

The Pakistan Bar Council Legal Education Rules 2015: A Commentary

Sardar Ali Shah¹ and Dr. Saroja Dhanapal²

¹Ph.D. Student, Faculty of Law, University of Malaya, Assistant Professor, Institute of Law, University of Sindh, Pakistan

²Senior Lecturer, Faculty of Law, University of Malaya

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*Corresponding Author

Email: sardarshah@siswa.um.edu.my

ABSTRACT

Legal education is considered the backbone for producing legal professionals who can ultimately contribute their services to society. The legal profession, as a career choice, has been attracting more and more people over the years. In Pakistan, the legal education is regulated by the Pakistan Bar Council (PBC) and the Higher Education Commission (HEC). Pakistan is one of the many countries which have a particular set of rules under which legal education is imparted, Pakistan Bar Council Legal Education Rules (PBCLER) 2015. In 2007, the Supreme Court of Pakistan delivered a historic judgment that led to the improvement of legal education based on a petition filed by the PBC. Pursuant to the views expressed in the judgment based on PBC's considerations, the PBCLER 2015 was designed and implemented. However, there have been a lot of concerns raised about these rules, especially with regard to legal education in Pakistan. In line with this, the current paper aims to analyze these rules by first identifying the strengths and weaknesses of these rules with regards to the quality of legal education. This analysis is supported by responses provided by selected respondents including members of the legal education committee of PBC, members of HEC and academicians. The paper concludes by making some recommendations for improvement of these rules.

Keywords: Higher Education Commission of Pakistan, Legal education, Pakistan Bar Council, Pakistan Bar Council Legal Education Rules (PBCLER) 2015

Introduction

Pakistan is an Islamic Republic with Islam serving as the state religion (Article 1 & 2 Constitution of Pakistan 1973). Therefore, the constitution requires that its laws be consistent with the tenets of Islam. As such, the legal system of Pakistan is based on the English common law and Islamic law. In line with this system, legal education also encompasses syllabi embracing the English common law as well as Islamic law. Legal education in Pakistan is generally provided by public universities, alongside a few private institutions which follow the curriculum and criteria prescribed by the Higher Education Commission (HEC) in consultation with the Pakistan Bar Council (PBC). The HEC of Pakistan is the regulatory body for higher education

in universities in the country. Set up in 2002 under the Higher Education Commission Ordinance, 2002, the role of the HEC is mainly to recommend academic policies for public universities and to propose affiliation criteria or guidelines for these universities (HEC, 2019). In contrast, the PBC is a national elected body made up of advocates or lawyers in Pakistan. It was established under the Legal Practitioners and Bar Councils Act, 1973. As a regulatory body, the PBC exercises general control and supervision over the Provincial Bar Council. It also regulates the entry of lawyers into the legal profession and to some extent, legal education. It is also authorized to give recognition to universities whose degrees in law shall be accepted as a qualification for enrolment as an advocate [Sections 13(j) & (k), 26(c) (iii), and 55(q) of the Legal Practitioners &

Bar Councils Act, 1973]. In addition, the PBC also plays an important role in initiating efforts to improve the standards of the country's legal education as well as structuring rules for it.

Nonetheless, in spite of having these regulatory bodies and the PBCLER 2015 to regulate the legal education system in Pakistan, law education has, so far, not been developed to be on par with the standards of developed countries. Progress in the development and implementation of professional standards in the legal education system of Pakistan has been slow because it has not received the kind of attention it deserves. According to Khan (2012), the legal education system in Pakistan is in a mess at all levels and the reason causing this can be attributed to the lack of attention from universities' authorities and professional bodies. The standard and quality of legal education has not been the focus despite there being multiple avenues of entry into the legal profession which could lead to discrepancies. Researchers in the past decade have advocated that a plethora of reforms are needed to transform Pakistan's legal education system so as to ensure that it is on par with world standards (Siddique, 2014; Khan, 2012). In the case of *Pakistan Bar Council vs. The Federal Government & Others* (PLD 2007 Supreme Court 394), the poor quality of legal education was also reflected on. This led to the revision of the Pakistan Bar Council Legal Education Rules (PBCLER), 1978. The latest revision is the PBCLER 2015 and this is the prime outcome of the Supreme Court's judgment. This judgment mentioned that:

It is a matter of common knowledge that there has been a mushroom growth of substandard law colleges lacking in infra-structural facilities and qualify legal education. There is no eligibility criteria for admission and any person having done his graduation with minimum marks required for passing can get admission in those colleges (*Pakistan Bar Council vs. The Federal Government & Others* (PLD 2007 SC 394)).

These conditions were seen as a threat to the standard of legal education. The judgment went on to state that "These colleges have only part time lecturers and barring a few honorable exceptions, most of them do not have any commitment to the cause of legal education". The judgment also stated that "the situation is further compounded by absenteeism where students play truant as a result of their lack of commitment, loose administration or even poor college facilities". The judgment given by the supreme court further asserted that since the PBC has been empowered as a regulatory body to make rules, it is obliged to carry out its functions dutifully and

this includes setting rules that provide for "the standards of legal education to be observed by the universities in Pakistan and the inspection of universities for that purpose" [*Pakistan Bar Council vs. The Federal Government & Others* (PLD 2007 SC 394)]. Further, the judgment stated that:

It has also been noted that colleges enroll students in great numbers but do not provide for adequate class rooms and even the student-teacher ratio tends to be imbalanced. This is so because the colleges are established more for commercial considerations rather than academic or to impart genuine legal education.

Moreover, the judgment also asserted that the:

...courses of study prescribed by the University are paid lip service. Neither there is any in-depth study of the subjects included in the curriculum nor is any stress laid on moral issues and professional ethics (*Pakistan Bar Council vs. The Federal Government & Others* (PLD 2007 SC 394)).

The Pakistan Bar Council's reaction to improve the legal education was through the enactment of the PBCLER 2015. This paper examines the PBCLER 2015 as to its adequacy in ensuring quality standards of legal education from the perspective of certain key stakeholders. This paper will limit the examination to PBCLER 2015 and the PBC and HEC joint LLB curriculum is not discussed. It analyzes the changes effected by the new rules and the views of key stakeholders with regard to these changes. It also provides feedback for continuous improvement.

