analysis of reliance of planners in the developing countries on western models and techniques of growth, to the following causes: (i) political instability; (ii) indifference of the upper classes in these countries; (iii) very rapid growth of population; (iv) changes in disease control which enabled the mortality rate to decline without a preliminary increase in the standard of living; (v) the unfavourable land tenures; (vi) caste and class systems which hindered the spread of knowledge and know-how among the agrarianists; (vii) general apathy connected with extreme poverty; (viii) education and literacy; (ix) suspicion or excessive dependence on government; (x) doing or planning in capital cities far from knowledge or contact with the people; (xi) lack of 'extension class' of persons and leadership; (xii) abnegation of responsibility by government on American or other foundations and U.N. activities; and (xiii) conflict of the changes with religious values.

All these factors place the causes of failure largely on internal factors, implicitly pin-point the lack of will on the part of carriers and consumers of change and develop-

ment, the absence of effective tools and techniques, not excluding law and lawyers estrangement of the elites from the people, and a colossal ignorance or apathy of people's values, urges and mores.

A 1979 World Bank survey report pointed out that a good many countries of the third world had slipped to a position of "fourth world", were about hundred years behind the developed countries in terms of per capita income—a disparity which is fast increasing with the increase in population without a corresponding increase in the net per capita income which will be further accentuated as trade deficits increase following a rise in the prices of petroleum products.<sup>17</sup> This is obviously an alarming situation. It is not our purpose here to go into the economic and related international aspects of the problem. What we are primarily concerned here is with the role of law and hence of legal education in the developmental process. It would, therefore, contribute to the clarity of treatment if we broadly articulate the concept of development and, in this context, the concept and role of law since that would enable us to deal with certain salient aspects of the role of law—men who are the products of law schools and legal education. As mentioned earlier, since most of the developing countries have adopted law as a means for facing the post-colonial challenge of planned, progressive and forward-looking change, law has to be an ally of economic and social development. The 1961 Director's Report on the Harvard International Legal Studies Programme rightly pointed out: "At this date there is a general awareness of the world-wide importance of the rapid and orderly economic development of the newly changing societies of Latin America, Africa and Asia . . . on the record, there are good reasons to anticipate that the contribution of the legal profession can be of major importance, since a legal framework will be essential to the tasks, and its execution will involve legal processes."<sup>18</sup> Law and development are interdependent—the one influencing the other or fostering changes in the other.<sup>19</sup>

"Development can be thought of as a type of social change—more particularly . . . programmed social change. From this point of view law and development is merely a sub-topic of law and society" and "represents merely a special area or corollary of the study of law and society".<sup>20</sup> In the context of the pressing problem of developing countries development may primarily, though not exclusively, be viewed in terms of "economic growth", transformation of a subsistence economy to a monetized and integrated economy with a high degree of specialization and exchange, growth in the G.N.P. (Gross National Product) and allied notions.<sup>21</sup> Development viewed in this perspective—more so of the G.N.P. and the free interplay of market economy—may result in another G.N.P. Gross National Poverty, and hence, more correctly viewed, development must have a humanistic aspect with distributive justice and equitable sharing of the growth of the economy so that benefits of economic growth (and of the legislations enacted for it) percolate to the grass roots for the equitable benefit of all segments of the population. This is a multilinear history and culture specific process of development as distinguished from the homogenous, unilinear, eurocentric model of development.<sup>22</sup> Development may also be viewed as a much wider conception encompassing not only economic development but also political development and as an instrument of revolutionary changes in the indigenous traditional milieu.<sup>23</sup> The International Legal Centre Report on Law and Development pin-points the fact about many conceptions of development floating around in the massive

literature on 'Development'. It says: "It is hard to secure agreement on its meaning. Development can be seen as a self-conscious social process by which man in society attempts to mould the conditions of existence . . . used in this sense 'development' implies a word in which some nations are more, and some less 'developed'. . . . We did not try to reach agreement on a comprehensive definition of development or an analysis of the causes of under-development. . . . We did, however, agree that 'development' as we use the term, is not a unilinear evolutionary process in which poor nations necessarily repeat the historical experiences of the wealthier societies. . . . We also use it to refer to the attempts to enrich and deepen the cultural traditions of the LDCs (Less Developed Countries) spread the unique benefit of these traditions to wider groups within the society, and to seek new and original paths for the realisation of a better life for the people of these countries. The term development in a broad sense used here means the activities through which LDCs seek to realize their own values and secure goals they define for themselves."<sup>24</sup>

Without entering any further into the semantic debate and the multifarious cluster of views and conceptions projected in the writings of learned writers we would rest content by adopting the view that development implies rapid socio-economic planned change designed to foster a 'collective spirit' in the people of a particular society, creation of aspiration frontiers' i.e. dissemination of appropriate values, generation of 'self-reliance' and 'participatory democracy' and elimination of Gross National Poverty through economic and technological development processes operated on an indigenous, not imported or grafted, growth models."<sup>25</sup>

What then is the role of law in this context of development model? The Law and Development Report of the International Legal Centre rightly cautions that "if 'development' is a vague and general term, 'law' is scarcely more precise when applied to describe social process in 40-50 separate countries with very different cultural and historical traditions."<sup>26</sup> Burg<sup>27</sup> in his learned article refers to some of the prevailing notions of law as "rules promulgated and sanctioned by the state", "rules which highlight legal institutions and professions", "substantive rules and remedial systems" emphasizing courts and administrative agencies, law as an "instrument", a "tool", "a precision tool", a "mechanism", "machinery", "nuts and bolts" "vehicle", an "acceleration", a "brake", "filter" and "harness". By and large, all these present a technocratic view of law. This was not the manner in which the founders of modern social theory like Durkheim, Marx and Weber regarded law. They gave sustained attention to law as a social force in arriving at the understanding of social development. Karl Lewellyn called the technocratic conceptions of law as "bare bones", whose task is to make group living possible.<sup>28</sup> In such a conception, law may not appear to be of any fundamental significance in understanding or planning social change and development. Friedmann takes a wider view of law as an aspect of culture and goes beyond the structure and substantive dimensions of law which embraces attitudes and values affecting behaviour related to law and its institutions. Law thus viewed becomes both a cause as well as result of social change and development.<sup>29</sup> Ocran, while referring to Friedman, emphasizes the role of law "to set off, monitor or otherwise regulate the fact or pace of social change", "as a conveyor of new values, and therefore, a tool of education and law reform". He refers to the 'ideographic' and 'nomothetic' approach to law—the former analysing and evaluat-

ing specific piece of legislation and the latter dealing with hypotheses, and correlations between variables that enter into the study of law and society, exploring law, culture and development so that law discharges the function of social engineering to bring about not only 'incremental' change but also 'comprehensive' and revolutionary change.<sup>30</sup> Recent serious attempts by law-men like Trubek and Gallanter, Unger, Balbus, Hurst and others to provide some theoretical basis for the relation of law to development have still to be related to the current debate on alternative conceptions of development.<sup>31</sup> Law, in the context of development has been better described "as an aspect of social organisation . . . not just social technology . . . as a system of norms and values . . . as a cultural system . . . (which) reflects, reinforces and often mutates and innovates ideas and values . . . a system of social relationship, roles, statutes and institutions . . . interacting . . . between and among the makers, interpreters, enforcers, compliers, breakers and beneficiaries of law"<sup>32</sup> and, one may add, between the institutions which produce a cadre of law-men who have to handle and effectuate this purpose and role of law. The received law or the common law which the developing countries got as a legacy of colonial rule is ill suited to meet this challenging task as Lord Denning has observed<sup>33</sup> and as the Indian Supreme Court observed in telling terms in *Ratanlal*:

The imperatives of independence and the jural postulates based on the new value system of a developing country must break off from the borrowed law of England received sweetly as justice, equity and good conscience! We have to part company with the precedents of the . . . period tying our non-statutory area of law to vintage English Law christening it 'justice, equity, and good conscience'. After all conscience is the finer texture of norms woven from the ethos and life style of a community.<sup>34</sup> "The three-fold jural imperatives are: sloughing off the colonial legal forms and values, reforming the legal system, procedural and substantive, to be people oriented and socialistic and engineering a human order with roots in the past but adapted to the rapid changes of the society seeking transformation from the primitive to the technological. Aware law is the competent midwife of the Human tomorrow . . . (it must) discipline power into delivering justice. We must never forget that law is a value—reality not value—neutrality . . . Living law has to be thus value loaded and goal oriented . . . where law is static and suppressive in a cosmos which is democratic and dynamic legality becomes illegitimate and archaic and the legal system broken and ignored by the community . . . Living law has to be thus value loaded and goal oriented . . . where law is static and suppressive in a cosmos which is democratic and dynamic legality becomes illegitimate and archaic and the legal system broken and ignored by the community. . . . The dynamic rule or law (implies that) economic growth without distributive justice is a dehumanised solution."<sup>35</sup>

## Development and the role of lawyers

With the aforesaid concepts about development and law which we have emphasized the context of dynamic development of the developing nations of the third world the prime concern is to develop the human resources which can further these objectives. There are many and equally important components when we view it in terms of training personnel for the gigantic task of development. Our concern here, however, is specifically with one class of persons *viz.* law-men or lawyers and the institutions from which this cadre of law-men emerges. We would term them as Development lawyers—a term which is now a current coin in law and development writings.

We are conscious of the fact that divergent views have been expressed about the role of lawyers, law-men and legal education as means for promoting<sup>36</sup> or hampering<sup>37</sup> development in the third world. We are, however, of the considered view that starting from the premise that we did, namely, that by and large the developing countries have adopted law as an instrument of social and economic change a new breed of lawyers with adequate training and perspectives and an activist response to the goals of social justice and development is needed. Functional radicalism warrants a reorientation, reorganisation and revitalisation of legal education and research—a task which assumes tremendous strategic significance in the implementation of planned socio-economic change. The International Legal Centre Reports strengthen this proposition.<sup>38</sup> The contrary view about the role of law-men and legal education is a hangover of their role in the colonial period when those who controlled the political and legal mechanism and the elites who supported them for their own self-interest had an entirely different objective and perspective.

### **Legal education in developing countries**

The system of legal education and research, the curricular pattern, and pedagogy in the colonial period was almost a carbon copy of western models developed in entirely different socio-economic-cultural context. These have outlived their utility, whatever marginal utility they had. The courses did not reflect the needs of the society and the training of law-men was based on doctrinaire teaching geared to an adversary setting catering for litigation for the fortunate few at the cost of social justice to the deprived many. Even in advanced countries like the United States it has been felt that: “. . . there are lawyers to-day who have attained great public recognition with little vestige of an understanding of the very institutions they are sworn to protect, lawyers whose conduct has been deliberately directed towards undermining the confidence in persons in high office by resort to means which are entitled to no ethical justification in any country . . . legal education as a whole has too long shirked its responsibility to see that lawyers such as these are not let loose upon the American people. . . .”<sup>39</sup>

University law schools in the developing countries are not ‘indigenous institutions’, they have sought to ‘replicate foreign models’ influenced by the “received culture of education” “which has limited the outlook, content, methods, research and continuing development” and have not viewed legal education “from the perspectives of developmental policies and needs” in the national context.<sup>40</sup> By and large legal education has received a low priority tag in terms of allocation of resources and of its place in the process of educational planning with the result that law schools are not “geared to innovative plans, new objectives and assessed program performance” nor the “academic programme has, in many ways, kept pace with the development of other law-related disciplines . . . .”<sup>41</sup> In India, to take only one glaring example, there has been a mushroom growth of institutions imparting legal education most, though not all, of which have an extremely high enrolment number, limited physical facilities, inadequate and ill-equipped teaching faculty and extremely poor library facilities with the result that there has been a proliferation of law graduates ill-equipped with legal learning, professional or academic or socially relevant, and are unrelated to manpower needs.<sup>42</sup> It seems, though adequate

and authentic data is not available, that a good number of countries in Africa and some of the other nations in the developing world have taken or are taking steps to avoid facing this undesirable situation.

The teaching materials prescribed by the law schools in developing countries are text books and case books by foreign authors reflecting "existence of different legal culture and different conditions in society". There is almost a conspicuous absence of: (i) "indigenous body of legal literature which examines law in a developmental socio-economic context"; and (ii) "localized teaching materials, which in turn require research into the local environment of the law".<sup>43</sup> Text books and teaching materials produced in developing countries follow largely the traditional British pattern of doctrinal treatises imparting straight law learning—the lawyer's law—of a strictly legalistic nature with almost little or no reference to social objectives, needs and perspectives or to highly relevant and basically important references to allied non-legal materials.

