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भारतीय विधिज्ञ परिषद् BAR COUNCIL OF INDIA

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नई दिल्ली - 110 002
21, Rouse Avenue Institutional Area
New Delhi - 110 002
May 17, 2012

To,

**Hon'ble Chairman and all the Hon'ble Members
Of Standing Committee of Parliament on
Human Resource Development (Union of India).**

Sub: Memorandum on the Draft Higher Education and Research Bill, 2011, The National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2010, The foreign Educational Institutions(Regulation of Entry and Operations), Bill, [2010, The Prohibition of Unfair Practices in Higher Educational Institution Bill, 2010 and The National Law Schools Bill, 2011" sought to be introduced by HRD Ministry.

Respected Sir (s):,

We submit this memorandum on behalf of the Bar Council of India (BCI), the apex body representing 1.7 million lawyers in India. The purpose of the memorandum is to draw your attention towards certain provision(s) of the Draft Higher Education and Research Bill, 2011 (Draft HER Bill) The National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2010, The foreign Educational Institutions(Regulation of Entry and Operations), Bill, 2010, The Prohibition of Unfair Practices in Higher Educational Institution Bill, 2010 and The National Law Schools Bill, 2011 which may have an adverse effect on the hitherto autonomous functions of the BCI and the universities providing legal education.

As back as in 1961, the Parliament felt that the maintenance of the freedom of lawyers is a must for a strong democracy, therefore, the Advocates Act, 1961 was passed, assigning very important functions with regard to the Legal Education and standard of Legal Profession to these elected bodies called State Bar Councils and Bar Council of India.

Section 7(1)(h) and (i) of the Advocates Act currently delineates the functions of the BCI as:

"The functions of the Bar Council of India shall be -

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"(h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;

- (i) *to recognize Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf.*

Sir(s),

The proposed Bills directly affect the vital and basic structures of the Advocates Act, 1961 under which total autonomy and independence was given to the Bar Council of India and State Bar Councils to regulate the Legal Profession and Legal Education.

The Higher Education and Research Bill, 2011 proposes to take away the duties and functions entrusted to the Bar Council of India and State Bar Councils and it proposes to vest all these powers with a National Commission constituting a few academicians.

These Bills will deprive the representatives of Advocates of India to have their say in the formulation and implementation of policies involving Legal Education at the professional and educational level.

Since 1961, when this function was entrusted, the Bar Council of India has brought in effective changes in the Legal Education system without any financial support from the Government. Bar Council of India first introduced the Three Years LL.B. Course in place of the Two years course and that created a slow revolution in improving the quality of those joining the profession. In 1986, the Bar Council of India introduced the Five year LL.B. Course which helped in catching young persons for the profession and this course has attracted the best brains to take to the profession. And gradually the Council has been taking all steps to maintain high standard of Legal education and it has taken revolutionary steps for the said purpose.

The experiment of the Bar Council of India to start a first class educational institution in the form of the **National Law School of India University at Bangalore**, was a resounding success. Today, under the guidelines and ideas of Bar Council of India, more than 14 National Law Schools have come up in different states providing a totally new vision and dimension to the concept of legal education in the country. These Law schools are doing much better than many of foreign universities of Developed countries.

Failures of HRD Ministry and of Universities:-

Today, there are certain harsh truths which are a bit difficult to be digested by the HRD Ministry. If at all, there has been deterioration in standard of Legal Education, it is solely due to the negligence and

slackness on the part of the HRD Ministry. The Universities, in the country, are not acting properly. In none of the Government owned law institutions or the law colleges (constituent to the universities), we find the adequate number of law teachers. Neither the persons sitting in the HRD Ministry, nor the officers of the HRD Ministry and the universities, ever respond to the repeated requests of the Bar Council of India in this regard. There is an acute dearth of teachers in all subjects particularly of law teachers in all subjects particularly of teachers in Government and Private law colleges. Obviously Bar Council of India cannot be held responsible for it. The actual higher Education (that is LL.M and Ph.d) in the Legal Education has never got any kind of impetus from the HRD Ministry or State Governments. And this real Higher Education imparting LL.M. or Ph.D. courses are not under the control of Bar Council of India. We may point out that the Legal Education beyond LL.B. is not within the domain of Bar Councils. Rather it is with HRD and the Universities.

While students of medical science doing their PG courses get handsome stipend , a student intending to undertake the LL.M. course from a good institution is required to bear huge expenses from his pocket. Under the Advocates Act and the Rules of Bar Council of India, the function of Bar Council is very limited, an institution intending to impart the Legal Education, is first required to fulfill the conditions, to have the proper infrastructures and the law teachers and then to get the recognition/affiliation from the university. This is the first step. The Universities are to hold proper inspection and then to report. Thereafter the role of State Government comes. The State Government, after proper inspection and after looking into the report of the concerned university, has to grant a " No Objection Certificate(NOC)" and the role of Bar Council of India or the State Bar Council comes at last. Therefore, the Bar Council of India cannot be criticized or blamed for degeneration in the standard of Legal Education. Bar Council of India lays down the norms and frames the curriculum as per the requirements of the country. It undergoes discussions with its counterparts in the developed countries with regard to the curriculum and other requirements and after a thorough consideration of the matter, the Legal Education Committee of the Bar Council of India frames its rules with regard to the Legal Education.

It is needless to mention that the establishment of National Law School was the idea of Bar Council of India. The National Law School of Bangalore, which is today, one of the most prestigious institutions of Legal Education in the world, was first started by the Bar Council of India. Today, there are 15 such National Law Schools and more are likely to be established. This was one of the experiment of the Bar Council of India which has proved most successful in the field of Legal Education. The five- years LL.B degree course is also a vision of Bar Council of India. This course has become more popular and lucrative than M.B.B.S. or I.I.T. Degrees. It is shocking to say, that the cost of slackness on the part of the U.G.C. that the recommendation of Bar Council of India with regard to one year LL.M- course (on the pattern of Australia and UK) is still a dream in India. This is also one of the reason for the dearth of law teachers in the country.

Legal Education Committee of Bar Council of India

The Legal Education Committee of Council has involved academicians, Judges of the Supreme Court of India and High Courts and other legal luminaries in the process of formulation of the education policy.

