REPORT OF THE
FACULTY COMMITTEE OF THE KERALA UNIVERSITY
ON
REFORM OF LAW EXAMINATIONS

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When, under the regime started by the Advocates Act 1961, the Universities took over the conduct of examinations in law all over the country and the examination conducted by the State Bar Councils was discontinued in all states where they used to be conducted\(^1\) including Kerala, University legal education became the only professional education for lawyers. This naturally spotlighted the importance of proper evaluation of the instruction and training imparted through University Legal Education for the maintenance of excellence, on the Bench, at the Bar and in the various professions and public departments where personnel are appointed because of their possession of law-degrees and practice of law.

Students and teachers of Law, Judiciary and the Government who were anxious about the quality of the Bar and the standard of the legal services of the State shared with the University their anxiety in the mounting dissatisfaction that obtained among the public about law examinations. Persuant to a resolution of the Academic Council of the Kerala University at its meeting held on 11th and 12th May 1970 the University constituted a committee to consider generally the present system of examination. That committee resolved at its meeting on 12th August 1970 that it was desirable to bring this question to the notice of the various Boards of Studies. The matter was accordingly referred by the Syndicate and the Vice-chancellor to the Boards of Studies of Law (Pass and Post-graduate). The Boards in their meetings of 19th September and 13th November respectively of 1970 by identical resolutions resolved that the Faculty of Law may recommend the constitution of a Committee to examine the problem with particular reference to law examinations.\(^3\)

1. In some states the Bar Councils did not conduct any examinations.
2. The following is the text of the resolution:
   “The Board considered the question of reforming the system of examination with particular reference to the following points placed before it for consideration:
   
   (a) the feasibility of introducing semester system and division of syllabi into units suitable for this purpose.
   
   (b) methods for improving question papers
   
   (c) methods of internal assessment.
   
   It was resolved that a Committee consisting of members from the Pass and Post-graduate Boards of Studies and Faculty of Law be constituted (by the
On 21st November 1970 the Faculty of Law of the University of Kerala resolved that a committee consisting of the following gentlemen be appointed to enquire into the problems of law examinations and to suggest solutions for them.

1. The Hon'ble Shri Justice V. R. Krishna Iyer, member Law Commission, Shastri Bhavan 7th Floor, Dr. Rajendra Prasad Road New Delhi-1.

2. Prof. T. S. Rama Rao
   Professor of Law, Madras University
   Triplicane, Madras.

3. Shri. K. S. Paripoornan

4. Sri. R. Sankaradasan Thampi,
   Principal, Government Law College,
   Trivandrum.

5. Dr. R. Prasannan
   Legislature Secretary, Trivandrum.

6. Prof. A. T. Markose
   Dean Faculty of Law
   Prof. & Head of the Dept. of Law
   Cochin-22. (Convenor & Chairman).

Dr. George Jacob, the Vice-Chancellor of the University, whose abiding interest in the improvement of academic standards is well known, accepted this resolution of the Faculty and formally appointed the Committee on 10-12-1970 by the University Order No Aca A5-2699/70.

The committee had six sittings. The committee considered the problem in all its aspects and took evidence from the teachers and students of the Law Colleges at that time affiliated to the University of Kerala and from the students and staff of the University Department of Law.

Most of the teachers, and representatives of the student bodies in all the Law Colleges belonging to this University co-operated with the committee to consider the points of view discussed in this faculty of Law) to study the various aspects of this question and submit a report to the joint meeting of the Board of Studies and the Faculty.

3. The dates of the meetings are given in Appendix 1.
3a. Some of the institutions have, after the committee concluded its hearings, become part of the University of Cochin.
The list of persons who gave evidence before the committee is given in appendix 2 to this report. The committee record their thanks to each one of them.

The original invention of examination for selection can be traced to the Chinese more than two thousand years ago. Thereafter oral and written examinations have been in practice in scholastic institutions in various parts of the world. Scientific methods and thought were directed to examinations in the twentieth century. It was in France, in 1905, that the first individual intelligence test was tried. The pressures of the First World War made the recruitment authorities in the United States use the first large scale intelligence test. Shortly after, the thought that the same methods could be applied to measure scholastic attainments facilitated the introduction of objective methods in the realm of education.4

The following paragraph from the report of the Kothari Commission6 summarises the exact position in India regarding examinations.

"In the present system when the future of the student is totally decided by one external examination at the end of the year, they pay minimum attention to the teachers, do little independent study throughout most of the academic year and cram desperately for the final examination. The crippling effect of external examinations on the quality of work in higher education is so great that examination reform has become crucial to all progress and has to go hand in hand with improvements in teaching. The U. G. C. rightly emphasized the significance of the problem and said: "We are convinced that if we are to suggest any single reform in University education, it should be that of examinations". One of the earliest efforts of the U. G. C was concerned with the study of the problem, and the report of the expert committee on examination reform is a useful document. But it has not been implemented to any appreciable extent so far. This is one of those areas in education about which one can say that the problem is known, its significance is realized, the broad lines of the situation - at least to begin with - are known; but for some reason or other, an effort to implement it on any worthwhile scale or in a meaningful manner has not yet been made. What is needed is vigorous and sustained action".

The committee being the first Indian body going into this specific question exclusively, therefore wish to discuss the question at some length to find out the practical and institutionalized modes in which reforms in this area can be translated.

The committee wish to state at the outset that examination is but a process of evaluation of the benefits that the students have garnered as a result of undergoing the instruction prescribed by the University. This instruction involves essentially human relationships and the freedom of the teacher to plan the intellectual contours of his course is a natural right. Similarly, to imbibe the spirit of the academic atmosphere of the university institutions, to thumb through well known books and articles in the quiet of the library, to debate with teachers and fellow students various problems of law and liberty which are the staple in legal education without either the fear of partiality on the part of any teacher or the fear of unrealistic, nerve-racking tests unrelated to what has been going on in the class in the course of the whole year, are elementary rights of the university student. He has also a right to know how he has performed, for correcting errors and planning a career. The object of the deliberation of the Committee is to suggest such practical reforms that examinations shall be part and parcel of the learning process itself and that it shall shed as much of its present defect of racking the nerves of the students. At the same time an examination is an evaluation and requires safeguards against favouritism and provision for as accurate a measurement as possible of whatever is measured. With the false numbering, double valuation, collection of examination fee, the paying of non-substantial amounts to the teachers for valuation and many other similar features, we have commercialised a sacred human relationship without succeeding in any way in humanising its commercial aspects. It is the hope of the committee that along with the long delayed upgrading of the salary of the law teacher his emoluments to value the answer books will also be enhanced. When continuous internal assessment is accepted as the general and major method of evaluation, the importance of the human relationship above referred to will be re-established.

Again, examination being essentially an evaluation of the complex talents that a lawyer should possess, a percentage of subjectivity is inevitable, both in setting the questions as well as in evaluating the

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6. The word “question” is used in this report to cover all conceivable methods of testing unless the context indicates the contrary.
answers'. Nothing therefore, can be a substitute for carefully selected teachers and students.

The suggestions contained in the following pages have to be considered in the light of the above observations. ³

The report is divided into four chapters. The first chapter is introductory, the second a brief review of inquiries conducted in this area, the third a comparative study of the various methods of examination and the last the specific recommendations.

CHAPTER II

The oldest method of examination in legal education, as far as the common law was concerned, was that practiced in the Inns of Court. 1 Converted into current expression, it was a continuous internal assessment. The perceptors watched over the performance of their disciples, the apprentices, and after prescribed periods of tutelage, declared them entitled to practice. It was in 1852 that the four inns of court established the council of legal education and had an oral examination for declaring barristers fit to practice before the royal courts. It is said that a written examination was informally accepted as equal to attending lectures but in 1872 the written ex-

7. The word ‘answer’ also is used in this report in the most comprehensive manner to cover all modes of expression of academic performance by students.