Methodology

This paper is based on a qualitative research approach where it focuses on analyzing public documents to identify the strengths and weaknesses of the documents and then use the relevant points as interview questions to stimulate the responses of six interviewees. Document analysis encompassed past literature, legal journals, case studies, law reports and online sources. Further, for the purpose of this paper, feedback from key stakeholders on certain provisions of the PBCLER 2015 were sought. The stakeholders selected were six legal experts comprising of two members from the PBC Legal Education Committee, two members from the HEC who are dealing with quality assurance and two law academicians. The interviews were consented to before being carried out, recorded, transcribed, validated, and then analyzed. The respondents were coded so as to ensure confidentiality. The six respondents were coded as RPBC1 & RPBC2 for

the respondents from the Bar Council, RHEC1 & RHEC2 for the respondents from HEC and RA1 & RA2 for the academicians. The stakeholders' responses were collected through in-depth interviews that comprised of 13 questions. The aim was to obtain their opinions on the provisions in the PBCLER 2015. The interviews ended with a question seeking the respondents' opinion on the limitation of the rules and their suggestion for making improvements to the PBCLER 2015.

Analysis of the Pakistan Bar Council Legal Education Rules (PBCLER) 2015

As discussed, legal education and admission practice is regulated by the Pakistan Bar Council (PBC) under the Legal Practitioners and Bar Councils Act, 1973. The Act empowers the PBC to make rules for the betterment of lawyers or advocates and the legal education of Pakistan. In exercising the powers provided by the said Act, the rules developed for Pakistan's legal education are thus established by the PBC under one legal document called the Pakistan Bar Council Legal Education Rules 2015 (PBCLER 2015).

Over the years, there has been a gradual development of rules and regulations made to enhance the legal education offered in Pakistan. The first of these legal education rules was introduced in 1978 but over time, newer versions were introduced. The result is to control the pathways to law degree by the consolidation of previous PBCLER 1978 rules with rules that allow the mushrooming of law colleges namely Affiliation of Law Colleges and the PBC's Recognition of Universities Rules (2005). For the purpose of this paper, the key rules of the PBCLER 2015 are highlighted in Table 1.

These selected rules were analyzed in depth with reference to past literature and responses of the six respondents selected for this study.

Admission to LL.B. Class (Rule 4)

Rule 4 states that students who intend to seek admission to the Bachelor of Law program are required to take a five-year LL.B program (PBCLER 2015). Rule 4(ii) clearly indicates that the previous three-year LL.B. program proposed in the PBCLER 1978 shall be discontinued after three years of enforcement of the new rules (PBCLER 2015). No further admission to the three-year LL.B. program would be given by any university/law college. Recently an order was passed by the Supreme Court

which states that there will be a ban on admissions to three-year LL.B. programs.

A five years LL.B. programme shall be introduced in September, 2019. The current three years LL.B. programme shall be phased out and law colleges throughout Pakistan shall not admit students to their three years LL.B. programme after 31 December 2018 (Civil Misc. Applications No.1939 of 2014 et al.).

The new rule for admission to the LL.B program also consists of additional requirements such as *"any person having passed the examination of Higher Secondary Education i.e. Intermediate/a level shall be eligible for admission to 1st year of the (five years) LL.B. program"* (Rule 4(i), PBCLER 2015). In addition, a graduate with law as an optional subject shall be preferred for admission to the 1st year of the (three years) LL.B. program. The rule further asserts that admission to the LL.B. program (1st year) shall be based on merit. This rule remains unclear as the word merit and how it is to be measured is not indicated. Opinions were sought from the stakeholders on these rules. RPBC1's response was quite positive. He stated that the regulatory body has complete authority to implement what it sees fit as a requirement; it also has the authority to introduce the type of syllabus or program it deems necessary. Clearly, he saw no injustice in this rule because legal education in Pakistan can begin after one completes 17 years of education. Traditionally, according to the PBCLER 1978, after 10 years of school, two years intermediate college and two years of bachelors' degree, a student enrolls in a three years law education program. However, with the new rule, Pakistan has introduced 12 years of traditional schooling followed by five years of law education. As a consequence, the B.A and B.Sc. program will be converted into four years throughout Pakistan instead of two years as done previously. Following this, the student needs to go for an additional three years of law, hence making the total number of years to be $12+4+3=19$. The time period remains to be the same, but in a five year LLB program, at the least, the students will be studying law for five years and this is likely to make the student more professional. RPBC2 also responded positively toward the change to a five year program under the new rules. His comments were quite similar to RPBC1's comments:

As I said, there is one thinking developed throughout the lawyers community that there should be only one course and that should start from the intermediate level which is after the 12th standards with a 5 year LLB and then standards imposed on it should be very high so that only competent and eligible students should be qualifying from the programme.

Table 1: Key Rules noted in the Pakistan Bar Council Legal Education Rules (PBCLER) 2015