Moreover, the Legal Education Committee of the Bar Council of India is headed by a retired Judge of Supreme Court of India. Besides, this committee consists of top legal luminaries in the form of a sitting Honourable Chief Justice Hon'ble Mr. Justice Madan B. Lokur, a distinguished Professor of Law, the Law Secretary, Government of India, UGC Chairman and five elected members of the Bar Council of India, the Attorney General and the Solicitor General of India. Bar Council of India vide its decision dated 03.09.2011 of Legal Education Committee has expanded the Legal Education Committee by nominating permanent invitees from the eminent Senior Advocates like Shri Ram Jethmalani, Senior Advocate, Shri Ashok Desai H, Senior Advocate, Shri K.K. Venugopal, Senior Advocate, Shri P.P. Rao, Senior Advocate, Shri Anil Divan, Senior Advocate, Shri Gopal Subramaniam, Senior Advocate, Shri A.K. Ganguli, Senior Advocate, Shri O.P. Sharma, Advocate and Prof. (Dr.) Ranbir Singh, Vice-Chancellor, National Law University, Delhi and Hon'ble Mr. Justice Mukul Mudgal, former Chief Justice of Punjab and Haryana High Court and other Legal luminaries as its special invitees. All these experiences will come to naught if the proposed Bill takes away the function entrusted to the State Bar Councils and Bar Council of India with respect to Legal Education in India (contained in Section 6 and 7 of the Advocates Act, 1961).

Therefore, the Bar Council of India has constituted the high level body in order to promote Legal Education and to lay down the standards of such educations in consultation with Hon'ble Judges, Jurists, the various universities across the country. Since the Bar Council of India is the regulatory body, it has specified the norms and standards of academic quality, the norms and process for establishment of the institutions imparting Legal Education and winding up of those institutions and universities who do not fulfill the requirements. The Bar Council of India has already specified the norms and the process for permitting a university or any legal institution for award of a law degree.

Against Federal Structure of the country:-

The Proposed Bill goes against the Federal structure of the country. Higher Education, is in the concurrent list, hence, both the Central and State Governments have an equal responsibility with regard to its functioning and programmes. This Bill proposes regulation of syllabi, course structures, administrative protocols, appointment of Vice-Chancellor etc. thereby, totally denying the States of its say in the development of Higher Education, which the Bar Council of India has been undertaking with the aid of State Bar Councils.

The Bar Council of India resolved, that the proposed Bills will upset the delicate balance that exists between the Centre and the States in matters of education. The Central Government should only lay down policy guidelines and provide funds and the Bar Council of India and the States should carryout the programmes as they think necessary for the development and research in educational field.

These Bills, in its present form, will lead to bureaucratization. The Bar Council of India visualizes that the proposed commission will not be able to cater to the needs of all the professional courses or subjects as with over centralized power, innovation and quick decision making will be at stake.

The Advocates Act 1961 envisages workings of the State Bar Councils and the Bar Council of India with Universities. But the proposed Bill impinges on university autonomy through undesirable and utterly unnecessary centralization of power.

Mala-fide Attempt to handover the education system to Foreign Countries- And to handful of nominees of Union Government

Sir(s),

We are before the august body of the country to place our case. We are supposed to put every ground reality before you. Kindly excuse and stop us, if you find that we are crossing the limit.

Let us explain the truth and the malafied intention behind the ideas to bring such Bills. As you know that Bar Council of India and the State Bar Councils are the statutory representative bodies of each and every lawyer of the nation under the Advocates Act, 1961. It has the power to regulate the legal education and the legal profession. There are a few advocates including some senior advocates sitting at Delhi who are, in fact, unable to get elected in the State Bar Councils or the Bar Council of India; Though they may be good in the field of profession, but with great respect we submit that they have unauthorizely formed certain "Pocket Associations" with their office-juniors, wards and a few of their kith & kin. These Associations are in the misleading names and styles of Bar Association of India, National Bar Association of India, Indian Bar Association, International Bar Association, Society of Indian Legal Firms, Confederation of Indian Bar etc.

Respectfully speaking such pocket Associations have been formed deliberately to highlight a handful of monyed Lawyers only. Thepurpose of such Associations is to come closer to the Hon'ble Judges, foreign dignitaries and universities. It is not out of place to point out here that though in India, because of the consciousness of the Advocates about the Bar Councils, these so-called and self styled "holders of pocket associations", could not succeed in India, but on a few occasions in past, they have succeed in misleading some foreign Governments and the recognized Associations based in foreign countries.

Unfortunately, on some point of time, we have found that a few of these Advocates have transacted their business with the foreign universities and other authorities posing themselves to be the representatives of the entire nation. In past, by misleading the foreigners, they were able to go or send their delegates even in some foreign conferences and universities saying that they have the power to recognize the degrees of foreign universities in India.

The Bar Council of India and the State Bar Councils took the matter seriously and objected sinister games and thereafter, handful of senior advocates sitting at Delhi connived, and when they found that their shops are likely to be closed, they have prevailed upon the HRD Ministry and they are trying to dilute the provisions of the Advocates Act, 1961 and the Ministry is attempting to throttle the duly elected representative bodies of Advocates. There are only 8-9 such Senior Advocates of Delhi, since, they are based in Delhi, they are close to certain Hon'ble Ministers and bureaucrats. With great respect, we may say that Hon'ble some persons sitting in HRD Ministry has been directly a part of the above named "Bar Association of India" and these Bills are aimed at grabbing the powers of duly elected statutory bodies i.e. Bar Council of India and State Bar Councils. These few people, sitting at Delhi, are trying to throttle the entire democracy, which 1.7 Millions of Advocates are not going to tolerate And if needed, we may highlight this issue even before the media. But, since we are representing the intellectuals, we do not intend to ignore the authority of this highest constitutional body, therefore, we have shut our mouth and we are hopeful that your Lordships would enquire into the seriousness of the issue.

Sir(s),

One simple example would illustrate the position:-

In most of the parts of our country, the people don't use Fork or Spoons for taking their meals. We are accustomed to use our hands. In European countries and in U. S. A., because of their food habits, the nature of the food they take, they are compelled to use Fork and Spoons. While we take Rice, Dal, Gravy Vegetables, Masala Dausa, Utthapam etc.,; the foreigners take other food items. Supposing two people dignitaries are sent to U. S. A. for attending some conferences, And in U.S.A., while taking their lunch, they find everybody using fork and spoons, everybody taking some liquor with their meals Naturally, two Indian representatives also are compelled to use the fork and spoons in U.S.A. Now after return from USA, one dignitary strongly start criticizing the old tradition of using their hands by Indians while taking their meals. He adopts the ideas of U.S.A. as his ideal and then tries to impose upon all the countrymen those ideas of U.S.A..