8. This committee do not go into the mechanics of the examination namely, how the question papers are to be printed or otherwise multiplied, kept in secrecy and security, despatched to various centres, whether the answer books should be despatched direct to the examiners or sent from all centres to the Controller of Examinations and then from there sent to the examiners after giving them substitute numbers to secure anonymity of particular answer books, etc. which pertain more to the ‘transit’ side than to the ‘content’ side of examination. Doubtless both sides are equally important but tightening up the transit comes only after making the quality of the article to be transported worthy of the transit and after finding out how much there will be to transport. For example if all examinations are made internal to each institution the entire problem of transport and secrecy of question papers will vanish. In any case once the problems regarding the contents of the question papers and their evaluation are satisfactorily solved problems regarding other areas can be tightened up easily.

amination was made compulsory. It is noteworthy that immediately after the written examination was made compulsory by the council of legal education, the demand for improving the quality of legal education was raised. Ever since 1872 the three hour, written, essay type examination has chiefly prevailed, with the 'problem type' questions being increasingly included in recent years. These essay type questions have been the predominant feature in the universities also, though, it will not be wholly realistic to say that tutorials and other performances had no effect on the final result at Oxford or Cambridge.

On the continent, the oldest universities of Italy relied mainly on oral examination in law. The oral examination is conducted by the course professor and a panel consisting of his assistant and a professor of a related subject does not participate in the interrogation which is conducted by the other two members of the panel. They are public (i.e. any person can be in the audience) and consist of a series of essay type questions. In the Italian system the oral questions are expected to be answered according to the theory as found in the materials of the assigned texts. In some courses, usually in the third and fourth year ones, the question might occasionally demand also the application of the statutes to a concrete fact situation either hypothetical or that in a concrete decided case. Thus by and large, knowledge of the theory alone is expected. Instead of a written test it is done orally, which is probably very economical. The written examination has largely displaced the oral tests.

3. Lord Justice Diplock being quoted in Coutts, Examination for Law Degrees 9 JSPTL 399 at 406.
4. Cf. Franchino Roy P. "A New Book at an Old System (Some Observations on Italian Legal Education) " , 11 J. Leg. Ed. 367, at 372 1959 . The Academic session is from Nov. 1 to Oct. 31. Formal classes begin mid-November and end in late May. Examinations are conducted during three sessions, normally in February, June and October. Examinations are in the main oral, An optional written examination is used in Private Law. Obligatory written examinations have been introduced from 1959 onwards in Administrative Law, Constitutional Law and International Law. In administrative law, there is a supplementary oral examination to those candidates who have performed doubtfully in the written examination. The Constitutional Law and International Law oral examination is obligatory.
5. The courses spread over four years and twenty-four subjects.
6. See Tunc Andre, Legal Education in France 1 KULR p. 43 at 48-49 (1968)
It is relatively unrewarding to study in detail the progress of the common law countries in law examinations. They all followed the method which was obtaining in England, where, (as already stated) by 1872, the written essay type examination, usually at the end of the academic session, became the established model. The examination system as such did not, however, figure until very recently as a subject to which systematic attention should be given. The memorandum of the society of Public Teachers of Law of U. K. submitted to the Robins Committee on Higher Education in February 1962, did not contain any specific reference to law examinations. Even the very recent Ormrod Committee on Legal Education did not play attention to the details of how, when and what should be examined, although they assume that there should be examinations. Still the one paragraph dealing with examination for vocational candi-

7. For the position in a “Quasi-common law jurisdiction” (Israel) consult Leventen A. V., Legal Education in Israel, 8 JSPTL 15, (1964). There are no entry examinations or aptitude tests. There are no Finals”. Examinations are held at the end of each year in subjects taught during the year: “......... some observers feel that the very heavy and highly fragmented study and examination—load fosters a cramming attitude rather than a more leisurely atmosphere in which intellectual curiosity is provoked and sometimes satisfied. The Students Union prepare mimeographed lecture notes of practically all courses and these notes are, for many students, their staple if not exclusive nourishment” ib. sup. p. 16.

8. In Australia Mrs. Barbara Falk of the Melbourne University Faculty of Education made a study of the Melbourne students in 1965 and 1966. Mr. D. S. Anderson published a study conducted in conjunction with the Australian National University in 1963 and 1965. These two studies known as the Falk Report and, the Anderson and Western Report, are basic for any discussion of Australian legal education. In 1964 a comprehensive report on Australian legal education was prepared as Chapter II to the Martin Committee report by Derharm then Professor (now Vice-Chancellor) of the Melbourne University. Regarding examinations the main system is still the essay type annual written examination. But Australians, with Melbourne and Monash in the lead, are experimenting with more problems, more internal assessment, short written work, with previously announced and prepared lecture classes the case-method of teaching etc. See Maher F. K. H., The Teaching of First Year Law Students, 10 JSPTL 165 (1969) for the Melbourne experiment in the course on the Introduction to Legal Method from 1960 onwards. See also Hanks Peter, Australian Legal Education—Objectives and Directions 1 KULR. P. 196 (1971). See also V. T. M. Delani, History of Legal Education in Ireland 12 JL. Ed. 396 (1960).


dates (and not about University (examinations) deserves extraction for many of the ideas in it.

“We hope, however, that the importance of examinations at the conclusion of the vocational courses will not be exaggerated. It is natural that the professional bodies, which have a public responsibility for maintaining the standards of their profession, should feel obliged to test the proficiency of entrants, and examinations are still the conventional, and probably indispensable test. They have however, an ineradicable tendency to divert students from learning all they can in order to equip themselves for the future, and instead, to concentrate on memorising information which is likely to help them to pass the examinations. And they have an equally ineradicable tendency to dictate both the nature of the courses and the methods of instruction. If entry to both branches of the profession becomes, as we believe that it can and should, almost entirely graduate, the qualifying examinations should cease to be, as they now are, tests of legal knowledge and become instead tests of practical proficiency. Entrants will already either have passed a law degree examination or the common professional examination and will there by have had their legal knowledge adequately tested. Hence, whether the vocational courses are conducted by the universities or by the professional bodies, the aim should be to test the ability of candidates to apply their legal knowledge to practical problems over a fairly wide field, rather than to re-test their legal knowledge as such. Candidates should be presented with detailed factual situations (with irrelevant as well as relevant facts stated and be required to advice, or to draft the requisite legal documents. So far as possible, they should be allowed to use the relevant statues, text books and precedent books rather than be made to commit the professional sin of relying on fallible memory. (We are glad to see that the new type of Part II examination recently announced by the Senate is in line with these suggestions). We would also hope that it would be possible to supplement the final written test in the examination room by individual assignment under taken in the students’ own time, and with full use of the law library. In any event, we think that in deciding on pass or failure regard should be had to the student’s performance in the practical exercises during the year, as well as to his performance on the day of the final examination. The standard for a pass should not be higher than is needed to eliminate the incompetent. The temptation to try to raise professional standards, by making more difficult the examinations at
this final stage, should be resisted. At this stage, the pass rate should be high; the weeding out ought to have occurred long before and not at the end of the four years’ training. Nor can we see any point or purpose in dividing successful candidates into classes at this stage potential employers may wish to have some indication of relative attainments, but that too should be apparent from their results at the earlier academic stage.”

A good amount of thought has been directed to the question of examinations in the United Kingdom by individual scholars and the address of professor Coutts to the Society of Public Teachers of law of United Kingdom gives not only the views of other scholars but also shares with its readers the fruits of his considered thought and judgement on various aspects of the subject. The general consensus among present day law teachers is brought out in the following paragraph of the Wilson report.