Case books and teaching materials on the American model are at best poor versions of an approach which is under critical attack in the country of its origin. A start has yet to be made in the direction of writings which emphasize the needs of local society and national context. The primary task that faces the law teachers in the developing world is to undertake a massive effort, preferably a collective effort in each country, to produce teaching materials which provide not only analytical treatment of the lawyer's law but which also stimulate critical thinking, refer to materials other than court decisions and statutory provisions, which provide a glimpse into the historical perspective, contemporary needs, national objectives behind the particular piece of legislation and throw light on the extent to which law in books has kept pace with law in action and has in operation succeeded in achieving the objectives sought to be achieved. There has been an explosion of legislation, often hastily conceived and ill-drafted, based on aspirational goals unsupported by empirical data as well as institutional and structural devices. These viewpoints have got to be injected in teaching materials and text books and have to be supplemented by the teacher in the teaching-learning process. All this would demand considerable effort, talent, dedication, money and a determined resistance to the all too tempting consumer demand for books, nutshell readings, examination guides—in short capsule learning. It is an all important task since the curricular design, the pedagogy and the examination pattern would depend on this basic structure of teaching material. Reference to non-legal material is of immense importance not only for making the teaching material localized but also for inspiring a continuing interest in the learning process. No amount of dedicated effort and labour on the part of the teacher, in so far as it is there, can supplant the need of such materials and text-books because of the constraints of the teaching time and the need for letting students think for themselves and then react in the learning-teaching process in the classroom.

The pedagogy by and large suffers from what Paulo Friere calls 'narration sickness' and 'banking concept' in which the teacher is an active participant and the students are passive recipients. Paulo Friere observes:

"The teacher talks about reality as if it were motionless, static compartmentalized and predictable. Or else he expands on a topic completely alien to the existential experi-



ence of the students. His task is to 'fill' the students with the content of his narration—contents which are detached from reality, disconnected with the totality that engendered them and could give them significance. . . . Education becomes an act of depositing, in which students are depositories, and the teacher is the depositor. Instead of communicating, the teacher issues communiques and 'makes deposits' which the students patiently receive, memorize and repeat".<sup>44</sup>

This brand of pedagogy is "doctrinal and didactic", "formalistic", "lacking in developmental perspectives" which tends to curb "systematic and critical appraisal" of the socio-legal reality and tangible development problems in the specific cultural context.<sup>45</sup> The present state of the teaching materials and this type of teaching imparts a history of ideas from Plato to Pound, Socrates to Julius Stone and others unmindful of the wealth of ideas contained in the writings of national leaders, writers and academicians in related fields having a direct bearing on the law and its operation in the national milieu. A law student may know all about the land reform legislation, consolidation of holdings, abolition of bonded labour, the Industrial Development Act,<sup>46</sup> the customary law of succession,<sup>47</sup> to mention only a few examples, but almost nothing about their operational impact and result—orientation or about the uninformed resistance to reform which these well intentioned enactments seek to introduce. In short it has little or nothing to offer to students to think about, what President Kaunda termed as, "problem identification" or "community problem-solving".

The other method initiated by Prof. Langdell in the United States, viz., the "case-method" whose different variants have been termed as "problem posing method" "Socratic method", etc. has found its advocates in some of the developing countries though the exclusive use of case-method has been subjected to considered and severe criticism in the country of its origin. It does arouse the spirit of inquiry, stimulates thinking but operates on rather a narrow canvas in the process of case-to-case learning. It has been said that on the Socratic grindstone students are "acutely narrowed into an excusory discipline which took no account of the sociology, economics or politics which lay behind every problem . . . it is only by coincidence that students developed . . . humanism as they struggled with doctrines hidden in case book dicta. . . ." The method "isolated the law from the living context of the society".<sup>48</sup> The recent trend in the United States appears to be that legal education is moving in the direction of jurisprudence . . . placing more emphasis upon the concept of *Jus* law, as distinguished from that of law as a body of precepts and rules detached from such orders as the historical and sociological reality.<sup>49</sup> Apart from the critical second look which scholars in the United States itself are having on this method of teaching, countries in the developing world lack "intellectual and material pre-requisites" in terms of equipment of teacher motivation and critical imagination on the part of the students, finances involved in building up adequate library facilities and in preparing case-books and reading materials in each subject. The inevitable conclusion to which we can, therefore, reach is that American and other transplants simply could not do and we have to find some home-spun ways of pedagogic change<sup>50</sup> as so to avoid the pitfalls of divorcing legal education from legal philosophy, from undue empiricism in the law and from the relationship of the law to the social and economic forces which produce it.<sup>51</sup>

### **Curricular design and field-work component**

Curricular design or format reflects the perspective about law and objective of legal education, it may also reflect the constraints of finances and manpower. At the same time it may be a projection of lack of imagination or endeavour which overhauling, redrafting or modernising the curricular, so as to make it socially relevant, involves. Whatever be the objective of a particular law school there is no escape from the fact that technocratic legal education—straight law learning—is vital though it cannot and should not pre-empt the entire field. Hence there is no dichotomy between the professional and non-professional aspects of the philosophy of legal education. It can also not be ignored that it is not difficult to restructure or modernize the curricula. It has, therefore, been rightly said that “most intractable problems of improving legal education relate more to implementation than planning curriculum. Very little can be achieved through a better selection and organization of courses if the methodology continues to be inadequate, if the library is insufficient and research non-existent . . . if the final objectives sought are not reviewed in the perspective of the local environment”.<sup>52</sup> Keeping this in view a survey of the curricular designs generally prevalent in the law schools in developing countries (though authentic data or study is not available) would reveal that these “emphasize the traditional core fields of the common law or the codes . . . law graduates . . . learn more about how the law is supposed to work in the private sector of a developed economy than the laws which affect economic development and change, and the mass of the people in their own countries. Thus little attention has been paid to the government’s regulation of the economy, to taxation and finance, to state enterprise, to rural and agricultural development, to urban planning or the problem of the delivery of law in a plural and a very poor society”,<sup>53</sup> “the lawyer is conceived as a specialist in law and the law school curriculum reflects the image of teaching the content of legal doctrines while ignoring the social context in which it operates or its impact on behaviour”.<sup>54</sup> Without minimising the importance of the financial inputs it has been rightly suggested that the curriculum should contain some activities outside the classroom “which expose the students to direct contact with social and professional reality”<sup>55</sup> so as to “provide stimulation and motivation; ‘practical’ and technical skills; more realistic perspectives about law; incentives for research and extrapolation of theory from actual experience . . . for example legal clinic designed to provide legal services for a particular group in society (e.g. the urban poor) may provide much interesting data about the nature of the legal problems and concerns of the group, its attitudes towards law . . . ”<sup>56</sup> The social and legal landscape in the developing world reveals large valleys of massive poverty, colossal illiteracy, centuries of neglect deprivation and serfdom inflicted on a vast majority of the meek millions in the countryside. Side by side exist islands of plenty, clusters of vested interests, a slow moving machinery of law and justice involving costs much beyond the means of the overwhelming millions. Justice, like a five-star hotel, is open to everyone but one must have the means to approach it. In this socio-cultural-economic context presently blow strong winds of aspiration and change. Law-men, be they practicing lawyers, academicians, judges or administrators, cannot be oblivious to all this. Curricular format, reading materials, pedagogy and research has to be responsive lest law loses its legitimacy and revolution overtakes an all too urgent and speedy evolution. Courses like ‘Law and Poverty’, ‘Law and Deve-