Other representative, who is a seasoned man, leaves all those ideas in the USA itself realizing that there is no need of use of fork and spoon for every citizen of India because of its different food habits and different nature of the food material in its different parts.

Now which of the aforesaid two dignitaries is to be appreciated by this August Body? We are leaving this question to you all and we hope that almost all of you will not recommend the use of fork, spoon and liquor for each and every citizen of India.

The Higher Education and Research Bill, 2011, the National Accreditation Regulatory authority for Higher Educational Institutions Act, 2010, The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, the Prohibition of Unfair Practices in higher Educational Institution Bill, 2010 and The National law Schools Bill, 2011 are like compelling every citizen to use fork and spoons or liquor . We don't have the means to provide the food but we know how to impose the idea and the manner in which the food is to be taken.

Background of the Bill:-

From the introductory part of The Higher Education and Research Bill, 2011, it is obvious that this Bill is a hasty decision taken by Hon'ble Minister Mr. Kapil Sibal ; it appears that the Hon'ble Minister (sometimes in the year 2010) went to USA met USA President, held certain Round-table conferences with some of the Law Schools of that country and he came with the ideal to handover the entire education system (including the Legal Education) to a handful of the nominees of the Government in the name of "National Commission for Higher Education and Research". The background of this Bill and other Bills namely "*The National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2010, The foreign Educational Institutions(Regulation of Entry and Operations), Bill, 2010, The Prohibition of Unfair Practices in Higher Educational Institution Bill, 2010 and The National Law Schools Bill, 2011*" are the result of some undue pressure of U.S.A. and are thus the brain child of the Hon'ble Minister and none of the other concerned people, including the Bar Council of India, the State Governments have ever been consulted before drafting such Bills. We fail to understand, being a Lawyer, the Hon'ble Minister and his Department have ignored to hold any meeting with the Council. If at all, he had any grievance against the Bar Council of India or any other State Bar Council, he should have discussed it with us. But the Lawyers of this country shall never tolerate the inclusion of Legal Education and Institution imparting Legal Educations in Inida in the said Bills. The motive behind the decision to draft such bills and to change the whole Education system suddenly clearly appears to be oblique and intention, is mala-fide. When Bar Council of India has popularized the Law Course, the HRD Ministry is attempting to regulate it for the reasons best known to all.

The Bar Council of India and the State Bar Councils are of the firm belief that the proposed new legislations would be lowering the status of the legal profession, is stealthily trying to invite foreign firms to settle down in India thereby depriving the legal professional in India of its legitimate claims. The type of confusion this legislations will create will only bring down the name of the legal profession and make way for inviting foreigners onto the Indian soil. The proposals to invite outsiders into India goes against the principles of reciprocity as envisaged under the Advocates Act 1961. Section 47 of the Act clearly lays down that where citizens of India are prevented from practicing in any other country or are treated with discrimination, no subject of that country should be allowed to practice the profession of law in India. The ultimate decision vests with the Bar Council of India which may prescribe conditions subject to which foreign qualifications may be recognized for purpose of admission as an advocate under the Act.

Faults of these Bills

The ground realities of the poor nation have been completely ignored in these Bills. We cannot compare ourselves with USA and UK at the moment. Before making any law and scheme, we have to consider the real states of affairs prevailing in our villages and small townships where vast population lives. It is easy to draft or to make a law sitting in Delhi, but it is difficult, rather impossible to achieve the desired goal of such laws because of its impractical and unrealistic nature.

The Bar Council of India wishes to state that it has served the cause of legal education and the profession with honour and dignity over the last 50 years. It has conducted all its programmes without seeking any help, financial or otherwise, from anyone else.

Conclusion:-

An independent Bar and an independent Judiciary are indispensable organs for any Democratic Nation. The Bar Council proposes to undertake an intensive dialogue with Government, the Judiciary, Leaders of all the political parties and Academics to further legal reforms, legal aid, professional accountability and a simple code of ethics.

It may be mentioned here that Council had unanimously RESOLVED and called the lawyers all over India to observe 20th January, 2012 as a protest day against these Bills. The Council also expressed its displeasure and anguish in the manner in which the new Bill was approved by the Cabinet without any consultation with the Members of the Bar. The Council had further RESOLVED that it will not allow such Bills to include the Advocates Act or Legal Education in their ambit or to curb any of the function & duties of the State Bar Councils or Bar Council of India under the Advocates Act, 1961. And if needed, in order to agitate the matter, a phase-wise agitation will be undertaken. The Council has further RESOLVED to convene a joint meeting of the Bar Council of India and the Chairmen or their nominees of all the State Bar Councils on 19th May, 2012 to hold a joint meeting for deciding the future course of action on this issue.

Prayer before Hon'ble Committee and Relief(s) sought:

Therefore, under the aforementioned facts and circumstances, the Bar Council of India requests this August Body of the Nation consider our request and to recommend to the concerned Ministry/Authorities:-

1. to add the word "Legal Education " in Section 2 of the Bill, i.e. the section will run as follows:-

"This Act shall apply to all the higher educational institutions and universities other than those institutions engaged in Legal Education and research and agricultural education and research"

2. The work of accreditation with regard to the institution of Legal Education shall be done by the Bar Council of India and the provisions of National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2011 shall not apply to the institutions of Legal Education.

3. The word "college" used in the HER Bill, 2011 shall not include a law college or law school.

4. The word "higher education" and "higher educational institution" shall not cover the Legal Education beyond 12 years of schooling leading to the award of a degree in law.

5. In Section 63, it has to be made clear that "National Commission for Higher Education and Research shall not have any power to regulate the establishment and winding up of any institution of Legal Education or any university of Legal Education and the entry and operation of foreign educational institutions, foreign educational institutions intending to impart Legal Education, shall lie with Bar Council of India only.

6. "National Higher Commission" shall have no power to regulate the entry or operation of foreign legal educations institutions as provided under Section 7(1) (2b) of the Advocates' Act.

7. The norms and the processes for any institution imparting Legal Education to impart a degree in law, the commencement of enrolment of students under the programme of Legal Education, the norm of academic quality for a university to affiliate law colleges/law schools shall be with the Bar Council of India and the "National Commission for Higher Education and Research" shall have no power or function to discharge under any of the Section of Higher Education and Research Bill, 2011 with regard to institution of Legal Education.