“After establishing the general examination structure at law schools, an attempt was made to sound academic opinion as to the attributes of the law student the examination technic should seek to test. Here there was almost unanimous support (99%) for the type of question which would test his ability to apply principles to the solution of problems—an emphatic endorsement of the present tendency to increase the proportion of this type of question. A substantial number of teachers (44%) however, considered that a good memory was an important attribute for the lawyer to possess and should not be ignored in the drafting of examination questions. More surprising, perhaps, was the fact that 54% were in favour of testing the undergraduate’s ability to use reference books and law reports. Such an object cannot of course, be achieved unless examiners are prepared to make copies of such material available in the examination room, but few are at present prepared to do so. In fact only a few law schools—the London colleges, Hull, Nottingham and Southampton—allow their students access to such material when writing examination paper at first degree level, and even then it is confined to a limited number of statutes such as the Property Acts. Many teachers recognise that the adoption of such a procedure would nullify the advantage at present gained from the possession of a good memory but argue that it would inevitably lead to a more searching type of question which would heavily penalize the weaker student. The same arguments do not, however, apply to post-graduate students and many law schools make such material available at this level.
“An alternative method of testing ability to use reference books and law reports is to require the student to undertake a limited research project on a subject of his own choice. With this object in view the law student at Southampton is required to write a short dissertation as an integral part of his degree examination. The majority of law teachers, however were clearly satisfied with the present range of examining techniques and only 14% favoured the introduction of a dissertation”.

In the United States of America the first competent study of law school grades (in this category) was done by Prof. Ben D. Wood of Columbia in 1924. It showed that the essay type examination was the chief cause of the “gross variations in the standards” as used by different professors in their grading and in the standards “used by the same professor at different times”. As a result of his work objective law examinations were introduced. But concurrent variation among different professors, of the same student’s work in different subjects, still continued. Therefore, five years later, in 1929 Professor Grand engaged himself to study this problem. His study disclosed” absurd incongruity in the significance of grades as disclosed by the individual standards of the several instructions”. Steps were taken to rectify this defect. But later these safeguards were abandoned and when in 1956, Grant came back to the same problem, he found both disparities as widely prevalent as before. Therefore the articles and investigations in the U. S. A. on the matter have become numerous, so numerous that the committee is constrained to make parsimonious use of their embarrassing wealth.

The subject of examinations was discussed at the South East Asia Legal Education Conference of 1962 at Singapore, and a general approval of problem type of questions was expressed. The procedure of the Conference was to avoid “resolvings”. The

15. For 20 years he was in practice.
17. One of the members of this committee professor A. T. Markose contributed the paper on examination at that conference and made a specific suggestion to use the examination as a sluice to regulate the entry into the profession by the relevant authority appraising the needed number of law-trained personnel very liberally. However, a large majority of law teachers did not favour that suggestion. Cf. Markose, Examinations, Report of the Regional Conference on Legal Education (1962) p. 112.
papers were read and discussion, free and vigourous, followed. Every participant understood the various shades of views of the house for future use but no formal conclusions were recorded.

One of the developing countries that has made a comprehensive survey of legal education in the modern period is South Korea. The comprehensive knowledge needed to have a successful system of examinations is brought out in this study. Professor Murphy who made the investigation stated:

"Unless the bar18 examiners are persons who understand with thoroughness what goes on in the classrooms of the Schools what the teachers and the textbooks say what are the criteria which reveal the degree of learning in any given field of the examiner (and unless it is possible to measure the criteria with a certainty such that objective observers would agree with the grades given) and unless the aims and purposes of the examination are related pretty carefully to the aims and purposes of the legal profession, and unless the examiners are in general basic agreement of such aims purposes and the criteria for relating answers to the aims and purposes, then the conclusion would follow, in my judgment, that the examinations are not serving the purpose of examinations and so are not achieving their ends.

In Kerala we have been accustomed to the three hour, written, annual, public examinations, where the questions are invariably set by an external examiner and the scripts are also usually valued by a person who has not been teaching the subject.

The 14th Report of the Law Commission of India (1958) dealt with legal education in its 25th Chapter.19 The Commission stated:

"The so-called teaching imparted at institutions of the character20 is followed by law examinations held by the Universities, many of which are mere tests of memory and poor ones at that which the students pass by cramming short summaries or catechisms published by enterprising publishers.21

18. Though Professor Murphy speaks here of 'bar examiners' the observation applies equally to University Examiners.
19. pp. 520-553
20. The commission referred to Gorakhpur and Agra Universities where law is taught in Arts Colleges as a department of those Arts Colleges and to Utkal University where those above thirty years of age were allowed to appear for law Examinations without undergoing any instruction in classes.
“Frequently the method of delivery of lectures degenerates into a system of mere dictation of notes having references to the probable questions in the examination”. In the words of the Indian University Commission, 1902: “the greatest evil from which University Education in India suffers is that teaching is subordinated to Examination and not Examination to teaching”.\(^\text{23}\)

“......The average law student merely crams the notes, the cheap guides and question and answer pamphlets prepared by anonymous or pseudonymous writers of dubious qualifications. Standard books of reputed authors are considered unnecessary luxury by the student”.\(^\text{24}\)

After pointing out the subject covered by the Commission in that Chapter viz. the nature of the institutions that impart legal education, the need for an adequate and efficient teaching staff for them and the methods which may be adopted in imparting instruction, they observed:

“The training and the teaching imparted to the students will necessarily aim to enable them to pass their examinations for the law degrees. The nature of the examinations and the manner in which they are conducted must therefore, largely and inevitably influence the teaching imparted to the students at those institutions. However well educated and well staffed these institutions and whatever the method of teaching adopted, if the examinations for the degree are conducted as at present, the efficiency of the teaching is bound to be completely undermined.”\(^\text{24}\)

The Commission stated that examinations should be designed for a proper and scientific training. The questions are to be framed to reward the student who has thought over the subject and shows capacity to apply legal principles to facts and not to one who memorizes information. “Unless, therefore, there is a radical change in the method of conducting the examinations, the other measures taken to put legal education on a sound footing, are bound to fail”.

The commission found that examinations were “conducted on more or less stereotyped lines or mechanical basis” and that nepotism

\(^{21}\) ib. 52
\(^{22}\) ib. 535
\(^{23}\) ib. 536
\(^{24}\) ib. 538
and total lack of standards took place in the appointment of examiners, and valuation of papers, respectively. On this the commission said ‘it is not for them to suggest measures to remedy this deplorable state of affairs in certain universities’.

The Commission did not spend time on the details of various methods of examination in order to suggest an ideal form or a combination of forms to check the evils and to bring out of the candidates the values expected to be inculcated by the training. The commission observed:

“It is not for us to go into and prescribe adequate methods of testing intelligence in examinations and encouraging thought and applications of principles to facts”.  

It appears from this chapter that the commission approved the inclusion of the credits given for the essays and written studies and exercises done during the course of the year to the marks obtained in the final examinations, the asking of problem type of questions that would test the capacity to apply rules to facts and the supply of statutes” and other law books” in the examination hall.

The Kothari commission on Education had no hesitation to recommend the universal introduction of the system of continuous internal assessment by the teachers themselves successfully (according to the commission) carried out by the Indian Institutes of Technology and Agricultural Universities.

The deliberations of the Seminar on Examinations convened in New Delhi under the joint auspices of the University Grants Commission and the Department of Education.

25. ib. p. 539.
    Report of the Indian Commission on Education (1964-66) (briefly called the Kothari Commission) p. 200. See also Report on Examination Reform, U. G. C. 1962: Taylor H. J. L. Three Studies in Examination Technique, U. G. C. 1964; and the Report of the Committee on Examination Reform, University of Indore (1969). It has to be pointed out that none of these studies were on law examinations and that the observations in these studies that are applicable to post-graduate examinations alone may be considered of special relevance to examinations in law in India because legal education in India is a post-graduate discipline as, among others the Ormrod Commission of England on Legal Education has very recently emphasized in their report where in appendix P. they give a short account of Indian legal education.