lopment', 'Law and Justice Delivery System', 'Law and Compensatory Discrimination', 'Multinationals and the Law' (and examples can be multiplied) have to be introduced and their course content has to be so tailored that teaching in these areas also covers statutory laws on agrarian reform, company law, Industrial Development Act, laws of procedure, etc. within their ambit. This will combine the twofold approach viz. of teaching the lawyer's law without ignoring the contemporary milieu and problems and the future challenges which the developmental process an underdeveloped country faces. All this would place an onerous burden on the law teacher in terms of teaching techniques, preparation of teaching materials, research and in terms of massive effort and time that all this would involve. However, it is a task which brooks no delay if law schools and legal education have not to become irrelevant *par excellence*. Financial and manpower constraints are there and will continue to be there in the foreseeable future but it can be hoped that the political and educational planners would consider it as a developmental investment since the policy which developing countries are operating and are expected to operate is based on law and the rule of law. *Alibis* would not do nor can these be substitutes for an action oriented programme. Referring to modernization of the curricular the working paper which formed the basis of discussion for a series of workshops on legal education organised by the University Grants Commission in India said that the curricular modernist "may well see the lawyer as an 'architect of social structures' 'a designer of framework of collaboration' and 'a specialist in the high art of speaking to the future' so that legal education in this view is to 'provide a main channel of expression both on the side of competence and skills and that of values'." "The modernist curricular designer", it added "will locate, for example, ... legal education, profession and the law generally in the space time configuration of ex-colonial, third world desperately poor societies ... while fulfilling the need for professional skills this modernist will attempt to provide an integrated view of the legal social process. ... Implicit in ... modernistic curricular planning is also the clarification of the objectives of social relevance and ... (cognition) of the contemporary problems and the corresponding tasks before law and lawyers ..."<sup>57</sup> A socially relevant curricular design would provide a course on legal method and legal writing. These courses can very well have and should have a 'field work component' with emphasis on data collection combined with exposure to the society and the community in which the law-men will have to operate after leaving the portals of the University and the law school. There comes the relevance of legal aid clinics manned and operated by law students and effectively supervised by members of the faculty. The clinic can undertake surveys to collect data about the type of legal problems which specific underprivileged groups of people in urban and rural areas face, by preparing materials and handouts, in the language which people understand and use, for spreading legal literacy and consciousness about the rights and duties of such people under the law, by offering legal advice and by organising legal aid camps, after conducting planned surveys, to get out-of-court compromises between the parties. This would provide the much needed exposure to community problems and can supplement official legal aid programmes, wherever such programmes are in operation since, at best, the official programmes have their inbuilt limitations of finances and motivations of the personnel employed or engaged. Nor can legal-aid work during the one year postgraduate training under professional

training institutes, wherever it is in operation, be a substitute for the legal-aid work in the law schools since the former are manned by and large by men in the profession who are likely to be busy with their own professional commitments and are likely to have different, maybe divergent, perspective and motivation. The course on legal writing can also have a fieldwork component and students can be prompted to engage themselves in this type of writing rather than doctrinal essays or term papers.<sup>58</sup>

Law schools and faculties in the developed countries have long been engaged in fruitful research which has had significant impact on the pattern of legal education, quality of law graduates and national policies, plans and legislation. They have a heavy research agenda.<sup>59</sup> It has been clearly and rightly realised in the developed countries that the standard of teaching is dependent on the amount of research work undertaken in the law schools.<sup>60</sup> If this is true, as it is, for these countries, it is all the more so for the law schools in the developing countries. The prime as well as first step in this direction is preparation of textbooks and teaching materials based on indigenous needs incorporating national perspectives, legislation, judicial decisions and other writings in the related fields so as to progressively dispense with the prescription of textbooks written by foreign authors. This does not imply that we have to dispense with the history of ideas and their development in the world context but these are to be fitted in proper perspective without giving them an undue or exclusive emphasis. Given the much greater financial constraints within which we have to operate for quite sometime to come the task demands collaborative effort both at the national and regional level so that we can pool our resources and talent in expeditiously executing this primary task and at the same time make the much needed contribution to the national effort by producing meaningful research on law and development. Writers and reports have indicated wide areas in which legal research is urgently called for law reform in developing countries.<sup>61</sup> What is needed is adaptive research, working out ideas locally, testing ideas to local situations—in short, to borrow Allott's statement, "incarnation in legal form of the economic and social aspirations" of the people. Legal research has to be geared not to bringing law "in accord with changes already accomplished but for promoting changes in the various spheres of life". Decision makers designing and implementing development plans, programmes and projects look forward to developmental studies for guidance. Doctrinal research for the present is relatively less important than socio-legal research based on empirical data and field work in the context of national policies, priorities and national legislation in the process of planned and direct social and economic change. This is not meant to underrate the importance of doctrinal research but only to point out the priorities in the agenda for research. Student potential under faculty supervision can, as pointed out earlier, also be used for meaningful research data collection with legal writing being an essential ingredient in the course content of law studies. Regional conferences of law teachers and researchers held at frequent intervals to exchange ideas, experience and information about on-going research projects would stimulate and strengthen not only the research output and programmes but also a review of institutions, rules and objectives in relation to the problem of social change and developmental needs.

In the context of legal research the I.L.C. research advisory committee has suggested several highly important perspectives which we have to keep in mind. It says:

... if development is seen as a self-conscious effort to transform society, law has a multiple relationship to this process. Law may be seen as an instrument by which man in society consciously tries to change environment. ... some may also see law as a value, or a process so fundamental to the realization of certain values. ... development of effective legal institutions and processes can contribute to the strengthening of (these values). ... legal studies may ... be essential to any comprehensive study of state, society, and economy in developing societies. ... modern states employ statutory and other forms of law as part of an effort to reach the goals they define as a 'development'. ... law and legal processes of individual nations must frequently be changed—often in drastic ways, if the social, economic, cultural and political goals contained within the idea of development are to be attained. .... Research must be sensitive to all these dimensions of or perspectives on law and development. ... the current body of development knowledge and doctrine is relatively insensitive to law and legal institutions. ... In ignoring law, developmental studies have overlooked a major dimension of the very process they are charged with examining. In failing systematically to examine the possibilities and limits of law as a tool of planned social change, developmental researchers have shown a surprising lack of interest in the nature of the tools that policy makers daily employ to reach development goals. ... In failing to develop any systematic knowledge about the relationship between law and contemporary process of development, scholars have lost an opportunity to develop more complete and general knowledge about law, thus denying the legal scholarship the fullest possible understanding of the legal process. ... the development researchers have failed to understand the potential contribution that legal studies might make to a better understanding of development, and legal scholars have been insufficiently aware of the contribution that law and development research could make to legal studies. ...<sup>62</sup>