8. From Section 83 of the Bill, the word "The Advocates Act 1961" shall have to be deleted and in the atlast line of the said sub-section following words have to added:-

"except the institution of Legal Education which are regulated by the Bar Council of India.

9. The first proviso of sub-section (2) has to be deleted.

10. from The First Schedule of the Bill, the word "Bar Council of India " has to be deleted.

And

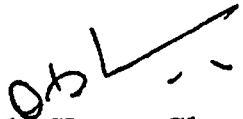
We pray that the Legal Education and Advocates' Act should be excluded from the purview of all these following Bills which are almost drafted for achieving same mal-objective i.e. Higher Education and Research Bill, 2011 (Draft HER Bill) The National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2010, The foreign Educational Institutions(Regulation of Entry and Operations), Bill, 2010, The Prohibition of Unfair Practices in Higher Educational Institution Bill, 2010 and The National Law Schools Bill, 2011.


Obliged,


Yours sincerely,



(Manan Kumar Mishra)
Chairman

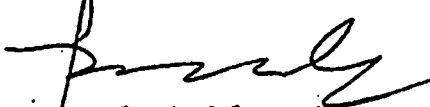
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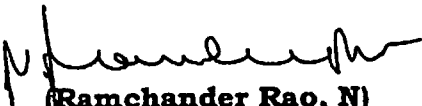

(Apurba Kumar Sharma), Advocate
Chairman, Executive Committee,
Bar Council of India


(Vijay Bhatt), Advocate
Associate Managing Trustee
Bar Council of India Trust


(Rajinder Singh Rana), Advocate
Member,
Vice-Chairman, Oversee Committee
Bar Council of India


(S. Prabakaran), Advocate
Member,
Co-Spokesman, Bar Council of India


(I.N. Mehta), Advocate
Member,
Co-Spokesman, Bar Council of India


(Ramchander Rao, N)
Member,
Co-Spokesman, Bar Council of India

MAIN POINTS

A joint meeting of the members of the Bar Council of India and the Chairmen and other nominees of all the State Bar Councils was held on 23.01.2012 in the Bar Council Office Auditorium at New Delhi, wherein the HER Bill, 2011 and other related Bills were unanimously condemned and it was decided to oppose the same. It was also decided that the opposition has to continue till the Legal Education and the Advocates Act, 1961 are kept out the perview of the HER Bill, 2011, The National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2010, The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, The Prohibition of Unfair Practices in Higher Educational Institution Bill, 2010 and The National Law Schools Bill, 2011.

While matter stood thus, we came across the notice issued by Shri Arun Sharma, Joint Director, Rajya Sabha seeking to invite memoranda containing views/suggestions from individuals/organisations interested in the subject matter of the Bill. We therefore, are availing this opportunity to put forth our objections and grievances in respect of these Bills.

Before setting out our objections, it is necessary for us to bring to the notice of the Hon'ble Standing Committee a few salient features of the Advocates Act, 1961, Bar Council of India and the Legal Education Committee of the Bar Council of India, which are set out in brief herein below:

(i) Advocates Act, 1961

After Independence it was deeply felt that the Judicial Administration in India should be changed according to the needs of the time. The Law Commission was assigned the job of preparing a report on the Reform of Judicial Administration. In

the meanwhile the All India Bar Committee went into detail of the matter and made its recommendations in 1953. To implement the recommendations of the All India Bar Committee and after taking into account the recommendations of the Law Commission on the subject of Reform of Judicial Administration in so far as the recommendation relating to the Bar and to *legal education*, a Comprehensive Advocates Bill was introduced in the Parliament.

The Parliament enacted the Advocates Act, 1961 on 19.05.1961. It sought to amend and consolidate the law relating to legal professions and to provide for the Bar Councils and All India Bar. The object of the Advocates Act, 1961 was to constitute one common Bar for the whole country and to provide machinery in its regulated functioning. Since the Act set up one Bar *autonomous in its character*, the Bar Councils set up thereunder have been entrusted with various functions under Section 6 and 7 of the Advocates Act, 1961. The Act has been held to fall within entries 77 and 78 of List-I.

(ii) Bar Council of India: What is it?

Section 4 of the Act provides, there shall be a Bar Council for the territories to which this Act extends to be known as the Bar Council of India which shall consist of the following members, namely:-

- (i) the Attorney General of India, *ex - officio*
- (ii) the Solicitor General of India, *ex - officio*
- (iii) one member elected by each State Bar Council from amongst its elected members of respective States.

It further provides that there shall be a Chairman and a Vice-Chairman of the Council elected by the Council in such manner as may be prescribed.

Presently, the Bar Council of India comprises of 19 (nineteen) elected members and 2 (two) *ex-officio* members, namely, the Attorney General of India and the Solicitor General of India. In similar fashion Section 3 of the Act provides for constitution of State Bar Councils for every State.

The functions of the Bar Council of India have been set out under Section 7 of the Act and are quoted hereunder:-

"7. Functions of the Bar Council of India.- ²(1) The functions of the Bar Council of India shall be: -

- (a) omitted ;
- (b) to lay down standards of professional conduct and etiquette for advocates ;
- (c) to lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar Council;
- (d) to safeguard the rights, privileges and interest of advocates;
- (e) to promote and support law reform;
- (f) to deal with and dispose of any matter arising under this Act, which may referred to it by a State Bar Council;
- (g) to exercise general supervision and control over State Bar Councils;
- (h) *to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;*
- (i) *to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities or*
4[cause the State Bar Councils to visit and inspect

Universities in accordance with such directions as it may given in this behalf,]

⁵[(ia) to conduct seminars and organize talks on legal topics by eminent jurists and publish journals and papers of legal interest;

(ib) to organise legal aid to the poor in the prescribed manner;

(ic) to recognise on a reciprocal basis foreign qualifications in law obtained outside India for the purpose of admission as an advocate under this Act;]

(j) to manage and invest the funds of the Bar Council;

(k) to provide for the election of its members;

(l) to perform all other functions conferred on it by or under this Act;

(m) to do all other things necessary for discharging the aforesaid functions."

¹(2) The Bar Council of India may constitute one or more funds in the prescribed manner for the purpose of -

(a) giving financial assistance to organize welfare schemes for indigent, disabled or other advocates;

(b) giving the legal aid or advice in accordance with the rules made in this behalf

²[(c) establishing law libraries.]