26. The seminar was held in 1970. The materials are still in memographed form. The panel presided over by Professor D. N. Sinha considered the reports of Groups I, IV, V & VI and after brief statements gave specific recommendations also.
Commission and the Inter University Board on Examinations covered most of the area generally but the specific problems of legal education were not canvassed.

The Seminar was of the view that every teacher of a subject in the affiliated and constituent colleges, and selected teachers from other Universities, be asked to prepare question papers topicwise, reference to the objectives recognised. Thus a ‘bank’ of questions is to be prepared, to be available to paper-setters who will select questions from the ‘bank’. The convention of not repeating questions from preceding years’ papers was to be abandoned. The Seminar admitted that academically internal assessment is the best way of evaluating the attainment of a student, but for practical reasons did not recommend it for the undergraduate level. The existing system of the predominantly external type was to be modified to the tune of 50% in the post-graduate examinations. The seminar conceded the wholesale adoption of an internal assessment whenever internal assessment has been successful or conditions exist for its successful implementation. Thus for the post-graduate examinations there should ordinarily be equal members of internal and external examiners with a double assessment system. The examiners should not be appointed either by the Syndicate or by the Academic Council but by the Vice Chancellor on the recommendation of the committee consisting of the Dean of the Faculty, two heads of departments nominated by the Syndicate and two nominees of the Academic Council. But this Committee itself should be given power only to select from a panel prepared by the Board of Studies concerned. The seminar favoured viva voce only at the post-graduate level.

Another body which deliberated on the subjects was the Central Advisory Board of Education of the Union Ministry of Education. Its report also contains some proposals for reform.²⁷

From the foregoing pages it is clear that even though many inquiries have been made in India on Legal Education this is the first time that an inquiry has been ordered by a University to go into the exclusive question of reform of law examinations. The general dissatisfaction with the present type of annual, essay type examination with the third division and without any internal assessment machinery, has been voiced in many reports.²⁸

²⁷. See the investigations and reports mentioned in the Workshop paper of Dr. A. T. Markose appended to the Sinha Commission Report (1967) of the Kerala University.
The first concrete reforms were made at the Banaras Hindu University. In Delhi the Law Examinations were made semi-annual by the introduction of the semester system both for the LL. B. and the LL. M. courses. The “case and material” system of teaching, and the internal examiner system in almost all subjects, to the extent of having the same teacher who teaches the subject set the questions and value the scripts have been introduced in Delhi also. The abolition of the third division in their examination has obtained in Delhi, as indeed in all North Indian Universities for a long time. The Delhi Law School has thus covered the whole distance that advanced American and other law schools have covered. How far these reforms have achieved the object of improving the thinking and problem-recognising capacities of the candidates, has to be seen. Further, to what extent the contents of the question paper have reached functional usefulness has also to be found out.

But there is no doubt that the reforms that Delhi could bring about by implementing the recommendation of the Gajendragadkar Committee is both an encouragement and a signal to other Universities in India to follow; and to note that by delay in these matters, valuable time, for upgrading their legal education in order to obtain and maintain competitive intellectual parity is lost.

After the above brief survey of the experiences of the other Universities on this question the committee propose to examine in detail the various methods of examination obtaining in the field of Legal Education.

ber Secretary Sri. S. V. C. Alya with other member) may be briefly noted. Drastic reduction in the number of public examinations, the deconcentration of examinations (i.e., in a three year course instead of one examination at the end of the 3rd year, appropriate subjects should be completed in each of the first two years and full examinations be held in those subjects in those years and the remaining be taught and examined in the 3rd year); the decentralisation of examinations (i.e., autonomous institutions affiliated to a University be recognised for giving complete examinations having in the initial years external examiners also); the setting apart of a specific ratio of the total funds allotted to education for continuous study, research and innovations in the field of examination (the committee recommends 20% of the total expenditure) and the wide use of entrance tests devised to test the special aptitude of the applicants to the particular course concerned (the previous ‘public’ examination results to be used only for the preliminary selection of candidates as suitable for admission and the real admission tests to be used for groups of states or even for all of India, in Medicine, Engineering, etc.) are some of them. See M. Pattabhiram, Making Examination More Meaningful, Hindu, July 29, 1971, p. 8.

29. Consult, Report of the Committee on the Reorganisation of Legal Education in the University of Delhi (1964) pp. 16-19 and the dissenting note by Prof Ramaswamy ib. pp. 60-64. See also Tripathi, In the Quest for Better Legal Education, 10 JILL, 469, 486, (1968). Consult also the Bulletin of Information University of Delhi, Faculty of Law (1969-79), passim.
The questions this committee have to consider are how we should examine, when we should examine and who are the people who should examine. The first covers all the types of examinations the old continuous assessment type or the Gurukula type, the oral type, the essay type, the problem type, the short objective type, the comprehensive type and the new continuous assessment type. The question as to when we should examine would consider the optimum periodicity for examinations and the length of each examination and the spacing between examinations. The entire question of the system of external examiners along with that of associating external examiners with internal ones, the advantages of having the person who is teaching the subject exclusively responsible for making the question paper as well as valuing the answer books are some of the more important points regarding who should be examiners.

But all the above three questions are integrally connected to the objectives of legal education. The first question therefore would be what is it that the examination is intended to measure.

A. Object of Examinations.

The object of the examinations, everyone agrees, is to test the candidate's proficiency in what the particular course was intended to give. But what is it that he was intended to acquire? In other words, what are the educational objectives to acquire? In other words, what are the educational objectives to be measured? The following paragraph from a recent study of the subject shows the diversity of opinion on this matter.

"The Wilson questionnaire assumed that examinations may test the following: memory, ability to apply principles to problems, ability to use legal materials and ability to undertake research. And there was almost complete unanimity that ability to apply principles to problems was the really important aim. Professor Kahn-Freund would require students to display an ability to argue sensibly, to present their thoughts clearly, to distinguish that which is relevant from that which is not. A typical American claim is that examinations should show whether the candidates have acquired legal information and have learnt to "think like lawyers", to analyse facts and to apply legal principles. Professor Simpson's objective was that the student should appreciate facts and what happens when
the law operates on them and the principles on which the norms of law are to be determined. Dr. Megarry has emphasised the importance of an understanding of the facts and above all the meaning of relevance. Professor Wheatcroft requires students to have sufficient knowledge of the main principles to be able to diagnose each legal problem and to ascertain quickly whether it is simple or so complex as to call for another expert opinion. The Association of American Law Schools has broken down the so-called theoretical skills into legal analysis, synthesis, diagnosis, interpretation and legal solution. This means that we shall look for the following factors in the student's examination; problem-recognition, information, choice of rule, application, language accuracy and effectiveness and the right answer. Professor Barten Leach has listed the following: fact consciousness, a sense of relevance, comprehensiveness, foresight, linguistic sophistication, precision and persuasiveness of speech and self-discipline in habits of thoroughness "the only one" he says, "that is really basic".

Two American scholars on the subject have observed:

"One of the indispensable skills required of a lawyer is the capacity effectively to communicate ideas concisely and clearly, both orally and in writing. Another is the capacity to analyse complicated fact situations with precision and despatch".

The following in the Guide Book of a Faculty of Law of a developing Africa Nation—the Dar-es-Salaam Faculty of Law—deserves to be extracted here because of its close relevance to Indian conditions.