No	Theme	PBCLER 2015
1	Admission to LL.B. class	Rule 4(i) The student has to take the five-year LL.B program Rule 4(ii) The three-year LL.B. program shall discontinue after three years of enforcement of the new rules. Rule 4(iii) Admissions to LL.B. (1st year) shall be on merit. Rule 4(iv) 5% seats shall be reserved for the children of advocates. Rule 4(v) The candidate shall not be eligible for admission to LL.B. if he/she has been sentenced for an offense involving moral turpitude.
2	Total number of admissions in LL.B part-I	Rule 5(i) Each section of a class shall not be more than 35 students. Rule 5(ii) The total number of students in LL.B. Part-I shall not be more than 100.
3	Syllabus	Rule 7 The syllabus for LL.B. Five-year program includes the subjects prescribed and duly approved by the PBC & HEC.
4	Medium of instruction	Rule 9 The medium of instruction of legal education for LL.B. program shall be English.
5	Examination and passing percentage	Rule 11(i) The passing marks in the examination shall be 40% in individual paper and 50% in aggregate, Rule 11(ii) There shall be only two divisions 1st division and 2nd division. Those who obtain 60% or more marks shall be placed in a 1st division. Rule 12(i) Examination of law students shall be on the semester system. There shall be two semesters in a year.
6	Legal education at the level of LL.M/ Ph.D	Rule 13(i) A university/DAI intending to impart legal education at LL.M. level shall have to seek prior permission and approval of the PBC and the HEC. Rule 13(ii) The university/DAI can start LL.M. classes after approval by the PBC and HEC. Rule 13(iii) The university/DAI which is not awarding LL.B. degree shall not be entitled to offer LL.M/Master programme in Law. Rule 13(iv) The universities/institutions/colleges already offering LL.M. program shall apply to the PBC for ratification/approval of the syllabus of the said program within six months. Rule 13(v) No university/DAI/law college shall offer a Ph.D. degree in law without prior approval of the PBC and the HEC.
7	Inspection of law institutes	Such inspection teams shall inspect rule 14(1)(i) All the law faculties, law departments and/or law colleges. Rule 14(1)(ii) The team or member/s so nominated may inspect teaching and general working of law faculties, law departments and the law colleges to ensure compliance of these rules. Rule 14(1)(iii) The Legal Education Committee of Pakistan Bar Council may also nominate one or more of its members to inspect law faculties, law departments, and law colleges. Rule 14(1)(iv) The traveling expenses for members of the inspection team will be borne by their respective bodies whereas boarding and lodging facilities will be provided by the concerned law faculty/department/college. Rule 14(1)(v) The Pakistan Bar Council may, in the event of any of these rules not being complied with by a university/DAI or a law college, de-recognize such university/DAI and its law degree.
8	Recognition of universities and degree awarding institutions by PBC	The PBC has recognized rule 15(i) The national and foreign universities and DAIs for recognition of their bachelor's degree in law. Rule 16(i) Any university or DAI intending to impart legal education may apply to the PBC for recognition on the prescribed application form. Rule 16(ii) Any person having obtained a bachelor's degree in law from a foreign university not recognized by the PBC, may apply for recognition. Rule 17(i) No university/DAI can start a law program without prior permission or recognition by the PBC.
9	International/ external/distance learning programs of foreign universities.	Rule 36 No college/institution can operate/function for imparting legal education under international/external/distance learning program of any foreign university without getting NOC from the PBC. Rule 37 College/institution desirous to seek No Objection Certificate (NOC) from the PBC shall fulfill the requirements given by PBC. Rule 39 The college/institution that is already imparting legal education under international/external/distance learning program of a foreign university/DAI shall approach the PBC for getting NOC

On the other hand, RA1 stated that the PBC had implemented the five-year LLB program throughout Pakistan upon which, after one year of its implementation, the High Court made the recommendation for a review to be conducted of all the colleges and the commission found that the "5-year LLB program can be conducted in Public Sector Universities but not in private affiliated law college". Clearly, RA1 was of the view that the three-year

LLB program should be implemented alongside the five-year LLB program. He added that the decision should be made by the institutions concerned as to whether or not the institutions can offer the five-year LLB program. This is because implementing and executing the five year program is a much more difficult procedure due to lack of facilities and teaching staff (Khan, 2016). The view that both a three years and a five years program should be

conducted alongside was also highlighted by RHEC2 who mentioned that legal education may be pursued for the sake of knowledge in a three year LLB program as it helps people to know about the country's law and its legal system. The former Chief Justice of Pakistan, Justice Anwer Zaheer Jamali, in his address, had also asserted, "It is a misconception that legal education is solely for lawyers and those in law-related professions, it is also relevant and necessary for other fields of life" (Jamali, 2015).

When the respondents were asked about the five percent reserved seat allocations of the LLB program for the children of advocates, the single most striking observation that emerged from the interview was, "this is discriminatory". Almost all the respondents have clear adverse opinions with regards to allocated seats reserved for the children of advocates. However, RPBC1 stated that the PBC had implemented a five percent allocation because "we have a tradition of kinship in colleges". Evidently, he was speaking for his own self-interest.

The PBCLER 2015 had clearly stated that subject to the provision of the guidelines for admission, five percent of the seats shall be reserved for the sons/daughters of advocates who shall compete for admission in order of merit, among themselves. Such a provision also raised the controversial issue of the fundamental rights of all citizens of the country, as every citizen had a right to get admission so why these seats were specifically reserved for advocates. Previously, the PBCLER 1978 had allocated a provision of 10% whereas under the PBCLER 2015, the reserved provision was reduced to five percent. This implies that the PBCLER 2015 is more rigid, compared to PBCLER 1978. The five percent allocation reserved for the children of advocates seemed like a self-serving provision. As a result of this, it appears that the overall decision-making of the legal education system in Pakistan is predominantly controlled by lawyers, thereby it can be inferred that lawyers have a monopoly in deciding the needs of the country's legal education system (Siddique, 2013). It is hereby asserted that this rule is discriminatory and the courts should make a decision to remove this provision from the PBCLER 2015. In line with this, Rashid (2016) argued that as a profession that is supposed to act as a wall against discrimination and as the guardian of the rule of law, this provision is not acceptable as it violates the rights of the individuals. He went on to assert that such provisions do not only contradict non-discrimination requirements of the law but are also unique in the sense that no other respectable profession in Pakistan has ever made such a stipulation including the Medical Association and Engineering Association of Pakistan.

Total Number of Admissions in LL.B Part-I Programme (Rule 5)

Rule 5(ii) of the PBCLER 2015 states that the total number of students in the LL.B program (Part-I) shall not be more than 100 while Rule 5(i) states that each section of a class shall not comprise more than 35 students. This implies that the LL.B. students would be grouped into three sections. It shows that while the new rule stipulates the same total number of students but it, however, restricts the number of students in one classroom; the PBCLER 1978 just mentioned a total number of 100 seats. With regards to this, Rashid (2016) asserts that some private law colleges had shown their disappointment because this imposition would directly affect the financial budget of the colleges concerned (Rashid, 2016). Some law colleges with a reasonable number of faculty members as well as other related facilities like classrooms, furniture, computer labs, teaching faculty, and others have questioned this restriction for admission (Mohla, 2016). The feedback of the law colleges is crucial and needs to be taken into account because they have the capability to produce more law graduates for the country.

With regards to this rule, the respondents unanimously endorsed the limitation on the number of students to not more than 35 in a classroom. However, all the respondents held the view that the limit on the total number of students to 100 can be increased based on the building's capacity, the facilities, the faculty and the size of classrooms available in the respective law colleges/institutions. Additionally, RA1 stated that the "Pakistan Bar Council should differentiate between legal education and legal practice, everyone has the right to get legal education as stated by the constitution". Restriction on the number of students for law graduation can deprive the interested candidates from the right of learning law.