¹(3) That Bar Council of India may receive any grants, donations, gifts or benefactions for all or any of the purpose specified in sub section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.]"

(iii) The Legal Education Committee of the Bar Council of India.

The Bar Council of India is statutorily entrusted with the duties and functions to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils and to recognize Universities whose degree in law shall be a qualification for enrollment as an advocate and for that purpose to visit and inspect universities or cause the State Bar Councils to visit and inspect Universities in accordance with such direction as it may give in this behalf.

On the recommendation of Law Ministers' Working Group on legal education held at Bhubaneswar during 22-24 September, 1995, the Law Ministers' Conference held at Hyderabad and the report of a committee constituted by the Hon'ble Chief Justice of India comprising of Hon'ble Mr. Justice A.M. Ahmadi as its Chairman, Hon'ble Mr. Justice Jagannadha Rao and Hon'ble Mr. Justice B.N. Kirpal all of whom have underlined the importance of the Bar Council of India in improving the standards of legal education, the Legal Education Committee was constituted consisting of five members of the Bar Council of India and five co-opted members to represent the UGC, the Law Ministry and the Academia.

The present Legal Education Committee is chaired by a former Hon'ble Judge, Supreme Court of India, the Hon'ble Mr. Justice Madan Bhimrao Lokur, Chief Justice of Andhra Pradesh, Prof. Ranbir Singh, Vice-Chancellor of National Law University, Delhi and Prof. N.L. Mitra, former Vice-chancellor of National Law School, Bangalore and Jodhpur, the Attorney General of India, The Solicitor General of India, The Law Secretary, Ministry of Law and Justice, Govt. of India and Chairman, University Grants Commission and five members of Bar

Council of India. The Legal Education Committee has been expanded by the Bar Council of India to include eminent Senior Advocates like Shri Ram Jethmalani, Shri Ashok Desai H, Shri K.K. Venugopal, Shri P.P. Rao, Shri Anil Divan, Shri Gopal Subramaniam, Shri A.K. Ganguli, Shri O.P. Sharma, former Chairman, Bar Council of India and Prof. (Dr.) Ranbir Singh, Vice-Chancellor, National Law University, Delhi and Hon'ble Mr. Justice Mukul Mudgal, former Chief Justice of Punjab and Haryana High Court and other legal luminaries.

If legal education today, has turned out to be a lucrative proposition, a substantial, if not entire, credit must go to the Bar Council of India's vision of establishing world class National Law School of India University, Bangalore in 1987-a model law school which has been imitated in the establishment of other 14 law schools by the state governments. Indeed, until the lure of legal education became evident, legal education suffered from step- motherly treatment, with neither the UGC nor the AICTE showing any sense of ownership. If the Bar Council of India commanded the wherewithal to establish the National Law School, Bangalore, it retains the ability, interest, and foresight to take legal education to greater heights in an increasingly globalised world.

In no case, the HER Bill, 2011 can give such prestigious Institutions and therefore, the Bar Council of India cannot allow any other agency to take over the functions of Legal Education. Today, the products of our Law Schools are very much in demand in all the Developed Countries; They are proving themselves to be more meritorious than any of Western Countries. It is due to the honest efforts of Bar Council of India's Legal Education Committee.

- iv. **We now wish to state and submit our objection to the HER Bill, 2011 as follows :-**

This Bill proposes to entrust the entire educational system to a handful of persons, the nominees of central government. The fundamental rights of the citizen are likely to be infringed because of several unreasonable restrictions in running the Institution imposed under the Bill. Similar is the case with the other four Bills, which we shall deal in this memorandum.

- (A) Curriculum/Norms; Why Advocates Act has given the Responsibility of Legal Education to B.C.I. ?**

The practicing lawyers and the Judges come across various kinds of problems faced by the society and the country. Which law is to be applied where?, lies within the domain of Lawyers and Judges. The best Lawyers, who are doing arbitration and other work of international level, know better about the requirements of the fields of International laws. How the academicians can decide the curriculum of legal education? The litigants, the needy people come in contact of lawyers, explain their problems and the lawyers and Judges in turn, work out the solutions. So, the lawyers are well conversant with the problems, and they are the best person to decide as to what is needed for the students perusing legal education. The norms, curriculum and syllabus are thus, the domain of Advocates, so far legal education is concerned. The academics have a limited role to teach the Books which are almost all authored either by noted lawyers or the Judges. Legal and medical studies are more in practical, the theoretical aspect is limited. Lawyers and Judges first undertake theoretical law and then they apply it in different forums, the Bar Council of India has always under taken necessary changes in the curriculum in order to suit the time. Today, our syllabus is in no way inferior than any of the world class university of any

Developed Countries. The result is that, today our Lawyers or firms are hired by and are much in demand in most of the foreign countries. Our people need not hire the foreign Lawyers/Firms except for some arbitration works (which is because of Govt.'s faulty policies/negligence).

We may state that in all the Medical Institutions the practicing Doctors are the Teachers. They teach the major/core subjects. Sometimes, if because of heavy professional burden they do not get time for teaching, then they are paid non-practicing allowances and their services are hired by the Medical Colleges. Likewise the services of practicing lawyers in Institutions imparting legal education is indispensable. The Legal Education Committee of Bar Council of India has realized that the best Legal practitioner can only improve the standard of Legal Education.

The state Bar Councils and the Bar Council of India represent the practicing lawyers of India (the Indian Bar)

- (B) The HER Bill, 2011 is ultravires for lack of legislative competence.**

The HER Bill, 2011 and following other Bills mischievously seeks to repeal Sections 6(gg) and 7(1)(h) and (i) of the Advocates Act, 1961, thereby encroaching upon the autonomy and independence of the legal professions.

Clause 60 and 83(1) and (2) of the HER Bill, 2011 is quoted hereunder;

"60 The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law, other than the Companies Act, 1956, for the time being in force or in any instrument having effect by virtue of any law other than this Act."