"In the Faculty of Law at Dar-es-Salaam, lecturers have been appointed, syllabus planned and methods of teaching devised, with a single important consideration in mind: the fact that the lawyer in East Africa has to be much more than a competent legal technician. With the coming of independence, the manifold problems that beset developing countries have to be faced, and in doing this great

3. A Guide for Law School (1964) at pp.16-17. issued by the Dar-es-Salem Faculty of Law, Tanzania.
changes will have to be made in the framework of society. Lawyers have a vital part to play in these development, for upon them will fall a major share of the work of putting into practice the principles and ideas of their colleagues in the fields of politics, economics and science, and ensuring that the resultant system work fairly and efficiently. Legal education must take account of these facts, and see that students are made aware of and prepared for their future role.

“Legal education for East African lawyers must therefore entail more than the accumulation of knowledge about rules of law—to know much law is not necessarily to be a good lawyer, although it is the foundation upon which most legal education must rest. The good lawyer is the one who knows also something of the society in which the law operates and the process by which the law may change and be changed by that society. This we teach the law as it exists in East Africa today, but we do not stop there: we use this law as a firm base upon which future development may be considered. In this way we hope to be able to produce lawyers who will have thoroughly mastered the techniques of the law. how to search out all the relevant authorities on a particular points and marshal them into a coherent form; how to read a case in order to understand it fully: how to analyse and interpret a statute: and how to put across one’s point of view in speech and writing. But over and above all this, they will have studied that law against the social and economic background of the East African jurisdictions, and will be in a good position to offer useful contributions to discussions on the problem of the law that ought to be in East Africa”.

Even though there is no unanimity regarding the objectives of legal education most of the qualities enumerated in the various views mentioned above may be summarised to include academic knowledge of rules and where to find them and their application to the problem at hand whether, as an advocate on his legs arguing, as a counsellor mediating between parties, or as a draftsman of a bill or as a framer of a legal opinion for his client (and sometimes transmitted over the phone) or any other similar position a person takes up because of his qualifications obtained through legal education.

If the above is accepted as a workable description of the objectives of legal education the next point is to enquire about the appropriate tests that will stimulate him to acquire those skills and abilities. In order to reach any conclusion on this matter an adequate idea of the merits and defects of the various kinds of tests available to us is necessary.

B. The Different Type of Examinations

(i) The Essay Type.

The essay type of examination may be taken up first. It is not necessary to have an elaborate description of what it is. The essay type of examination has many merits. It can be used to test the elaborating as well as summarising powers of candidates. The powers of the telescope and the microscope are valuable powers to be developed. This type can test analytical, critical, evaluating and synthesising powers. Through it a candidate can be tested how closely he can argue in favour of a point as well as against a point. It certainly can test the power of expression as well as command of language of candidates. If it is open ended in the sense that the exact content of an accurate answer cannot be anticipated it may not be an unmixed blemish. This can be considered to be one of its merits in the sense that it affords an admirable opportunity to each candidate to demonstrate his power of discriminating response in the context of the particular paper and the question. The short-note question and the annotation question and the precis question are all considered for a long time to be part of the essay type question. All agree that it is a good method to test memory and a good memory is a necessary help to a lawyer. Further it tests the power of communication of the examinees and such a power is also very necessary. In fact even the power to see the ‘points’ to divide the time according to the question, to begin with a good introduction and wind up nicely should all be valuable ingredients in the make up of a good lawyer.

The main target of attack of the essay type of examination apart from that of its encouragement of cramming is the subjectivity or

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5. 44% teachers who replied to the Wilson report said this. See IX JSPTL 1 at 52.

arbitrariness of its marking. About two to three months are taken under this system to announce the results during which period the students remain idle. Errors arising from human subjectivity can be to some extent mitigated by not putting a simpla numeral but making it as falling within quinquennial range. For example if an LL. B. candidate for constitutional law is to be given 55 marks it should be put as 50-55. Similarly in the total marks also a range may be given. This suggestion will create some difficulties for purposes of ranking. But this can be reduced to negligible units by adopting the American method of giving descriptive labels within close range of marks like (i) exceptional to 85% and above (ii) excellent to 75%-84% (iii) distinction to 65-74 (iv) superior to 60-64. Similarly second division may be divided into good 55-60 and fair 50%-54%. The system of double valuation is to reduce the evils of personal equation and to set off internal examiners' possible favouratism of his own students. The delay double valuation involves in the publication of the results and its ultimate uselessness to secure objective render this device unattractive to the committee. Besides, the second valuation is to be paid for also.

Another defect that vitiates the essay type questions is the time required to read through the lengthy pieces of writing, after illegible writing. The allotting of as few scripts as possible, and even the insertion of dummy scripts to check whether the examiner is sincerely valuing all scripts are suggested. The committee, while it decries all slovenly work in this important area, dissaproves all devices that set traps to catch teachers on the basis of an assumption that they will be guilty.

Various devices have been suggested to minimise the imperfections of the essay type of examination by improving valuation methods. 7a


7. If the difference between the two valuations is under 15 the average of the two is taken, if it is over 15 the chairman or a 3rd person is to value, but seldom does this 15 exceeded. If for very negligible difference a third examiner is to intervene the whole object of double valuation is defeated.

7a. A useful discussion on essay testing is found in Chapter 12. of H. H. Remmers and N.L. Gage, Educational Measurement and Evaluation, 243-257 (1943).
Another feature of the above defect of the essay-type examination is with regard to the writing time. The student writes in longhand for three hours, a period long enough to test all aspects of writing ability. The object of essay type examination in law, however, is to test the examinee's knowledge of law, and more important, the capacity for applying legal rules to fact situations; in short his potentiality as a lawyer. Considering this point, it seems unwise to waste the time that could be spent in asking more questions to test his knowledge of law, for testing his writing capacity. More questions with shorter length is the answer to this defect.

A recent study in the U.S.A. suggested that even to test writing ability a combination of a short answer type test requiring a twenty minutes essay and a forty minutes objective test is a better predictor than an essay test that requires the candidate to write a long composition for three hours.

A further baneful feature is that the essay type examination allows for unlimited response. The overall time limit and general directions such as "discuss" or "decide" do little towards guiding the examinee.

Grading of essay test is there discussed at pp. 250-256. Certain excepts form that discussion are given below:

"In general, four different methods have been used for grading essay questions: 1) the percentage-passing method, 2) the quality scale, 3) the sorting of rating method, 4) the check-list point score method. The last is probably the best and should be used in most instances ......

1. The percentage-passing method involves giving each question a definite value and marking every answer to that question on the scale of 0.100. Some arbitrary percentage, such as 60 or 70, is commonly chosen as the 'barely passing' grade. 'Barely passing' is usually vaguely defined in such terms as 'showing minimum ability to do work at this grade level'... Its major disadvantage is that the standard for 'passing' varies so widely from teacher to teacher.... (p. 250)

4. The check-list-point score method involves analysing the ideal response to the essay question into a series of features or points, each specifically defined. The people's answer is then judged with respect to each feature and a point is awarded if the feature is present in the response....." (p 252)

Anyone who is watching for it may notice at once that even the elaborate analysis set forth by these writers for grading essay tests involves the fixing of the actual standard for the occasion by the examiners themselves, and that no definite provision is made for correlating the results on any one examination with the results obtained with other groups in other years.

to a particular aspect of the topic in question. Setting larger number of shorter essay questions will not solve this specific defect because the examiner must “be ready to compare anything he gets with what he wanted, as he goes along. This open-ended possibility means he must put in long scoring time after the examination is over”. It is to avoid this defect that the objective type of question papers have been developed.

Essay type question paper fails to cover the syllabus by asking only few questions - usually six to be answered in LL. B. out of eight or nine, four to be answered in LL. M. out of eight or nine questions. The convention of not repeating last years’ questions and the very wide range of “external options” in the question paper encourage guessing and certainly the leaving out of large areas of the subject in the preparation for examination.