## Legal education in Zambia

After the dissolution of the Federation of Rhodesia and Nyasaland<sup>63</sup> the Republic of Zambia came into existence in October 1964.<sup>64</sup> The University of Zambia was established in 1966 and the programme of legal education commenced in 1967. A learned writer has admirably dealt with the history of legal education in Zambia.<sup>65</sup> We will dwell upon some of its salient features in the context of our main theme. The aims and objectives of teaching and research spelled out at the time were and are in tune with the needs of a newly independent nation faced with the problem of building a society dedicated to development. The objectives of the school as approved by the senate of the University include, *inter alia*:

1. to join in the building and development of the legal system in Zambia, and generally, to make available the resources of the school, in staff and students, for the welfare of the community
2. to produce lawyers in Zambia. ... better fitted to meet the needs of developing countries like Zambia ...<sup>66</sup>

The Bachelor of Laws is the central commitment of the school<sup>67</sup> though the school does provide a programme for LL.M.<sup>68</sup> studies and the post graduate diploma in law.<sup>69</sup> The school emphasizes the importance of a broad education which will prompt social awareness of human society, its history and functioning. This is why the 'O' level entrant to the university is required to spend the first year in the school of humanities and social sciences or in the school of natural sciences before entering the School of Law. The course requirements demanded of the students entering the aforesaid school are intended to equip them for an effective and profitable pursuit of legal studies.<sup>70</sup>

These aims and objectives of the school have been further articulated and amplified by the successive deans and a concerted attempt has been made to translate them into operational realities in the teaching-learning process in the school. In an article for the university magazine written at the time of the school's formal inauguration Prof. Bentsi-Enchill, the first dean, pointed out:

[The law school's] special task is to contribute to the translation of justice from the realm of ideals into the working of the nations institutions and life. The lawyers it produces must be one with the people of the land and with the national effort. "It must help with the machinery and methods by which the quest for professional services can be raised, legal assistance made available to all the people and the ideal of equality before the law increasingly realised. It must help with the development and adoption of the law to meet the needs of modern Zambia."<sup>71</sup>

Despite the understandable non-availability of textbooks incorporating indigenous materials, history, present condition and possible future needs of the legal system in Zambia in particular and of Africa and other developing countries in general, the course has been so tailored and the course-content has been so spelt out as to acquaint the students with these vital aspects in the learning at the LL.B level and more so at the LL.M level.<sup>72</sup> One distinctive feature of the LL.B programme is to equip the students with the art of writing and of handling the technological tool-kit of a lawyer through the obligatory essay, an imaginative course on legal method with an effective moot court programme is another integral component of this course. These faculties are further inculcated in those who intend to qualify as legal practitioners by the law practice institute, governed by the council of legal education, which provides a year of training in practical professional skills to graduate lawyers where the students are expected to spend a substantial portion of their time with the directorate of legal aid and the attorney-general's chambers undergoing practical in-service training, under supervision of qualified personnel. The graduate engages in a wide variety of legal tasks including the conduct of litigation. At the directorate of legal aid he also acquires an understanding of the problems of the economically less favoured members of the society. In the attorney-general's chambers he participates in the carrying out of many of the functions of the government's legal department.<sup>73</sup>

A healthy feature of the entire set-up is the liaison between the law school, the council of legal education and the law practice institute. The dean of the law school is a member of the council and *ex-officio* director of the institute.<sup>74</sup>

Still another notable feature of the law study is that it is selective and restricted by virtue of the 'Quota-System' operated in light of the manpower needs and also of the aptitude of the entrants<sup>75</sup>—a fact which highly minimises the danger of proliferation of low-quality law graduates as has happened in some countries of the developing world. At one stage the school contemplated the institution of a combined B.A/LL.B programme, a programme of continuing education for lawyers and also the degree of doctor of philosophy<sup>76</sup> but due to financial and manpower constraints these projects have not yet been introduced.

Right from its commencement the law school has set an agenda for research in consonance with the objectives enshrined in the Constitution, and for fulfilling the role-expectations about law, legal education, law-makers, law-carriers, law-enforcers and the legal system which the law-consumers, the people, legitimately have. The research

objectives and agenda is so vital for Zambia, and for that matter for any developing country which achieved independence after a long spell of colonial rule, for reshaping the legal system and justice delivery system. The priorities of the research objectives of the school are in the area of research towards the unification of the Zambian legal system and assisting the work of modernizing Zambian law for use in helping with the development of the nation.<sup>77</sup> Manpower constraints have handicapped on-going fruitful research output in vitally urgent areas to meet the developmental national needs. A rethinking about ways and means for activating the research programme objectives as also for instituting the Ph.D. programme is necessary for raising the standard of teaching, as pointed out earlier in this paper, for hastening the objective of speedy Zambianisation of the faculty with persons who acquire higher qualifications by research in the national setting handling contemporary national problems and data rather than getting orientation in far off countries with entirely different context, problems, perspectives and approach, for more profitably using the potential of the expatriate teachers who are in the school and who can be associated in collaborative research and for providing much needed data, research results and developmental perspectives to the political policy planners. The possibility and potential for co-operation, collaboration and mutual exchange of ideas through workshops and seminars on regional level in which law teachers in the sister law schools in the region participate has also to be explored. Financial constraints can be relatively reduced if library acquisitions in different law schools in the region are carefully planned so that undue duplication is minimised and research materials are made available by an effective inter-library loan programme. This will eventually enable diversification and greater flexibility as well as a larger number of options in the curricular design.

It would not perhaps be out of place to make a brief mention about legal aid, the law reform commission and also the work load of the judiciary in the context of dynamics of development. The poor persons defence ordinance which came into force in December 1957 proved to be ineffective in achieving its objective. Consequently the Legal Aid Act was enacted which came into operation on July 3, 1967. This Act has a wider amplitude and seeks to cover a much larger segment of the indigent population. It goes to the credit of Zambia that it is one of the few countries in the developing world which has enacted and put into operation the Legal Aid Act. India is one of those countries which, in spite of two compendious reports on legal aid by high powered committees manned by the judges of the Supreme Court of India, is still to enact an Act and put it into operation. In spite of the laudable objective and best of intention only a skeletal staff is there and financial constraints have hampered a fuller effectuation of the purpose of the Act as is revealed by the statistics given in the annual reports regarding the establishment, cases handled and expenditure incurred in the official legal aid programme.<sup>78</sup> The official legal aid programme can be strengthened by a supplemental legal aid plan initiated in and operated by the law school. 'Obligatory Essay' and 'Legal Method' courses can have a legal aid component without disturbing their utility and viability. Any legal aid training to the graduate law students during the training period in the law practice institute cannot be as efficacious, educative and objective as the one operated by the law school. It may be in addition to that operated by the school. This will serve not only the cause of legal aid but also provide much needed exposure to law

students of community needs and would prepare and equip them better as development lawyers. This again is a perspective which needs consideration in all its aspects.