83. (1) With effect from such date, not later than one year from the date of coming into force of this Act, as the Central Government may, in consultation with the Commission, notify, that the University Grants Commission Act, 1956, the All India Council for Technical Education Act, 1987, the National Council for Teacher Education Act, 1993, shall stand repealed and the University Grants Commission, the All India Council for Technical Education, and the National Council for Teachers Education shall stand dissolved:

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83(2) Notwithstanding anything contained in the Architects Act, 1972, the Advocates Act, 1961, the Indian Medical Council Act, 1956, the Dentists Act, 1948, the Pharmacy Act, 1948, the Indian Nursing Council Act, 1947, the Indian Medicine Central Council Act, 1970, and the Homeopathy Central Council Act, 1973, the provisions of this Act shall apply to any matter concerning the determination, co-ordination, maintenance of standards in, and promotion of, higher education and research:

Provided that nothing contained in this section shall be construed as restricting the power of the Bar Council of India to specify standards of higher education concerning practice in courts.

Similarly Section 7(1) (h) and (i) of the Advocates Act, 1961 currently delineates the functions of the Bar Council of India as;

“The functions of the Bar Council of India shall be -

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- “(h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;*
- (i) to recognize Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf”.*

As evident from above, section 7(1) (h) and (i) of the Advocates Act recognizes two significant stakeholders in Indian legal education sector - (a) the Universities because of their domain expertise, and (b) the Bar Council of India (along with State Bar Councils) as both of them are democratically elected bodies representing lawyers.

A conjoint reading of Clause 60 and Clause 83(2) of the HER Bill, 2011 clearly leads to the irrefutable conclusion that in effect it *impliedly repeals* Section 6 (gg) and 7(1) (h) and (i) of the Advocates Act, 1961, even though under Clause 83 of the HER Bill, 2011 it is specifically enumerated that the present Bill seeks to repeal only the University Grants Commission Act, 1956, the All India Council for Technical Education Act, 1987, the National Council for Teacher Education Act, 1993.

Bill is a direct attack on federal structure of the country.

- (C) The HER Bill, 2011 and the following other Bills seeks to invite foreign legal service providers at the cost of Indian investors.**

By the HER Bill, 2011 the Government seeks to facilitate entry of foreign educational institutions to set up campuses in India

and for the said purpose many relaxations have been provided for. In furtherance of this objective, the Bill seeks to discourage local investors in the legal education and/or close existing operational institution to facilitate green field entry to foreign investor.

The Bill ignores the principle enunciated by the Apex Court namely, in our Country in the establishing of an educational institutional, the object should not be to make profit in as much as the education is essentially charitable in nature.

(D) Legal Education Committee of the Bar Council of India vs. National Commission for Higher Education.

The Legal Education Committee of the Bar Council of India as it exists today consists of Hon'ble former Judge of Supreme Court of India, Hon'ble Chief Justice of Andhra Pradesh High Court, Mr. Justice Madan Bhimarao Lokur, Prof. Ranbir Singh, Vice-Chancellor of National Law University Delhi, Prof. N.L. Mitra, a distinguished academician who served as Vice Chancellor of NLSIU, Bangalore and NLU, Jodhpur, The Law Secretary, Government of India, The U.G.C. Chairman, a body of five selected members of the Bar Council of India, the Attorney General of India and the Solicitor General of India. The Bar Council of India vide its decision dated 30.09.2011 had experienced the Legal Education Committee by nominating permanent invitees like Shri Ram Jethmalani, Senior Advocate, Shri Ashok Desai H, Senior Advocate, Shri K. K. Venugopal, Senior Advocate, Shri P.P. Rao, Senior Advocate, Shri Anil Divan, Senior Advocate, Shri Gopal Subramaniam, Senior Advocate, Shri A.K. Ganguli, Senior Advocate, Shri O.P. Sharma, Advocate and former Chairman, Bar Council of India and Prof. (Dr.) Ranbir Singh, Vice-Chancellor, National Law University, Delhi and Hon'ble Mr. Justice Mukul Mudgal, the

former Chief Justice of Punjab and Haryana High Court and other Legal luminaries.

In contrast, Section 5 of the HER Bill, 2011 prescribes that the Commission shall consist of a Chairperson, three whole time members and three part time members to be appointed by the President of India on the recommendation of the Selection Committee constituted under Section 7.

It would thus be appreciated that Legal Education in the country will be regulated in a far efficient manner by the Legal Education Committee of the Bar Council of India in consultation with the Universities rather than leaving it to the commission to be constituted under the HER Bill, 2011 which will destroy the very purpose for which Section 7(1)(h) and (i) were embodied in the Advocates Act, 1961 .

- (E) **The HER Bill, 2011 is ultravires for lack of legislative competence.**

The Seventh Schedule of the Constitution referable to Article 246 enumerates entries in List I (Union List); List II (State List); List III (Concurrent List); the relevant entries in the three lists for purpose of this opinion are:-

Entry 44 List I (the Union List)

Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, **but not including universities.**

Entry 63 List I

The Institution known at the commencement of this Constitution as the Benaras Hindu University, the Aligarh Muslim University and the (Delhi University; the University

established in pursuance of article 321E) any other Institution declared by Parliament by law to be an institution of national importance.

Entry 64 List I

Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.

Entry 65 List I

Union agencies and institutions for-

- (a) Professional, vocational or technical training, including the training of police officers; or
- (b) The promotion of special studies or research; or
- (c) Scientific or technical assistance in the investigation or detection of crime.

Entry 66 List I

Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

Entry 32 List II (State List)

Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities, unincorporated trading, literary, scientific, religious and other societies and associations, co-operative societies.

Entry 25 List III (Concurrent List)

Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.

(Emphasis Supplied)

In light of the aforesaid constitutional provisions, it needs to be appreciated as to whether the Parliament has legislative competence to enact a law to 'incorporate, regulate and wind up Universities'.

Article 245 provides for distribution of legislative power between Parliament and State Legislature. Article 246 specifies the manner in which Parliament and State Legislature can exercise their respective powers/jurisdictions. The Legislatures have plenary powers to legislate but they must function within the limits prescribed by the Constitution. Legislative actions beyond the respective fields set out in the three Lists of the Seventh Schedule are bad in Law and thus liable to be struck down. The supremacy of the Legislature is indeed confined to the topics mentioned as entries in the Lists conferring respective power on Parliament/State Legislatures. Although, the entries are mutual and exclusive, they sometimes overlap. Any conflict between the powers exercisable in List I, must be resolved by deploying the pith and substance doctrine.

Parliament and State Legislatures derive their power to legislate on matters enumerated in List I and List II of the 7th Schedule from Article 246(1) and 246(3) respectively. Both derive power to legislate upon matters enumerated in the Concurrent List from Article 246, and subject to Article 254 of the constitution. The respective lists demarcate the legislative field or legislative heads but those are not the source of power to make enact the concerned law. It is well settled law that the power to legislate is given to appropriate legislature by Article 246 and "widest amplitude should be given to the language of the entries."