Syllabus (Rule 7)

Rule 7 of the PBCLER states that the syllabus for the five year LL.B. program should include the subjects prescribed and duly approved by the PBC and the HEC and as modified by them from time to time (Revised Curriculum by PBS & HEC, 201415). As a result of Rule 4, institutions of law that were offering the three year LLB program had to convert to a five-year LLB program with a semester based examination system spread over ten semesters. The limitation of the three years program is that the number of theoretical subjects are far more compared to practical subjects and this is inadequate to provide the skills needed for practice. The five-year LL.B degree is both an academic and professional degree in law,

which is in accordance with the guidelines and requirements of the HEC and PBC (Rule 7PBCLER 2015). The syllabus is the basic component in a legal education system. The opinions of the respondents were elicited to gather some feedback which could be useful for making future improvements. RPBC2 was of the opinion that the HEC and the PBC were responsible for designing the new syllabus but in doing so, they had also made it possible for the universities to choose a number of elective subjects from a list provided by them. It is within the authority of the concerned university to restructure the elective subjects. However, it must be noted that compulsory subjects in the syllabus are adequate to provide the knowledge required for the current practical work in legal practice. Other respondents had slightly different views. RHEC1 and RHEC2 stated that there should be some practical subjects included in the syllabus as compulsory subjects such as Clinical Legal Education. They also mentioned that more weightage should be given to practice tasks in Mock Courts. On the other hand, RPBC2 suggested that research should be added as part of the curriculum whereas RA1 said that "the changes were very minimal and that they reflected the same old syllabus, hence, these should work well". Evidently, the new syllabus comprised of the same courses as those previously conducted in the three year LL.B program vis-a-vis a number of new courses. The contents of the current syllabus were also endorsed by RA2 who stated that it is appropriate.

Rashid (2016) claimed that it is worth mentioning that the current syllabus for the five-year LL.B. program is the same one provided by the HEC and the PBC in 2011. He went on to add that an in-depth analysis will show that majority of the subjects are theoretical and many are related to social science subjects. Although the proposed (new) five-year LL.B. program may seem to consist of an updated syllabus, the truth is that only some components of the syllabus are new. Thus, it remains to be seen whether these new components of the syllabus will provide new directions for law students to absorb knowledge about law. Malik (2016) also endorsed that it also remains to be seen whether or not giving more focus to other subjects previously not included in the syllabus would offer more insight or knowledge to law students. It is still uncertain whether or not the new PBCLER 2015 are substantially practical to the current environment of Pakistan or whether they are still reminiscent of the old rules.

Medium of Instruction (Rule 9)

Among the new rules imposed by the PBCLER 2015, Rule 9 is also a controversial one because it stipulates that

students shall only be instructed through the medium of English. Over the years, there has been a conflict on the language that should be used in legal education. Further, this rule seems to be in conflict with the 2015 Supreme Court decision that Urdu, the national and official language of Pakistan, must be used in courts as well [Muhammad Kowkab Iqbal v Government of Pakistan (2015), PLD 1210]. Article 251 of the constitution of the Islamic Republic of Pakistan 1973 clearly states that "*The National Language is Urdu*". Article 251 (3) of the constitution further states, that "*A Provincial Assembly may by law prescribe measures for Teaching, Promotion and use of a provincial language in addition to the national language*". As a multilingual state, Pakistan has five major languages which are spoken throughout the country, that is, Punjabi, Sindhi, Pashto, Saraiki and Balouchi. Urdu is considered as the national language (Rahman, 2004). A study done by Gopang et al., (2017) concluded that "*a great majority of the sample reported that mother tongue leaves a greater as well as stronger impact on the students' learning ability*". Based on this, the researchers had suggested that education policy makers need to emphasize on the regional and national language as the medium of instruction for education purposes while English can serve as a second language. Likewise, in support of these arguments, Shuhabuddin et al., (2014) also claimed that Pakistan is a country where both English and Urdu are used in the government sector, corporate area, media, training and education as well as in other important fields. Based on this, it can be seen that English cannot be discontinued although attention needs to be given to the country's official language.

From the interviews conducted in this study, RPBC2 agreed that English language should serve as the medium of instruction in law colleges as all the materials including books and court decisions are in English. The other respondents, however, had different opinions. A majority claimed that the national and/or local language should be the medium of instruction. For instance, RPBC1 stated that intelligent students invested all their energy in the translation process which takes up a lot of time such as thinking in the local language then translating it into English. This difficulty experienced by the students clearly indicates that result of their performance in the exam is not a true reflection of the students' intelligence as the language proficiency could have affected their performance. The comment from RA2 confirms this:

I am very much clear that, a person cannot be judged of his intelligence or competency from the level of language. Government should start English language compulsory from grade one. Then you will have students for English medium.

RA1 also added, “If the teacher speaks in English in front of a students who come from rural government school/college, where only local languages are spoken, how they can understand in English”? Similarly, RHEC1 and RHEC2 also supported the idea of adopting the regional local languages as the medium of instruction in law schools, besides English language. However, RA2 was of the opinion that the English language must remain as the medium of instruction. RA2’s views were endorsed in the recent Supreme Court direction where the medium of instruction in English was encouraged. The apex court directed that:

Law colleges must strive that English as a medium of instruction of legal subjects is adopted so that students are adequately proficient before they graduate (Civil Misc. Applications No.1939 of 2014 et al.).

Examination and Passing Percentage (Rule 11)

The Supreme Court’s judgment also pointed out that the examination system for legal education of Pakistan is very weak (Pakistan Bar Council vs. The Federal Government & Others PLD 2007 SC 394). As a result of this, Rule 11 of the PBCLER 2015 states that the examination of law students shall be based on the semester system and there shall be two semesters in a year. In this regard, universities/degree awarding institutions that had been following the annual examination system would be expected to shift to the semester system within a period of five years. This process of shifting from annual to semester system would take time since a lot of effort is required, both by the teaching faculty, administrative staff, as well as the students. Rule 11 also states that “*the students who have failed and those placed in compartment shall be allowed or be availed the supplementary examination*”. This provision suggests that students who failed in the previous attempt would be given another chance to take the examination and to perform better. Additionally, the rule asserts that “*the student placed in compartment shall not be permitted to appear in the next higher examination without having passed all the papers which he/she had failed*”. Such a provision of semester system ensures the quality of the students enrolled in the legal education as they go through two exams in a year and are not allowed to progress until successful completion of a particular semester. At the same time, the rule indicates that:

The student who fails three times continuously in an examination shall be debarred from appearing in further examination and any student who fails to appear in an examination within two years after completing his/her term, he/she shall not be permitted to appear in the next examination.