The law development commission and Institute of Legislative Drafting Act was passed in 1974 and the law development commission was established in 1976 with a council as a policy making body of the commission. The dean of the law school is one of its members. However, the commission has been handicapped by "shortage of staff, the total unsuitability of the commission's premises and above all the shortage of funds for seminars and research the machinery is there but not the fuel (funds) to motivate it".<sup>79</sup> Within the limitations it is functioning the commission has done fruitful work<sup>80</sup> but it could do better and the developmental needs of the country warrant much more empirically researched and relatively more socially relevant output so that the laws can be revised and modelled in tune with the fast emerging needs. In this respect, the law commission of India, to take just one example, has produced numerous, well-researched valuable reports which have highlighted urgent issues, and provided concrete guidance to the government and parliament to act expeditiously in its task of enacting new legislation and amending the existing ones.

The work load at the supreme court level has not appreciably increased but the work load at the High Court and subordinate courts level has rather been very heavy and local courts have been handling a large number of cases.<sup>81</sup> Need has been felt and programmes have been conducted for the training of justices and court clerks apart from the training of the police force in the elements of law and research officers in connection with the recording of customary law.<sup>82</sup> The unfortunate experience in many of the developing countries including India is revealed in terms of back-log of cases, which remain pending, pointing to the need for more trained law graduates in tune with the increasing volume of judicial work load. During the period 1964 to 1977 the total number of persons holding practitioners' licence increased marginally from 86 to 115.<sup>83</sup> It appears that there is no empirical study about the work load of the judiciary, back-log of cases, the need of qualified persons to practice law from the point of view we have emphasized here nor has there been any research about advisability as well as practical implications and reaction of providing avenues to the people for engaging lawyers to represent them at the local courts level—a study whose findings may be revealing and enlightening. This brief treatment about the official legal aid scheme, the working of the law commission and the work load of the judiciary is aimed at pointing out the direct impact on the demand to which the law school in Zambia has to respond by producing adequate numbers of law graduates equipped with perspectives of what we have termed as development lawyers.

## Notes

1. (1971 & 1972), *Zambia Law Journal*, 1–3.
2. The University of Zambia, speech of His Excellency the President, Dr. K. D. Kaunda, Chancellor of the University of Zambia, at the 11th graduation ceremony held on 20th October, 1979, pp. 1, 9–10, 11.
3. See Trubek of Gallanter, "Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States", 1974 *Wis. L. Rev.*



- 1062 (1979); Friedmann, "On Legal Development", (1969) Rutgers L. Rev. 13; Trubek "Towards a Social Theory of Law: An Essay in the Study of Law and Development", (1972) 82, Yale L. J. 2; see generally the three extremely valuable reports released by the International Legal Centre, New York, entitled, "Law and Development: The Future of Law and Development Research (1979), hereafter referred to as I.L.C., Development; Legal Aid and World Poverty: A Survey of Asia, Africa and Latin America (1979), hereafter referred to as I.L.C., Legal Aid; Legal Education in a Changing World (1975) hereafter referred to as I.L.C., Education; to the bibliography appended to the learned articles by John Henry Merryman, "Comparative Law and Social Change: On the Origins, Style, Decline and Revival of the Law and Development Movement", (1977) 25 Am. J. Comp. L.
4. I.L.C., Education, *supra*, p. 9.
  5. L.C.B. Gower, *Independent Africa—the Challenge to the Legal Profession*, Oxford, Oxford University Press, 1967, p. 9.
  6. Phillip A. Thomas, "Legal Education in Africa; With special Reference to Zambia", (1971) 22 Northern Ireland Legal Quarterly, 10, 11; Sanyal, Bikas C. and Others, Higher Education and the Labour Market in Zambia: Expectations and Performance, 11, 12 72 104 (1976).
  7. Gower, *supra*, 26–29; Bentsi-Enchill, "The Colonial Heritage of Legal Pluralism", (1969) 1 *Zambia Law Journal*, 4, 5.
  8. Gower, *supra*, p. 2.
  9. Allott, "Legal Development and Economic Growth in Africa" in J. Anderson, *Changing Law in Developing countries*, London, G. Allen & Unwin, 1963, p. 196.
  10. Gower, *supra*, 36.
  11. Allott, *supra*, 207.
  12. Seidman "Law and Economic Development in Independent, English Speaking Sub-Saharan Africa", *Africa and Law* (1968) 32.
  13. I.L.C., Education, *op.cit.* 19; Nyhart, "The Role of Law in Economic Development" (1962) 1 Sudan L.J. and Repts., 398. Trubek, *op. cit.*, (1972) 8 Yale L.J. 2 Friedmann, Rutgers L. Rev. *op. cit.*, 13.
  14. I.L.C., Education, *op. cit.*, 26.
  15. *Ibid*, pp 37-38.
  16. Tawai Ocran, "Law, African Economic Development, and Social Engineering: A Theoretical Nexus", (1971 & 1972) 3 and 4 *Zambia Law Journal* 19, 26, 27, 41.
  17. *The Hindustan Times* (New Delhi), November 18, 1979.
  18. Harvard Law School, International Legal Studies, Report of The Director, 1954–61, at p. 3.
  19. See Burg, *op. cit.*, p. 516 and authorities cited.
  20. Friedmann, "Legal Culture and Social Development" 29 (1969); 4 Law and Social Rev.; Friedmann, *supra*, Rutgers L. Rev. 53; Trubek, *supra*, Yale L. J., 1 (1972); Trubek, "Max Weber on Law and Capitalism", (1972) Wis. L. Rev. 720.
  21. Nyhart, *supra*, Sudan L.J. & Repts. 398; Allott, *supra*, 194. Steines, "Legal Education and Social Economic Change: Brazilian Perspectives" (1971) 19 Am J. Comp. L. 47–48; Pepalis, "The Legal System and Economic Development in Greece"