The remedy is to recognise each subject as consisting of distinct topics and never to leave any topic whether a question was asked from it last time or not but to ask another question from that topic which will require the knowledge of the principle involved in the last question and additional points from other portions of the same topic. Further options should always be “internal options”. To achieve full coverage of the syllabus larger number of shorter answers are to be called for by the questions. Further, choices should be built into each question so that if one part of a topic is not firmly grasped the other part should have been well studied. The wholesale emission of topics is thus prevented.

(ii) The Problem-type Question

The alternative to the essay type brought into vogue by its defects is the problem type question. There are several varieties in

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9. It was observed by an author that in an area where citizens are trained for a profession, like that of law, a question (asked in a South Korean Bar Examination) to “discuss the characteristics of presidentialism” was as ridiculous as a question (if asked!) in a medical examination “to discuss the human heart”. Cf. Murphy J. Legal Education in a Developing Nation; The Korean experience pp. 161-162, 165 (1965), Graduate School of Law, Seoul National University Press, Seoul, Korea.

10. Vaughan C. Ball “Objective Questions in Law Examinations” 12 J. Leg, Ed. 567 (1959) Much of the material and examples on this type of examination is taken from this learned professor’s article.

11. ’External options’ are choices which are independent of each other. The typical paper with external choice will state: All questions are of equal value: Attempt any six out of the nine. “Internal options” are built into each question and forms another aspect of the same topic on which the alternative is given.
this type itself. The normal problem type question could be objectively valued by the point system.\(^\text{12}\)

Its object is to test the capacity of candidates to apply rules to facts. It is really the corollary of the case method of teaching. One could therefore expect some at least of the defects of that system reflected in this type of examination. The problems are appellate court decisions and the skills of an appellate court lawyer are not all the talents that the legal profession now requires of the legal profession. The “problem” method of teaching inaugurated at Harvard in 1954

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12. The following simple example taken and adopted from Vold’s article in 7 J. L. Ed. 329, 376 may serve as a convenient illustration of how a law examiner may systematize the process of translating his subjective personal impression and judgment of the quality of the answers into terms of numerical value that can be entered in the records. For a good answer two qualifications are necessary. First is the power to analyse the given problem to show the rules of law that are to be regarded as available for possible applications point out the requisites for liability. The second is to show how the facts attract the liability or does not attract it.

Let us be supposed for this example, that an examination question in the subject of Administrative Law involves a combination of facts which provide room for possible argument on the following five points: (1) ultra vires (2) abuse of powers (3) vilocation of natural justice (4) illegal delegation of legislative power and (5) tortious liability of the government.

Let it be supposed, in addition, that this is one of ten questions, and that the examination is to be marked on a scale of 0-100. If this one question having five distinctive points involved in it is marked on that scale each point can be given 2 marks.

Accordingly, for each point in this question, which has 2 marks, the showing in the written answer or recognition of the requisites for liability involved in that point may be given one mark and the showing on how why the given facts fulfil or fail to fulfil those requisites for liability may be given one mark.

Suppose, then in the question some examinee missed the “point” on ultra vires through not recognizing its presence, he has thereby failed to make any showing whatever as to two marks in a 10 marks question. If he also misses altogether, though not noticing their presence, some of the other points in the question, he thereby misses other corresponding two marks in his answer.

Such a system of points in a problem is useful as a guide for the examiner in checking his appraisal of the particular answer as he goes through a set of examination papers. It must ever be remembered, however, that a mere semi-mechanical grading by counting up for each question what points were recognized by the examinee is not sufficient. That would tend to put the emphasis on mere memory. The examiner must also subjectively appraise for each question as a whole, the aspect of how effectively the answer shows what rule of law is properly applicable to the facts.
does not lead to this type of question but to the "comprehensive type" discussed later. The problem method of question is to afford training in the perception of the legal issues implicit in fact recitals; to compel the use of legal rules and training in the manner of their application, to test the understanding of assigned materials and to inculcate awareness of the lawyer's role as an active participant in the law making process. The chief defects of the problem question which it shares with the essay type are its limited coverage and the difficulty arising out of subjective evaluation. Some devices to mitigate these defects have already been noted.

(iii) The Objective-type question

But to remedy the above two defects of the above two types, the "objective" question has been evolved and tried by a number of universities outside and in India. By having short questions with a set of probable answers, the strain on the memory is reduced to the minimum, the coverage of portions is increased and the indefiniteness in marking is greatly eliminated. The candidates spend their time in the examination hall thinking and not writing and if the question evenly covers all levels of difficulty then the distribution of marks represents the candidate's normal ability and so can be converted to any other scale. But there is a view that this type of short 'true-false' and 'yes-no' objective examination is not ideally suited for testing the capacity of students of law and that it

13. The 'problem' method of teaching first standard in Harvard in 1954 by Professors Henry Hart and Albert Sacks aims to remedy some of the limitations of the case-method type of teaching by presenting a course to the student which supplies a cross-section fairly representative of the whole range of questions which have to be decided in the ordinary course of operation of the legal system as a whole”. Hart-Sacks; The Legal Process Basic Problems in the Making and Application of Law, p. v. (Tenatative edition 1958). In fact the committee venture to suggest that this is the ideal teaching material for the comprehensive type of examination discussed in the report as one of the latest in the field. Through sixty problems spread over seven chapters the entire gamut of the fundamental legal processes are presented. The practical difficulties of this method of teaching becoming the only method in a law school prevent its general adoption.

14. "They should come to realise that the lawyer is an active participant in decision making and not a reference librarian to the judges". "Ward, "The stem Method to Notra Drame". 11 J. L. Ed. 105 (1958)

15. Prof. Coutts pointed out that "these types of test, so far developed, are more useful in scientific subjects at a level below that of the university."
splits into fragments the understanding of candidates of law as a seamless web.

The objects of the Objective type examination can be broadly categorised into three. Firstly to obtain a very adequate sampling of the subject matter of the examination, by asking more question on more things, in the same amount of time. This is to reduce the accidental effects of choosing a few questions from a very much wider subject. Secondly to increase the consistency of grading between the answer papers of a batch. For instance, in the essay type of answers the grades allotted to a bad paper following several good ones will seldom be relative while in an objective type of answer it will seldom be otherwise. Thirdly to reduce the time required for grading.

To the extent of achieving these objects, objective type examination avoids the defects of the essay type question.

There are several forms of the objective type question. There is the elementary "True-False" or "Yes-No" type. This type is usually avoided because the words true and false are logical universal and are rare in the legal field unless one sticks to all law and no facts. The second type which has been experimented with at the Ohio State University College of Law, may be called the "limited response questions." After the facts are stated, a number of propositions related to the fact pattern are given and the candidate is asked to say 'Yes' or 'no' or 'true' or 'false' to each.

There is another type of objective question which may be called the multiple choice type. This carries the first type a step

They have principally been employed to test for knowledge, where they are clearly more useful. They are, for example, the basis of the snakes and ladders form of teaching known as programmed instruction. Whatever we may say against memory tests or against law students who know rules, rather than where to find them, knowledge as such as not to be despised. I believe Maitland once set a question in the tripos: "Give a list of the kings of England with their dates". And as Professor Weihofen of New Mexico has put it, "I don't think we've quite reached the point where you don't have to know any law". In some subjects you obviously have to know the rules. It may be questioned Whether we should not give more instruction at a more elementary level and examine on this instruction, to ensure that students are really fit to proceed. If, as Dean Levi says, law schools are there to teach reading and writing, should we give speed and accuracy of reading, as well as writing, tests?" Coutts J. A. Examinations for Law Degrees, 9 JSPL at 410.
further. Here the student is given a set of propositions, every one of which purports to be a resolution of the problem. The student is asked to pick out the best solution to what is given. His field is therefore limited, but he must know his stuff if he is to give the correct answer. This differs from the first type in that, in the first type each proposition is measured against an absolute.

Then there is the "ranking type." The best as well as the worst answers to the question are given. This type of choice can gauge the quality of the mind a little more accurately than the black and white type choice of the first types.