All these requirements set a higher standard for the law students, which seems like a good effort by PBC. Prior to this, the PBCLER 1978 had adhered to the annual examination system which allowed only one examination a year which is a rigid restriction. However, the new rule offers students two opportunities in a year. With regards to marks, Rule 11 of PBCLER 2015 clearly mentions that:

The passing marks in the examination shall be 40 percent on individual paper and 50 percent in aggregate and there shall be only two divisions 1st division and 2nd division. Those who obtain 60 percent or more marks shall be placed in the 1st division.

This shows a clear distinction in the grading scheme for law students but the benchmark used to distinguish the division is still unclear because it does not specify the criteria needed to fulfill the 60% weightage. In line with this, it appears that there is an additional issue with regards to examinations. As can be noted in the PBCLER 2015, the examination system that is being outlined in Rule 11 seems to be the only assessment mechanism to distinguish pass/fail students and 1st/2nd division graduates but no detailed criteria are offered. With regard to these criteria components of the examination, it is evident that the PBCLER 2015 had not made any provision to consider such components or tools as assessment methods that can culminate in a final grade. Furthermore, Siddique (2007) argued that this serves as a vague provision to law colleges/institutions that organize and conduct such examinations on behalf of the parent public sector university. For instance, there are numerous internationally accepted mechanisms of examinations which have been adopted universally to gauge performance and to give grades. They include weightage of marks given to components such as class participation, presentation, mid-term examination, quizzes, mock trials and others. A combination of these assessment tasks helps students perform better in their assessment and it also allows students to see where their strengths or weaknesses are so that more effort can be put into addressing their weaknesses. Consequently, this would ensure that the graduating students are more competent with a complete range of skills needed in real life. This lack of diverse assessment methods in the examination system implies that law institutions are placing more emphasis on students’ memorizing skills needed for pure written examination method which does not emphasize on their ability to present and analyze issues critically (Siddique, 2007). Further analysis also showed that the “passing criteria” of the PBCLER 2015 was the same as the one evidenced in Rule 13 (a) of the PBCLER 1978 where it stipulates 40 percent for individual exams and 50 percent for aggregate. This outcome clearly shows that the concern

shown for the quality of examination has not been given adequate attention and emphasis (Rashid, 2016).

This issue was presented to the respondents and they were asked to share their views on the rules for examination. All agreed that this rule requirement is only suitable for the annual examination system and not applicable for the semester examination system. RPBC1 admitted that there was a flaw in this rule and he attributed this flaw to the fact that members of the PBC legal education committee do not have the expertise. These rules were designed by members of the Pakistan Bar Council who are themselves probably not qualified to design the rule because they are not directly involved with academia. Their input could have been taken wholly from the suggestions of others without proper considerations. He went on to add that, evidently, some areas of the proposed law education had been overlooked. Further, RPBC2, RHEC1 and RHEC2 have suggested that the Cumulative Grade Points Average (CGPA) system should be adopted into the legal education system. This is more in line with the semester system recommended for law institutions. Contrary to the above statements, RA1 and RA2, who are both academics, mentioned that both the annual and semester examination system are acceptable.

Prior to the new rule (Rule 12) of the PBCLER 2015, it has been a practice in Pakistan that when a law student failed repeatedly in the law examinations, he/she would be disqualified from taking any further exams. This practice was also endorsed by RPBC1 who claimed that PBC's legal education team is thinking about this seriously and they are looking for an alternative to give students who cannot go further, a way of exiting the program with a BA equivalent. This opinion was also supported by other respondents. However, RA1 indicated that "the semester system works in the public sector but it doesn't work in the private sector properly". He justified this statement by claiming that the public sector institutions have facilities for conducting examinations easily as compared to the private sector due to lack of facilities. Furthermore, in reference to examinations, the Supreme Court in its latest direction on legal education also gave emphasis on this issue by stating that:

The HEC shall, in collaboration with universities imparting legal education and the PBC, shall consider the matter of assessment/evaluation of the examinations for LL.B classes exhaustively and make recommendations for updating and improving the current system of such examination to make it more relevant, practicable and reflective of the real talent and potential of candidates (Civil Misc. Applications No.1939 of 2014 et al.).

Legal Education at the Level of LL.M/PhD (Rule 13)

Rule 13 states that "a University or DAI wishing to impart legal education at the level of LL.M shall have to seek prior permission and the approval of the PBC and HEC". This can be achieved by submitting an application which provides details and justifications for the application to the PBC and the application should be accompanied by a list of the faculty members who are engaged for such a purpose. Additionally, the application shall be complemented with other necessary documents, along with the fee of 1 million rupees (PBCLER 2015). This rule, nonetheless, made no mention of other requirements such as the quality assurance mechanism or the eligibility of students to get admission in the post-graduate level. The 1973 Act gives authority to the PBC to regulate legal education and the enrolment procedure at the graduation level. However, LL.M. and Ph.D. programs are post-graduate level, hence the rules are not be applicable to these two post-graduate programs (Sheikh, 2016). Additionally, it is noticed that the PBCLER 2015 had omitted the directions needed with regard to how the post-graduate law programs should be conducted. Hence, this concern also raises some issues. Despite the fact that the PBCLER 2015 may not be concerned with the LL.M. and the Ph.D. degree programs as research degrees, it appears that licenses are currently being issued on the basis of the LL.B. programs but not the LL.M. or Ph.D. programs (Mohla, 2016).

When asked about Rule 13 which states that the university or degree awarding institute desiring to impart legal education at the level of LL.M/Ph.D. shall have to seek prior permission and approval from the PBC, followed by required documents and the fee of rupees 1000000/- which is non-refundable, RA1 said that "*With this rule, the Bar Council exceed the powers, they have no authority to do this*". RPBC1, however, justified this rule as the regulator's authority which had already been stipulated in the 1973 Act. It was mentioned that the people who had invested huge amounts of capital in private law colleges need to take note that there are some penalties for breaching these rules, encompassing huge amounts that are equivalent to a non-refundable security deposit when PBC suspend Law College's recognition, this amount will be forfeited. Although it can be envisioned that the amount of one (1) million rupees in today's era is not a huge amount, nevertheless, it is a substantial amount considering the fact that making an investment in the legal education can cost a lot of money. For example, an investor needs to establish an educational college on four canals (1000 sqy) of building, hire faculty members, institute a total of 5000 books in the library and so on, all of which can amount to more than 20 million rupees. RPBC2 had a

different opinion stating that it is irrelevant whether PBC or Provincial Bar Council had the power to regulate LL.M. and Ph.D. program because when someone is doing post-graduate studies in legal education, it automatically means he has to follow the PBC rules. He went on to add that it is not necessary for the PBC to constitute a separate body for post-graduate level of education. RHEC1, on the other hand, was of the opinion that the PBC was authorized, under the 1973 Act, to encompass decision-making up to the graduate level only, not including LL.M. and Ph.D. programs, but the rule was not unjustified. A further response was added by RHEC2 wherein it was stated that the need for an approval is good because there will be visits done by PBC. He justified his claim by stating that other professional bodies such as Medical Association and Engineering Association also have similar requirements. However, he claimed that the fee is unfair, it is too much. RA1 supported this point as well, "PBC has no authority to do this at postgraduate level, why should they take 1 million?" This was followed by RA2 who also supported the rejection of this rule and asserted that it is absolutely wrong.