Under Article 246(4) the Parliament is competent to legislate for universities for any part of the territory of India not included in any State.

It follows that the Parliament has been expressly denied the power to enact any legislation concerning the universities, if that university is located in a State because for it the State Legislature alone is competent to enact law concerning universities.

Thus, while parliament is entitled to make laws with respect to matters enumerated in the State List, for any territory which is not included in a State. For such universities, power to legislate vests with the concerned State only.

Article 248 confers residuary powers of legislation on Parliament to make any law regarding any matter not enumerated in the concurrent list (List III) or the State List (List II). There is ample authority for the proposition that while examining the legislative competence of Parliament to make a law what is required to be seen is whether the subject matter falls in the State List which Parliament cannot enter. *If the law does not fall in the State List, the Parliament has the competence to legislate on the topic.*

Under Article 254 (1), the ordinary rule is that the law made by the Parliament will prevail, however, the exception has been carved out under clause (2) whereby the law made by the State Legislature will prevail after the Presidential assent is received. In the event of a conflict, the State Legislation will be inoperative unless it is saved by the main part of Article 254(2).

By virtue of Entry 64 and 65 of Union List, Parliament can legislate on matters of establishing certain categories of institutions by Central Government. By the 42nd amendment of the Constitution in 1976 the subject "education" was shifted

from State List to Concurrent List but Entry 44 of the Union List as well as Entry 32 of the State List were not affected by the said amendment.

Entry 44 of the List I (Union List) confers legislative competence on the Parliament for enacting laws for "incorporation, regulation and winding up of corporations, whether trading or not, but not including Universities". Thus, it is obvious that the power to make laws relating to "incorporation, regulation and winding up of corporations are conferred on the Parliament with the specific, exclusion of the "Universities". Thus, the Parliament has not been vested with the competence under Entry 44 to incorporate, regulate, or wind up Universities and as a matter of fact the "Universities" have been specifically excluded in Entry 44.

Entry 32 in List II (State List) relates to "incorporation, regulation and winding up of corporations, other than those specified in List I. It specifically vests legislative competence on the State Legislature to enact laws for "Universities". Thus, incorporation, regulation and winding up of Universities falls within the competence of the State Legislature, and it stands excluded from List I (Union List).

Entry 25 in List III (Concurrent List) provides:-

Education, including technical education, medical education and Universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.

Keeping in view the legislative competence of the Parliament to make any law relating to education including technical education, medical education, and Universities, subject to the

provisions of entry 63 to 66 of List I; besides vocational and technical training of labour makes it imperative to read Entry 25 of List III with Entries 63 to 66 of List I. Entry 63 in List I vests the Parliament with competence to legislate for the institutions which were established before the commencement of the Constitution besides other institutions declared by Parliament, by law, to be institutes of National importance. Entries 64 and 65 allow establishing of certain specified categories of Institutions. Entry 66 of List I deals with co-ordination and determination of standards of higher education or research and scientific and technical institutions. The expression "education including universities" under Entry 25 in the Concurrent List (List III) or the expression "coordination and determination of standards in higher education" in Entry 66 in Union List cannot be read to include the power to make laws relating to "incorporation, regulation or winding up" of universities, since these topics are specifically contained in Entry 32 in the State List. Hence, these topics get excluded from Entry 25 in the Concurrent List as well as from Entry 66 in the Union List. Parliament cannot legislate on these subjects as this power is expressly excluded from the legislative competence of the Union Parliament vide Entry 44 of Union List. (List I)

The expression "education, including technical education, medical education and universities" which occurs as the opening sentence of Entry 25 of List III, cannot be read to imply that the Parliament can take recourse to Entry 25 of List III to enact laws relating to "incorporation, regulation or the winding up" of Universities, as the general power to enact laws in the concurrent List cannot take away the **specific prohibition contained in Entry 44** in the Union List which denies to the Parliament competence to legislate on "incorporation,

regulation or winding up of universities. The Union Parliament cannot, thus by virtue of Entry 25 of List III clothe itself with the legislative competence to enact laws for incorporation, regulation or winding up of Universities because of the express exclusion contained in Entry 44 of List I. It cannot enact laws under Entry 25 List III ignoring the specific exclusion to enact laws relating to incorporation, regulation and winding up of Universities as stipulated in Entry 44 of List I besides the power to legislate on matters of universities is expressly vested in the State Legislatures under Entry 32 of List II.

It is therefore submitted the power to legislate in respect of incorporation, regulation and winding up of Universities falls outside the legislative competence of the Union Parliament because of the specific exclusion of the same as contained in Entry 44 of List I. Rather the power to legislate with respect to incorporation, regulation and winding up of Universities exclusively vests in the State Legislature by virtue of Entry 32 of List II. Recourse to Entry 25 in Concurrent List read with Entry 66 of List I to vest the Parliament with the power to legislate in respect of incorporation, regulation and winding up of universities is not permissible because of the express exclusion of that power in Entry 44 of List I and its inclusion in Entry 32 of List II.

The present Bill for higher education is an attack on the federal structure and would, thus, lack legislative competence if enacted by the Parliament and would in that event be ultra-vires the Constitution.

- (F) **The HER Bill, 2011 encroaches upon the constitutional rights of the States and therefore destroys the basic structure of the Constitution i.e. Federal Structure.**

Article 1(1) of the Constitution says India is a "union" States, which means a federation of States. The Indian Constitution is a Federal Constitution. The essential characteristics of federalism is "the distribution of limited executive, legislative and judicial authority among bodies which are co-ordinate with and independent of each other." The supremacy of the Constitution is fundamental to the existence of a federal State.

Under Article 246 of the Constitution there is a threefold distribution of legislative powers between the Union and the States made by the three Legislative Lists in the Seventh Schedule of the Constitution:

List I or the *Union List* includes subjects over which the Union shall have exclusive powers of legislation including 99 items or subjects. These include defence, foreign affairs, banks, currency and coinage, Union duties and taxes *but excludes incorporation, regulation and winding up of Universities (Entry 44) and the like.*

List II or the *State List* comprises 61 items or entries over which the State Legislature shall have exclusive power of legislation, such as public order and police, local Government, public health and sanitation, agriculture, forests and fisheries, education, State taxes and duties and *includes incorporation, regulation and winding up of Universities (Entry 32) and the like.*

List III gives concurrent powers to the Union and the State Legislatures over 52 items, such as criminal law and procedure, Civil procedure, marriage, contracts, torts, trusts, welfare of labour, social insurance, economic and social planning.