- (1959) 19 J. Econ. His. 173; Sedler, "Law Reform in the Emerging Nations of Sub-Saharan Africa: Social Change and Economic Development of the Modern Legal System" (1965) 13 St. Louis U.L.J. 195, 245.
22. Metzger in I.L.C., Legal Aid, *supra*, 3 (1974); Seidman, (1966) Wis. L. Rev. 999, 1016; Ocran, *supra*, 20-21 (1971); Baxi, Upendra, "Alternatives in Development: Law"—an unpublished paper prepared for the I.C.S.S.R. Workshop on "Alternatives in Development: Law", Poona (India), June 16-28, 1978.
  23. Burg, *op. cit.* 503-4 and the authorities quoted by him.
  24. I.L.C. Development, *supra*, 15.
  25. See Baxi, *supra*, p. 4, See Haque, W.: "Towards a Theory of Rural Development", Development Dialogue, (1977) 18.
  26. I.L.C., Development, *supra*, 15.
  27. See Burg, *supra*, 501, 511 and authorities cited therein.
  28. Lewellyn, K.N.: "The Normative, the Legal and the Law Jobs", (1940) 49 Yale L.J. 1368-70; See also Baxi, *op. cit.*, pp. 5ff.
  29. See Friedman, *op. cit.*, Law and Soc. Review, 29
  30. See Ocran, *supra*, pp. 20, 21, 22, 25, 27, 35, for other perspectives about the concept of Law, See I.L.C. Development *op. cit.*, 16; Merryman, *supra*, pp. 462-63.
  31. See Baxi, *op. cit.*, p. 5 and see generally Trubek, *supra*, in Wisconsin L. Rev. (1972) 303 and in Law and Soc. Rev. (1977) 529; Trubek Gallanter, *supra*, in Wisconsin L. Rev. (1974) 1062; Unger, R. M.: "Law in Modern Society" (1976); New York Free Press Balbus, I.D.: "Commodity Form and Legal Form: An Essay on the Relative Autonomy of the Law", (1977) 11 Law and Soc. Rev. 571
  32. Baxi, *supra*, p. 6.
  33. *Nyali v Attorney-General*, [1956] I.Q.B. at pp. 16, 17.
  34. (1976) 2 S.C.R. 906; See also Gower, *op. cit.*, 90 ff.
  35. V. R. Krishna Aiyer, "Law and Social Change: An Indian Overview", 9, 11, 19 (1978). Chicago, Chicago University Press.
  36. Without being exhaustive the following may be referred: McDougal, "The Law Schools of the Future: From Legal Reform to Policy Science in World Community" (1977) 56 Yale L. J. 1344; Rabin, "Lawyers for Social Change: Perspectives on Public Interest Law" (1976) 28 Stan. L. Rev. 207; Cohn & Cohn, "Power to the People or Profession: The Public Interest in the Public Interest Law" (1970) 79 Yale L.J. 1005; Merryman, *supra*, 473, 475; Burg, *supra*, 505, 509; Dr. K. K. Nkrumah, in "Law and Africa" (1962) 6, J. Africa L. 103, 104; Gower, *supra*, pp. 40, 89, 91, 102, 103, 107; Thosas, *supra*, 7, 20, 21, 23; Max Rheinstein, Higher Education, Law and Training for the Law in British Africa (1960) Chicago University Press. Hoskin, "United States Technical Assistance for Legal Modernisation" (1970) 56 A.B.A.J. 1169; Steiner, "Legal Education and Socio-Economic Change: Brazilian Perspectives", (1971) 19 Am. J. Comp. L. 39; Rosenn, "The Reform of Legal Education in Brazil" (1969) 21 J. Legal Ed. 251; Hager, "The Role of Lawyer in Developing Countries" (1972) 58 A.B.A.J. 33; Jay Murphy, "Legal Education in a Developing Nation: The Korean Experience", (1965); Von Mehren, "Law and Legal Education in India: Some Observations", (1965) 78 H.L.R. 1189; Cruz, "Law, Development and Regional Integration

- in Central American: Analysis and Evaluation", (1967) 24-42; Aiyer, *supra*, pp. 46-47.
37. Von Mehren, *supra*, H.L.R. 1183, 1185, (1965); Gower, *supra*, (1962) 1031; Pye, Aspects of Political Development, (1964) *supra* 122; Burg, *supra*, 514, 517-18, 521 ff.
  38. I.L.C., Education, *supra*, pp. 10, 13, 36-37.
  39. Robert E. Mathews, Legal Ethics and Responsible Leadership; 35, 36 in Conference on the Profession of Law and Legal Education, The Law School, University of Chicago, (1952).
  40. I.L.C., Education, *supra*, 19, 26, 32, 40.
  41. *Ibid* p. 30.
  42. There is prolific literature on the state of legal education in India which need not be referred to here. However, see Agrawal, "Legal Education in Indian Problems a Prespective; Towards Social Relevant Legal Education—A Consolidated Report of the University Grants Commission's Workshop on Modernisation of Legal Education", (1979). Delhi.
  43. I.L.C., Education, *supra*, 19, 51.
  44. Freire, *Pedagogy of the Oppressed*, (1972) 45-46.
  45. See I.L.C., Education, *supra*, 29, 31, 49.
  46. President Kaunda in his address to the Second Session of the Fourth National Assembly of Zambia emphasized re-examination of laws concerning economy, in particular, the Industrial Development Act and the Land (Conversion of Titles) Act, 1975 so as to ensure investment without sacrificing the aim of Humanism of providing economic opportunity and employment to the people—see *Zambia Daily Mail*, January 12, 1980, pp. 4, 5.
  47. With regard to resistance to and debate an enactment of customary law of succession to protect destitute widows in Zambia, see *Zambia Daily Mail*, January 21, 1980, pp. 1, 4 and *Zambia Daily Mail*, January 24, 1980, p. 5.
  48. For a critical appraisal of the "Case-Book" or "Socratic" Method see Joseph Elliot Patterson, "Atavism Relevancy and the Hermit: The Law School To-day", (1977) 29 Jour. L.E. 63-65; Wayne Morse, "Changing Trends in Legal Education", (1931) 10 Oregon L. Rev. 43; John William Hand, *The Growth of American Law*, (1950) 265; Watson, "The Quest for Professional Competence: Psychological Aspects of Legal Education", (1968) 37 U. Cin. L. Rev. 91; Robert Redmount, "Humanist Law Through Legal Education", (1968) 1 Conn. L. Rev. 201; Burger, "The Special Skills of Advocacy: Are Specialized Training and Certification of Advocates Essential to the System of Justice" (1973) 41 Fordham L.R. 228, 229-33; vii, xviii; Allan, "The Causes of Popular Dissatisfaction with Legal Education" (1976) 62 A.B.A.J. 447; Lawrence K. Hellman, "Considering Future of Legal Education: Law Schools and Social Justice" (1978) 29 Jour. L.E. 182-83; George S. Grossman, "Clinical Legal Education: History and Diagnosis", (1974) 26 Journ. L.E. 162 ff.
  49. Brenden F. Brown, "Recent Trends in United States Legal Education", (1974) 26 Jour. L.E. 283.
  50. See U.G.C., Towards a Socially Relevant Legal Education, *supra*, 14-16 for the views of Prof. Baxi in his working paper for the Workshop.