However, as per the direction of Supreme Court in the recent case (Civil Misc. Applications No.1939 of 2014 et al.), universities/colleges/institutions should be banned from conducting LL.M. and Ph.D. programs, if they have failed to obtain approval from PBC. The Apex Court directed as follows:

The universities and institutions that are not recognized and authorised by the PBC to confer LL.B. degree shall not impart legal education to students at LL.M. and Ph.D. levels or to admit students to either of such programmes. The same rule applies to law colleges affiliated to such universities and institutions.

Inspection of Law Institutes (Rule14)

One of the most important issues noted in the PBCLER 2015 is the inspection of law colleges/institutions. Rule 14(1) (i) emphasizes on the inspection process stating that "*all the law faculties, law colleges/institutes shall be inspected by the inspection team*". The team shall be appointed by the legal education committee, the members consisting of a member of the PBC, a nominee from the HEC and a nominee from the university concerned. Additionally, the legal education committee of the PBC may also nominate one or more of its members to conduct the inspection. Further to the above, Rule 14 (2) also states that:

The PBC and the concerned provincial bar councils or the Islamabad Bar Council shall be given adequate

representation on the Boards of Studies, Faculties of Law, Boards of Governors and other bodies set up for governing the Law Faculties, Law Departments and/or Law Colleges.

This implies that the procedure for inspection mentioned in Rule 14(1)(ii) requires that the team members shall inspect the teaching and general working procedures so as to ensure that faculties are in compliance with the rules. Rule 14(1)(iv) further provides the guideline for the travelling expenses of members of the inspection team as "*it will be borne by their concerned bodies but boarding and lodging facilities will be provided by the respective law faculty/department/college*". It further adds that if, after conducting the inspection, the team is not satisfied with the compliance of the rules, the inspection team may de-recognize the law college/institution. Nonetheless, it is advised in Rule 22 that "*the university or degree awarding institution aggrieved by the order of de-recognition, may file a review petition within 30 days upon receipt of the order of de-recognition before the PBC*". Additionally, an amount of 100,000 rupees (One hundred thousand rupees only) should also be deposited in favor of the PBC while the inspection procedure shall be conducted by the inspection team. Rule 31 of the PBCLER 2015 further states that:

There shall be at least one internal inspection in every academic year of the law college by the inspection committee of the university comprising of the Dean, faculty of law/head, law department. However, in the absence of the Dean, faculty of law, principal of constituent law college of the concerned university as its chairman, the principal/dean of university law college from another province, one nominee each of the PBC and HEC.

Such an inspection is performed by the internal inspection team formed by the university/college while the external inspection team is from the PBC and the HEC (Rule 31, PBCLER 2015). Rule14 of PBCLER 2015 mentions that the inspection procedure of law colleges has to be enhanced but the mechanism and the benchmark used to ensure quality assurance were not stated clearly. In fact, the rules noted in the PBCLER 2015 do not contain any guidelines suggesting how such an inspection should be conducted. Moreover, since the majority of the inspection committee members are advocates from the Bar Council, it seems odd because as a professional discipline, the inspection should be conducted by educationists and experts in the field (Qureshi, 2015). In the past, the issue of inspection and evaluation of the law exams has been one of the conflicts brewing between the PBC and the HEC as these two bodies seemed to have overlapping authority. With the PBCLER 2015, however, there is

some clarity noted in Rule 14 which asserts that the PBC can inspect with the collaboration of other stakeholders. This issue was also highlighted in the responses of the respondents.

As shared by RPBC1, the PBC is reviewing this matter. It appears that university representatives who were part of this inspection committee were assumed to come from the law faculty. From the responses of RPBC2, it seems that the inspection process comprised multilayers of checking and controlling. RPBC2 also mentioned that it would have been better if universities were inspected before law colleges were inspected. He added that if the universities were found to be functioning properly, then the law colleges under the wings of these universities would also be working properly. He further emphasized that the main negligence is that such inspection procedures were not performed hence it is the negligence of these universities when the law colleges working under their wings were not following the rules. The views of RPBC1 and RPBC2 illustrated that the PBC had only been focusing on the implementation of its rule and not on the syllabus improvement or the quality assurance mechanism which evidently can make contributions in resolving some of the issues in the law faculty. To some extent, there was also some disagreement among the respondents.

As can be seen, the opinion of RHEC1 is contrary to the others. For instance, RHEC1 mentioned that “the inspection powers should be given to HEC as they have the capacity in terms of academic man power”. He further argued that the PBC has neither academicians nor a PhD holder in its team. In this regard, it is uncertain how the PBC can function efficiently when the members conducting the inspection on the academicians are better qualified in terms of higher qualification in the law discipline, than the advocates who drew up the rules. This comment was also agreed upon by RA1 and RA2.

Moreover, in the recent case of Supreme Court (Civil Misc. Applications No.1939 of 2014 et al.), the court gave direction regarding the inspection and affiliation of law colleges as:

Every affiliating university shall constitute a separate Affiliating Committee for initial and annual inspection of its affiliate law colleges and to take immediate action against those affiliate law colleges which are non-compliant with the rules framed by the PBC and the applicable rules of the affiliating university itself.

It must be noted that the Pakistan Bar Council had noticed the poor conditions of the legal education in the country and approached the Supreme Court regarding

it. Further, there were other constitution petitions and miscellaneous applications which jointly led to the 2018 decision by the Supreme Court (Civil Misc. Applications No.1939 of 2014 et al.). As a result of the interim order presented in August 2018, as many as 96 law colleges in the country were declared having substandard requirements and the order also directed that such institutes be disaffiliated from their respective varsities. Moreover, 23 law institutions were instructed to improve on the areas identified as wanting within six months.