The entries in the Constitution only demarcate the legislative fields of the respective legislatures and do not confer legislative power as such.

The legislatures have undoubtedly plenary powers, but these powers are controlled by the basic concepts of the written Constitution itself and can be exercised within the legislative fields allotted to their jurisdiction by the three Lists under the Seventh Schedule; but beyond the list, the legislatures cannot travel.

Since matters *pertaining incorporation, regulation and winding up of Universities* have been specifically excluded from the legislative field of the Parliament and included in the legislative field of State Legislature, the HER Bill, 2011 which aims at *incorporating, regulating and winding up of Universities* is beyond the competence of the Parliament and the Parliament by seeking to enact such a law, which is within the legislative field of the State legislature, is clearly encroaching upon the Constitutional rights of the State Legislature in respect of incorporation, regulation and winding up of Universities.

Therefore, the HER Bill, 2011 clearly seeks to destroy the basic structure of the Constitution and for the said reason is ultravires.

(G) Opposition of other Bills: -

Apart from HER Bill, 2011 the Bar Council of India also opposes the three other proposed Bills namely: -

1. **The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010.**
2. **The Foreign Educational Institutions (Regulation of Entry and operations) Bill, 2010.**
3. **The Prohibition of Unfair Practices in Higher Educational Institutions Bill, 2010.**
4. **The Educational Tribunals Bill, 2010.**
5. **The National Law School Bills, 2011.**

All the aforementioned Bills, are undemocratic, unreasonable and against the interest of the vast poor mass of the country. The Educational Institutions (particularly the Institutions situated in Rural/remote areas of the country) which are involved in imparting Legal Education would be badly affected because of first these three bills noted above.

The Bar Council of India has adopted the policy of recognition of Foreign Legal institutions only on conditional basis. The interest of our country and our students is foremost condition, we also take into account the factum of reciprocity and equivalence of Degrees, so that the interest of Indian Legal profession, our students and Indian Institutions may not be jeopardized. We are to be cautious of the fact that after a few decades, our whole educational system might not be influenced and taken over fully by the Foreign agencies. Education is the mirror of the culture of any society.

During our visit to foreign Universities we have seen foreign students taking wine and smoking in the class rooms, we have also seen the male and female students were indulging in objectionable

acts in presence of teachers and other students in the class room. The Bar Council of India shall never permit such culture to enter into India in the name of globalization. It intends to adopt only good and beneficial things and keep aloof the bad things from class rooms. Our present Legal Institutions are producing such a brilliant and extra ordinary students who have no "Equals" in any other developed country. The only thing we lack, is the proper and advanced technology and the infrastructure in the Institutions situated in remote areas, otherwise we have the best brains. Our Universities and institutions require financial assistance and encouragement from the Government, which they are not getting.

Bar Council of India would oppose such Bills which intend to benefit a few people belonging to elite class. **The said three Bills have completely overlooked the interest of common people of the vast country.**

As stated above such Bills are totally against the Federal structure of our constitution. The constitution has empowered the states to make such laws taking into consideration the ground realities of the respective people and other factors. The Ministry of HRD cannot usurp the powers of States; it cannot realize the ground realities. The reason behind is that the Union has comparatively little occasion to realize the ground realities in the manner the states have.

If such Bills are passed, then the result would be that after a few decades the entire educational system of our country would go in the hands of a handful of people belonging to rich elite class of the world. The Bar Council of India is, therefore, not going to tolerate such unethical and utopian Laws and ideas.

Respected Sir(s),

The Indian Bar respectfully submits that the 1.7. millions of the Lawyers of this country would come on roads to oppose such Bills. The Advocates' Act was framed in 1961 only to protect the independence of Legal profession, the framers of the Act purposely gave this responsibility of Legal Education to the representative bodies of Lawyers, because the Legal Education has its direct nexus with Legal profession. We have already placed the constitution of our Legal Education Committee which includes not only the Hon'ble Judges of Supreme Court, the High Courts, representatives of the Union Government, the legal luminaries and the best Lawyers of the country, the renowned academicians apart from the elected members of the Indian Bar from all the States.

We shall not allow any attempt to enter the foreign institutions or firm without the approval of elected bodies and without following the norms envisaged under Advocates Act. The work of Accreditation has to be done by the Bar Councils and not by the Commission.

Therefore, the Bar Council of India and State Bar Councils of all the States, would seek your support in keeping legal education and Advocates Act away from such anti-people Bills. As stated above, the Lawyers all over the country abstained from attending their works on 20th January, 2011 as a token of protest. If the Central Government and the HRD Ministry does not exclude the Advocates Act and Legal Educational Institution from aforesaid Bills, the Lawyers from all over the country would arrange Dharnas, protest marches and would adopt all other peaceful and legal agitational methods till the withdrawal of these Bills.


In view of the aforesaid submission, it is most respectfully submitted that the Hon'ble Standing Committee be pleased to examine our views in the matter and make necessary recommendations in the report of the Committee to drop the HER Bill, 2011, The National Accreditation Regulatory Authority for Higher Educational Institutions Act, 2010, The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, The Prohibition of Unfair Practices in Higher Educational Institution Bill, 2010 and The National Law Schools Bill, 2011 and exclude the Legal Education and the Advocates Act, 1961 from the scope and ambit of these Bills.

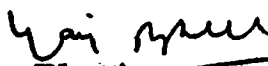
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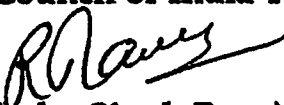
Yours sincerely,


(Manan Kumar Mishra)
Chairman

And

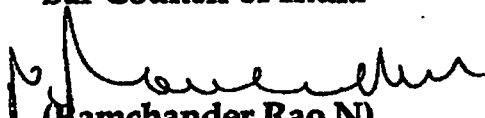

(Apurba Kumar Sharma)
Chairman,
Executive Committee,
Bar Council of India


(Vijay Bhatt)
Associate Managing Trustee
Bar Council of India Trust


(Rajinder Singh Rana)
Vice-Chairman
Oversee Committee
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