51. Morris R. Cohen, "Portrait of a Philosopher" in *Life and Letters*, 298, 300; See also UNESCO, *The University Teaching in the Social Science Law* by Charles Eisenmann, 20-21, 26, 45, 55, 57 which discusses the professional and scientific teaching of law and concludes, p. 57, that these labels sound hollow and their echo is blurred. Scientific teaching, it adds, in no way excludes the content of practical teaching but maintains and completes it.
52. I.L.C., Education, *supra*, 59.
53. *Ibid.*, p. 29.
54. *Ibid.*, p. 60.
55. *Ibid.*, p. 61.
56. *Ibid.*, p. 65.
57. Baxi, *op. cit.*, 6, 7, 8.
58. See Menon (Ed.), *Legal Aid and Legal Education: A Challenge and Opportunity* (Essays on Clinical Education for the Law Student in a Service Setting), Student Legal Services Clinic, University of Delhi, 1974; see the statement of the Rt. Hon. Daniel Lisulo, Prime Minister of Zambia, for a Supplementary Legal Aid System—*Times of Zambia*, January 28, 1980, p. 1 and *Sunday Times of Zambia*, January 27, 1980, p. 1.
59. The research output in the United States is more than evident by the work produced as a result of individual and collective research, the number of law school research journals and the support which research has provided for new legislation by providing data analysis, perspectives and goals. See I.L.C. Education *op. cit.*, 38 which says: "In Europe, universities nurtured the ideals and organizing concepts of Roman Law through periods of social chaos; the work of legal scholars provided the intellectual inspiration and foundations for the great period of adaptation and modernization of law which flourished in the nineteenth century as societies changed rapidly. In more recent period, university scholars have contributed in fundamental ways to the reformation of the philosophies of law and the elaboration of new ideals, and more scientific, rational legal doctrine. Legal scholarship has influenced the evolution of national cultures. . . ."
60. Burger, *supra*,
61. See Thomas, *supra*, pp. 32-34; African Conference on Local Courts and Customary Law, Proceedings of the Conference held at Dar es Salaam, Tanganyika, 8th September, 1963-18th September, 1963 (Impr. H. Student, Geneva, Sussie) 85; Anderson, J.N.D. (Ed.), *Changing Law in Developing Countries* (1963), *supra*, 196, 207-9 (Allott), 215 (Anderson); I.L.C. Education, *supra*, 39, 51, 52, 74-76, 79-80; I.L.C., Development, *supra*, 15, 21, 25, 31-36;
62. I.L.C. Development, *supra*, 16-18.
63. Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963, S.I., No. 2085 of 1963 made under the Rhodesia and Nyasaland Act, 1963.
64. Zambia Independence Act 1964.
65. Thomas, *supra*, in Northern Ireland Legal Quarterly.
66. Law School Handbook, 1979-80, 1.
67. *Ibid.*, 20.
68. *Ibid.*, 37, 44.

69. Awarded to candidates who attain a pass grade in Part I of the LL.M. but do not qualify to proceed to LL.M. Part II.
70. Handbook 1979–80, 20; see, however, provision made for the Mature Age Admission at p. 14.
71. Handbook, 1979–80, 3–4, see also Bentsi-Enchill, “The Lawyer’s Calling in Africa”, (1971–72) *Zambia L.J.* 5.
72. For the courses see 1979 Law School Handbook.
73. Handbook, 1975, 42. The Council of Legal Education and the Law Practice Institute were established as a result of the recommendations of the Conroy Report, “Report of the Legal Profession (Entry and Training) Committee”, Northern Rhodesia Government (1962), Government Printer, Lusaka; see section 7 of the Legal Practitioners Act, Law Practice Institute (Establishment) Order, 1968, S.I. 269/68. For earlier arrangement for training at the Staff Training College, Lusaka later re-named as the National Institute of Public Administration, see Thomas, *supra*, 13ff.
74. See section 7 and 10(2) of the Legal Practitioners Act, Cap. 48.
75. See Handbook, 1979–80, 15. The quota system is established by the government and the university jointly based on Manpower Reports provided; for enrolment figures and output of graduates in law see Tables 41 and 47 on pp. 108 and 116 and Tables 54 and 56 (pp. 150, 154) for the projection of expected intake and output for the period 1974–81; see also Christopher P. Shaw, the University of Zambia the National Manpower Requirements (Manpower Research Unit, Institute of African Studies, University of Zambia, 1979) 4, 12; for the origin of the quota system see Senate Paper, University Manpower Planning, SEN/68/137; for a critique of the quota system in general and as applied to law studies in particular see Shaw, *supra*, 18–27; see also Tracer Project, University of Zambia, 31, July 1974 (TR/75/1) entitled “Graduate Stock Estimates 1969–81 Local Level Zambianisation, 1974, Parastatal and Private Sector Employers 1974 (mimeographed) by John H. Case, Phillip. S. Bow, Mary E. Jackmen and Bikas S. Sanyal; see also University of Zambia, Report on the Long Term Development of the University of Zambia, June 1977, 11, 132.

The Law School has provision for part-time evening study, studies, the degree structure and requirements for which are the same as for full-time study but part-time students can normally take lesser number of courses in the year as compared to full-time students.

76. Handbook 1972, 1975, pp. 10, 12, 22–23.
77. Handbook 1979–80, 21–22.
78. See Republic of Zambia, Department of Legal Aid, Annual Reports from the year 1970 onwards (Government Printers, Lusaka).
79. Republic of Zambia, Department of Legal Affairs, Law Development Commission, Annual Report, 1977, p. 1; Annual Report, 1978, p. 1.
80. *Ibid.*, p. 1 ff — it has engaged in the review of law of succession; has made progress in researching the subject company law and has prepared an interim bill on the subject. A codified law of evidence has also been prepared and drafted; Annual Report 1978, p. 1. The programme decided by the council at its May 1978 meeting

says that the commission should deal with the law relating to: (i) unfair contracts; (ii) limitation of actions; (iii) divorce; (iv) the state titles: p. 7 — its ongoing projects are in the field of customary law of succession, divorce, defamation, evidence, company law, hotels.

81. For statistics about the personnel of the judiciary at the various levels as also the cases handled by these, see Republic of Zambia, Annual Reports of the Judiciary and the Magistracy 1964 to 1977 (the 1977 Report published in 1979).
82. See Annual Reports of the Judiciary and Magistracy for the following years: 1961, p. 3; 1962, p. 2; 1963, p. 4; 1964, p. 4; 1965, p. 5; 1966, p. 3; 1967, p. 4; 1968, p. 6; 1969 (published in 1975, p. 6); 1975, p. 5; 1976, p. 6 and 1977, p. 6.
83. See Republic of Zambia, Annual Reports of the Judiciary, and Magistracy 1964 and 1977. This number includes some who do not normally or regularly practice in the territory.