Recognition of Universities and Degree Awarding Institutions by the PBC (Rules 15, 16 & 17)

Rule 16 (i) of the PBCLER 2015 asserts that any national or international university or DAI intending to impart legal education may apply to the PBC for recognition, using the prescribed application procedure, accompanied by a fee of Rs. 15,00,000. Since institutions have to bear this amount, it is likely that this will be passed on to the students and eventually parents who will bear the full brunt of all excessive charges, in one form or another. Indirectly, this procedure can have an impact on the legal education system of Pakistan, making it more difficult for the middle-class students who cannot afford the fee to attain a law degree (Qureshi, 2015). Similarly, Rule 16 (ii) also mentions that any person having obtained a Bachelor’s degree in law from a university outside Pakistan but not recognized by the PBC, may apply for recognition of the said university and its LL.B. degree via the prescribed form accompanied by a non-refundable fee of Rs. 25,000.

On the whole, this rule can be seen to be very strict for any violation will result in the university/institution to be de-recognized. For the assurance of imparting quality legal education strictly in accordance with the syllabi prescribed by the PBC and the HEC, a law institution must ensure that its law program is conducted following only the five year composite law program for LL.B., as per the standard and criteria prescribed (Rules 15 to 23, PBCLER 2015). He went on to assert that this can be traced to Rule 20 of the PBCLER 2015 which states that:

There will be no recognition for any university/DAI by the PBC which affiliates any law college after enforcement of these rules and in the event of violation the concerned university/institution shall be liable to be derecognised after being offered an opportunity for hearing.

In his formal reply to the Chairman of the Pakistan Bar Council’s Legal Education Committee regarding the show

cause notice issued to the University of Management and Technology about its law program, Sheikh (2016) stated that scholars and practitioners have been criticizing PBCLER 2015. He added that the PBC, as a regulatory body, is not empowered to prevent a university from advertising and conducting law programs. The PBC's role is merely to give "recognition" to universities and to "inspect" them for quality assurance. The term, "recognition" is a mere reference to a degree that is "recognized" by Pakistan so that those who enrolled in such law programs are qualified to apply and enroll for the bar. Since the PBC has no jurisdiction over postgraduate law programs, it is plausible that institutions in Pakistan without the said recognition insisted by the PBC would be awarding LL.M. degrees as well. It appears that even the lack of recognition does not deprive such institutions of its authority to grant law degrees (Sheikh, 2016). This issue has been envisaged by the Pakistan Bar Council Legal Education Rules 2015 as steps are currently being outlined for such institutions to abide by the PBC's recognition requirement.

Rule 1517 acknowledges PBC's powers for recognition and de-recognition of universities/colleges/degree awarding institutions both at local and international level. The respondents were asked to give comments on these rules which give extensive powers to PBC. In response, RPBC1 said that, "These things come under the authority of the governing body" so there are no controversies regarding it. The other respondents also agreed. However, in responding to the amount charged as recognition fees, RPBC1 justified that such a fee will be charged under the condition when a foreign university wants to open a branch campus in Pakistan. Implementing this fee on such universities will ensure that these universities take their obligation seriously to be at par with local universities. RPBC1 further added that any foreign university that wants to offer a law program as part of the legal education in Pakistan will have the support of the PBC. It will extend its full co-operation to such universities that are expected to adhere to the same rules that apply to local universities. He is of the opinion that the amount levied is not excessively high, in fact it is a fair amount as it only amounted to USD12000.00. As a one-off payment, the amount actually entailed many procedures. For instance, the PBC has to pay a certain amount of money to the HEC for the verification purpose. After this, the PBC has to convene a special meeting which comprises a five member committee. For this task, the PBC has to incur additional expenses such as the transportation fees of these committee members giving justification to this amount of money. RPBC2 also argued that this amount of money is certainly much lesser than the money a student

studying overseas would need to spend. For instance, a student whose law degree comes from another country also has to bear living expenses of between three to five years, whether on scholarship or on personal expenses. All these would add up to between 2040 lacs, thus, the Rs. 25000 is certainly very minimal. On the other hand, RPBC2 was of the opinion that this issue is very much one of an administrative nature. RHEC1, RHEC2 and RA2 were, however, of the opinion, that this is a huge amount and it is unjustifiable. This was further endorsed by RA1, who likewise argued that this amount is excessive. He asserted that the PBC had crossed its jurisdiction in making these rules. He affirmed that the PBC is only a statutory body and in his opinion, this seemed to be an approach for the PBC to collect money.

The powers of PBC under Rule 15 & 17 have been endorsed in the recent direction given by the Supreme Court in the case, Civil Misc. Applications No.1939 of 2014 et al. Further, the court has directed that a university that is not recognized by the PBC to offer law programs should not grant affiliation to any institution pretending to be a law college. Accordingly, as a result of the direction given by the apex court, five law colleges affiliated with the Shaheed Benazir Bhutto University, Benazirabad were ordered to be immediately closed down for the reason that their affiliating university was not recognized or authorized by the PBC to offer a LL.B. program (Civil Misc. Applications No.1939 of 2014 et al.).

International/ External/ Distance Learning Programmes of Foreign Universities (Rule 36, 37 & 38)

Besides law degrees offered by local institutions, legal education in Pakistan may also be obtained from foreign institutions through local law colleges by way of distance learning programs such as the external law program from University of London. The PBC allows local law colleges which are affiliated with foreign law institutes to conduct such law programs. Subsequent to the completion of such programs, successful candidates are awarded foreign law degrees as they are already recognized. The directives given by the PBC to such law colleges that conduct the International/ External/ Distance learning programs through foreign universities are different from those offered by local universities/degree awarding institutes. This is stipulated in Rules 36 to 40 of the PBCLER 2015 which clearly mentions that "*no college/institution shall operate by imparting legal education under international/ external/distance learning programme from any foreign university unless it obtains NOC from the PBC*". Law

colleges that intend to seek No Objection Certificate (NOC) from the PBC so as to impart legal education under the umbrella of international/external/distance learning programs of a foreign university/institution would need to submit an official application to the legal education committee of the PBC along with Rupees 1.5 million as a fee for grant of NOC (Rule 36 to 40, PBCLER 2015). This is in continuation with Rule 15 of the PBCLER 2015. This is an effective way to control the quality of the legal education being offered in Pakistan. Responses drawn from the respondents showed support.