The fourth type is the "matching type". The candidate is presented with two lots of facts listed side by side. In a question of evidence, for example facts of evidence will be listed on one side and notions of the law of evidence on the other. The candidate is asked to match up the appropriate bits of the cited evidence with the related point of law stated in the opposite column, in the manner specified by the question. The footnoted example taken from the Journal of Legal Education explains this type well.

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16. 12 J. L. Ed. 567 (1959) Example No. 4 Evidence

Examinees were presented with a two-page outline of "contentions of the parties" in Paul Patient v. Diligent Drugs, Inc., an action for personal injury for alleged negligent misfilling of a medical prescription. The example below was part of an examination based on the outline.

"V" This question is a "matching" problem. In the left-hand column are answers given by Mr. Nesey, who testified (as a witness for plaintiff) that he was a salesman and a neighbour of Mr. and Mrs. Patient, who had visited him on June 27, the day after Patient began taking the prescription. In the right-hand column are some terms and concepts from the law of evidence. In the blank preceding each of Nosey's answers, write the letter of the term or concept which is decisive of the admission or exclusion of that answer.

"Paul was a very sick man" A) Lack of first-hand knowledge.
"Paul seemed to me to be suffering from food poisoning" B) Declarations of present bodily condition.
"It was plain that somebody had made a dangerous error on those capsules" C) Collective facts doctrine.
"Paul complained of being unable to swallow" D) Subject of expert testimony only.
"Paul couldn't seem to see things right in front of him" E) Statement of mixed law and fact.
"Paul staggered when walked" F) Direct testimony to facts, rather than opinion.
"When Paul said to "come in" his voice was husky—just a whisper."
The fifth type of objective question may be called a combination question, because it asks the student to do more than one thing with each item. In this particular question, adapted from Prof. Vaughn's

"Paul's pupils were so dilated his eyes looked black instead of their usual blue."

"It must have been something Paul ate that did it."

(The Time allowed: approximately fifteen minutes for this question)

17.

PART I

Desiring to increase his Karachi Diary Herd, Raman, a Cochin Diary farmer sent Krishnan his manager (Man of all work) to an auction, asking Krishnan to buy him two Karachi cows as cheap as possible but in no case for a price exceeding Rs. 900 each.

The auctioner Thomas offered separately some Karachi and Sindhi cattle. The only good buy according to Krishnan was a Sindhi cow and Thomas knocked down this cow to Krishnan for Rs. 1050.

Knowing well the admiration of Raman for Golden Retriever dogs Thomas offered a Golden Retriever puppy, Shadow, to Krishnan, who made a bid of Rs. 2000 for shadow. It was also knocked down to Krishnan, for that amount. Both the bids were made and entered under Raman's name in the books of the auctioneer for later bulling.

When Krishnan and the animals arrived, Raman told Krishnan that Sindhi were meat, not diary, cattle (which was true); and that he did not want a Golden Retriever dog. He called Thomas and told him that he repudiated both purchases and would not pay. Thomas insisted that Raman must pay.

PART II

Mark each of the legal propitious or conclusions below in one of three ways: CA for one that is both generally accepted as correct and applicable to the facts in Part I; X for a conclusion, that is not so accepted, regardless of whether applicable or not; and NA for a conclusion that is generally accepted as correct, but is not applicable to the facts.

1. A person who relied reasonably in good faith upon the representations person A that he (A is an agent of another person) may held such other person as principal.
2. When a third person is unaware of the existence of a principal the principal cannot be estopped to deny apparent authority.
3. If an agent exceeds his special and limited authority, the principal is not bound by his acts, unless the principal has held him out as possessing a more enlarged authority.
4. When a principal authorizes an agent to do a certain act in a certain way, the principal is protected from liability for an act violation of the instructions if the third person is informed of them before the violation.

10. The fact that Krishnan was a "General man of all work" made him a general agent, as distinguished from a special agent, when he attended the auction at Raman's request.
article, a fact pattern and some propositions are given. The student is asked to say whether the statements are correct and whether they are applicable to the problem raised by the fact pattern.

The above examples show that in the first stages these questions are constructed along the lines of the essay type question, i.e. by picking out facts that raise legal problems for solution. But instead of getting out with a direction to “discuss” or to “decide” as is done in the essay type questions, the examiner must work out the rights of the parties and also the points and rules and conclusions that would be contained in an essay answer, and state the sets of alternatives involved. He must then hook them up in such a way “that the better thinking as far as he can foresee, will lead to the better choices, and fit all this into the pre-arranged code system”. 18

It is obvious that very precise drafting and very precise thinking regarding the answers to be given are called for from the examiner.

In fact that foremost feature of this type is that its entire success depends on the scientific accuracy of the question. It demands hours of labour to properly construct a question paper of this type to bring out the capacity of the candidates to interpret a rule or apply a rule to a situation or to direct the faculty of critical appraisal of a set of conditions, etc. Further, it might be said that if essay type question invites open ended answers the objective question gives the examiner a subjective choice for question. The examiner’s idea of what is to be tested enters very much into the Question. In this sense the objective type question is very much subjective. The point is that in this type of question if the examiner aims by one question to test whether the candidate has one kind of aptitude that alone can be tested; while an essay has a much more broad range and its very broadness has its

18. Prof. Vaughn observes:

“The crucial phrases here are “better thinking” and “better choices”. They are crucial because they imply that the examiner must have in mind some poorer thinking and poorer choices. Every examiner does that, in a way, in essay questions. If he managed to an essay question on which he thought some students would write perfect answers and the rest would write nothing at all, he would probably change it with the hope of getting a range of responses. On objective questions, the examiner must anticipate the thinking and the responses, select some that he presents in such a way as to force a choice or choices, and evaluate them before the examination. The total amount of time required to make and give and score the examination will be no less than with the essay. But saving of total time was not one of the stated purposes”. Vaughn: “Objective” questions in Law Examinations 12 J. L Ed. 567, 570.
own advantages. The objective question is like a rifle with a single bullet and if your aim is faulty the shot would be a complete waste, while the essay type is like a grape-shot which spreads to bag something. There is no place to test the capacity of expression or any other talents of a similar nature in the ideal objective question. If such are to be tested different type of questions are to be devised. The critics of the objective type are of the view that some disciplines may not be appropriate for testing through the objective type question, and that probably at the higher echelons of knowledge this may look trifle the silly. Enthusiasts of this type however maintain that any branch of knowledge can be the proper subject matter of this type of question. In conclusion as Dr. Lorell remarks¹⁹ "It is wrong to assume that objective examination is necessarily a more satisfactory instrument. It may be a more convenient method of examining with large groups and it may be highly reliable. The reason that some objective tests are better than some traditional ones is that the latter are often set in an unsystematice manner and subject to chancy moderation by a second examiner. An objective type examination must be well designed or it will be a less satisfactory tool than a conventional paper drawn up by an experienced panel and marked on a systematic schedule. Both kind of examinations can be used with profit in order to improve the efficiency of the examination system".

(iv) The Comprehensive type examination

The defects of each of the above mentioned examination systems, led some universities to experiment with what is called the comprehensive examination.²⁰

In the comprehensive examination one question paper examines the student in all the subjects taught to him, without specifying the area from which the question is asked. The question paper does not contain any title of subjects at all. Moreover, the questions cover, as do legal situations in life, more than one branch of law. This gives the examinee exactly those types of problems to solve, which he has to face as a lawyer, when clients bring disputes to him.

²⁰. See the system clearly explained in Amandes ‘How We Examine’ 11 J. L. E. pp. 568 et seq New Mexico has an entire year’s examination in one course. In a 1952 Survey 23 schools were using this form of examination. But only New Mexico gives a previous examination for credit in the same course. One does not know the extent to which the system is still in use in various parts of the world.
The Committee does not find it possible to recommend this system at this stage of our legal education and does not further elaborate it.