RPBC1, RPBC2, and RHEC2 agreed that these rules are valid. While RA2 supported this rule, he also emphasized that when the PBC affiliates law colleges/institutions with any university, it is important for the PBC to verify the qualifications of the people involved. Likewise, it is necessary to verify the law colleges/institutions that intend to impart legal education under the international/external/distance learning programs. In this way, the PBC can ensure quality. Nevertheless, RHEC1 noted that both these rules are also unjustifiable as they were designed to control the authority of universities. RA1 argued that it was justifiable for the HEC to do this because they have set a criterion for the higher education of Pakistan, thus the regulatory body can set the standard and it should have the right to give/withhold a NOC. However, he opposed the PBC's role, whose job is only to suggest the subjects but it seemed to be involved with other issues of legal education.

Limitations in the PBCLER 2015

Thus far, the above sections had outlined the contents stipulated in several rules of the PBCLER 2015. As is common in all policies or guidelines, whenever steps are taken to address certain issues, there will always be some limitations. In this regard, the analysis of the PBCLER 2015 has also highlighted a number of limitations. The respondents' responses are first provided to illustrate this point.

RPBC1 admitted that the rules are neither complete nor comprehensive; they are still under review as they were developed in an urgent manner, due to the fact that the tenure of the elected body of PBC was at the expiring stage. He went on to add that currently, the PBC is reviewing the rules and it is likely that this has been triggered by some public feedback, thus it is hoped that the committee in the PBC would give more thought on these rules before making their decisions. Analysis has also shown that some of the PBCLER 2015 rules were self-contradictory, some were too harsh while others were

too lenient. These would create a chaotic procedure for the institutions as well as the students enrolled in such LL.B. programs. For example, rule 20 had stated that no new private law colleges will be affiliated and this is in conflict with the constitution which guarantees the right of education to all citizens. He ended with the hope that the PBC will suitably amend the PBCLER 2015 as most of the rules were designed without proper thought and without proper consultation with the key stakeholders and thus they can be further improved.

RPBC2 had observed that these rules are more theoretical than practical and that their implementations are loose as there are many weaknesses in the implementation. One of these was the lack of a proper quality assurance mechanism. He added that the rules in the PBCLER 2015 mentioned nothing about the examination system, which is disappointing. He further asserted that, "there is lot of improvement required for it". Likewise, RHEC1 also mentioned that "these rules are more authoritative rather than a good guideline for legal education". Further, RHEC2 added that there was a "lack of consultation with the stakeholders, as there normally is when rules are made". Linked to this was the opinion of RA1 who emphasized that all these rules did not help to improve the legal education but in fact made the system even worse. He was astonished by the fact that non-academics could be assessors who assessed the performance of a professional teacher. The limitations were also noted by RA2 who mentioned that there should be amendments made to these rules.

Conclusion

The findings from past literature and interviews conducted clearly denote that the PBCLER 2015, despite all its lofty goals, had failed to address some fundamental questions like how to improve the quality of legal education offered by law colleges/institutions, how to produce good quality legal research, how to attract the best students to law programs and how to produce law graduates who are equipped with the requisite skills and who can play an essential role in uplifting the Pakistani society, in general, and the legal profession, in particular. It seems clear that changes made in the curriculum design and the presence of the HEC in this matter, are not sufficient in raising the legal education standards of the country. Changes may need to come from the PBC which needs to change its current attitude of imposing power and stringent rules on legal education without proper implementation and guidance on how to ensure quality assurance. It needs to focus on the importance of developing

a cadre of legal academics who are equipped with the competence to teach law well and with conviction and it needs to develop academics who are inclined towards conducting research, thereby developing their research expertise (Qureshi, 2015). Both competencies are necessary to raise the standards of the teaching and researching faculty because they go hand-in-hand in developing the standards of future graduates as well as addressing what is missing in the legal system or education of this country, thereby enhancing the nation's development. Besides this, a greater emphasis needs to be placed on the examinations conducted by the universities and the criteria for membership to the Bar Council. There should be a shift in some aspects of the examinations as current examinations compel students to apply their knowledge to legal scenarios only, in a manner that focuses on memorization. It is proposed that some aspects of law examinations be changed so that the students' ability to reason and argue can be developed in preparation for their future as advocates and as empowered individuals who can lead. More importantly, due to the particular way in which the PBC works and its authority to issue eligibility requirements for office holders in the legal education committee, it would be proper to delegate the authority in educational decisions to them. As stated by Siddique (2007), there is presently a need for academic legal experts to be involved in curriculum development and inspection. These stakeholders can collaborate with the PBC in developing the legal education curriculum. Although the recommendation to integrate a more active role for academics in PBC's decision making on issues related to legal education curriculum may not be easy, it is significant. There is a need for the Bar Council to accept the importance of legal academics and to take steps to promote it (Siddique, 2007).

The rules proposed by the PBCLER 2015 have given good administrative directions for quality assurance. However, they have failed to provide the pedagogical methods to do so. Furthermore, the basic standards for graduation have also not been identified since the elements of legal ethics are a mandatory requirement in order to graduate in the LLB programs. The PBCLER 2015 has been silent on the issue of how, what and to what level to impart knowledge and the importance of legal ethics to law students (Malik, 2016). Similarly, the PBCLER is also silent on issues related to the benchmark of standards for quality assurance. It has not even provided the minimum requirement for concerned law colleges to teach practical skills to law students. It can be concluded that the PBCLER 2015 had overlooked the rules for Clinical Legal education to be regarded as a practical skill for law as a profession.

Based on the findings from past literature and interviews, it can be concluded that the PBCLER 2015 contains several primary deficiencies which are important for quality legal education. However, it must be noted that these interviews were conducted in the months of March and April 2018. Despite this, it is interesting to note that the recent Supreme Court (Civil Misc. Applications No.1939 of 2014 et al.) decision which gave directions on the decline of legal education in the month of August 2018 in its interim order clearly proves the validity of the findings from past research and interviews conducted. It is obvious that the rules developed have failed, most importantly, to offer the basic requirements of ensuring a quality assurance mechanism (Kalanauri, n.d). Therefore, it is suggested that the PBCLER 2015 rules be reviewed and amended quickly. The quality of legal education in Pakistan is of utmost priority because the development of the nation lies in the hands of good legislators, effective policy-makers and good leaders.

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