(v) Short written work.

Several other alternatives have also been advocated. They include assessing the student on the basis of short dissertations written without the ‘examination nerves’ and with the additional advantage of testing his capacity to refer to the literature of the law available to him.

This is particularly necessary in India because under the existing pattern of legal education, at no point in the three year LL.B. Course need a student, apart from the essay type university examination he has to write, express himself in writing to show how organized, creative and critical a mind he has. Consequently the law students in India have an unhealthy horror not only to write under his name or to see anything in print but even to hear his own voice in a responsible and responsive manner in the class itself. Absence of sufficient staff appears to be one of the real causes for this inadequate attention being given to tutored writing. The strength of the Oxford and Cambridge legal education rests to a considerable extent on tutorial systems functioning there. Legal writing has special rigours and nothing will sharpen one’s power of communication than a rigorous course of writing under proper tutors. It takes away illogicalities and flabtinesf from one’s expression. The written work forms a concrete basis to form evaluation and along with participation in class and moots provides reliable materials for continuous internal assessment. The University and the Government have to allot substantial funds for appointing tutors for this specific purpose.

(vi) Oral or Viva Voce Examination.

Regarding oral examinations at the LL.B. level the Committee has at present not enough data in support of its introduction. The reasons why all over the world the written examination has succeeded to replace the oral, still obtain. The enormous time it will take if it is introduced at the LL. B. is not its worst feature. The arbitrariness of it, the patent subjectivity of it, the inconclusiveness of it, all vitiate it. Its benefits will not justify its costs. Since there is to be the continuous internal assessment which will include an evaluation of his oral performance in class no purpose is served by an additional oral examination.
(vii) Examinations with books.

The proctored open-book examination taken at one sitting is an alternative which the committee considered at some length. It has many advantages and is being tried in various universities abroad. In India in many States bare Acts are allowed to be consulted in subordinate judicial service examinations. This type of examination is an innovation that can be introduced for any type of examination. It has to be noted in passing that during our hearings one student alone objected to this system correctly understanding its consequence viz making the examination more difficult. It has to be introduced in Kerala only carefully and at first partially. Clean copies of the books are to be supplied by the University. But it has no funds for that. At first therefore bare Acts including the Constitution may be allowed to be brought by the candidates themselves. After watching the effect of its introduction in subjects suitable for it, like contract, Transfer of property, Trust, Easement, Constitutional Law, the adjacteval law, etc, the University will have to decide on its extension or even withdrawal. This is because of the view of the Committee that unless the questions are made definitely creative and critical the whole examination will become a farce. For example, if the question is 'how can easements be extinguished' and the examinees are permitted to consult the Easement Act, it is as good as not asking such a question.

The introduction of the 'honneur system' (i.e., examination without invigilation) has not been seriously discussed before the committee. The time is not ripe for even experimenting with such a system.

C. Intrenal and External Examiners.

On this aspect of the examination a good amount of discussion took place. Many, like the Kothari Commission, are staunch believers of the internal assessment system. They point out that the introduction of this external system into institutions involving large numbers like the LL.B examination would mean that evaluation has to be formal, periodical and therefore discontinuous. Being formal it will tend to create "examination nerves". It is a costly system, travelling allowance and remuneration to a large number of outsiders are involved. Besides, the publication of results will take longer time than in a system with an internal set of examinations.
Since external teachers are involved, besides the cost, it can only be resorted to periodically, presumably annually.

The main objection voiced against a completely internal system of examination is the impossibility of maintaining impartiality or integrity on the part of the teachers. The danger it is stated is enhanced in the case of universities with more than one affiliated institution so that an institutional competition arises to show better results. The internal assessment is suited best to a unitary university. In Universities with more than one affiliated institution the time has not come for a purely internal type of examination either in the setting of the question paper or in the evaluation of answer books. A few very proper external (they have to be teachers) examiners are to be associated with the internal examiners. One very important feature in this question which is usually not noticed is the absence of any measure to compare when many affiliated institutions are permitted to have autonomous internal examinations even on a single university examination unless the examination is centralised and external examiners, ie. examiners external to each institution are entrusted with the evaluation of the scripts. Thus, in any case some kind of external examiner-ship is inevitable in affiliated colleges. If that is so, it is even better to make the whole system "appear" to be impartial to the world by associating some proper teachers from other universities also. The internal examining system will be possible in Universities like Delhi, Aligarh, Banaras and Cochin where affiliated institutions are absent.

D. The Timing of Examinations:

The important question of the correct length and spacing of examinations and its effect on performance have been neglected. The common practice of conducting two three-hour examinations between 10 A. M. & 5 P. M. can be legitimately considered a test of physical stamina more than of the students' potentiality as a lawyer. Protracting examinations and the interval between papers beyond a certain limit leads to nervous strain and consequent deterioration in the performance of the better students. This strain becomes more marked in the later papers. This is primarily a matter for physiological and psychological data to determine fatigue, mental and physical, and therefore this committee do not go into it further, except to observe that an examination a day seems to them to be the ideal.
But there is the aspect of the timing of examinations which the committee wish to discuss in some detail. It is the question of an annual examination or an examination at the end of the whole course in comparison to a semester examination. Shall the 3 year LL. B. to have one examination at the end of the whole course or 3 examinations, one at the end of each year, or six examinations one at the end of each semester.

The semester system promotes study more uniformly throughout the year with all its attendant advantages. To the extent the interval between the two examinations is made just half of what it was before, the number of examinations becomes double. Still the shock on candidates is more than halved because their fats is not now hinged on a single annual performance. It facilitates internal valuation and shortens the period for publication of results. The semester system can make each paper a unit and once a candidate has passed in one paper he gets exempted from sitting for it again. The Universities of Delhi, Varanasi and Lucknow have two examinations in law in every academic year at every level, as demanded by the semester system. It has to be noted that the semester system has also critics.

The Committee on Teaching Methods of the United Kingdom, University Grants Commission (1964) was of the view that semester system has certain drawbacks. It has, according to them, the effect of fragmenting a whole course and thus preventing the student from getting an integrated view of the whole course. This is not acceptable because an integrated and comprehensive view of law obtainable at the 2nd of a 3 year LL. B. course is destroyed by periodic testing of independent, scientifically separable sections of it, while if the argument is stretched to its logical extreme at no time could an examination be quite defendable. The United Kingdom committee further observed that it is only by examining a student in his most mature period over the whole range of his work that a proper assessment of his quality can be obtained”.

But this argument is also not acceptable because at the end of whole period\(^2\) the strain of a single examination is to be avoided. One may be testing only the quality of the memory of the candidates. It will lessen their incentive to work. From the very beginning maturity of each candidate is measured at each stage in

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2. 3 years in the case of LL. B. like the undergraduate B. Sc. Course.
comparison with his class-mates and at no stage even at the fag end of the course would he have a full understanding of his discipline. This committee is therefore of the view that the semester system is preferable to one examination at the end of course or even at the end of the year.

The wheel seems to have come in full circle. There are eminent lawyers and judges who seriously question the need for lawyers to be taught at the University. However these advocates for elimination of the examination are, neither many nor convincingly emphatic.

On the other hand it is noteworthy that although the American National Law Students Conference in 1947 opened with the (perhaps not unexpected) remark, that it can state with confidence that examinations are not popular, "it ended with the conclusion, that "not even the customer is satisfied that this evil is not a necessary one".

CHAPTER IV

Recommendations

Following the discussions with the students and teachers and the analysis of various aspects of the system of examination recorded in the third chapter of the report and in the light of the literature on the subject covered in the second chapter of the report, we recommend the following reforms in the existing system of examinations in law in Kerala.

It is necessary to state at the outset that to-day in Kerala the LL. B. course of 3 years is assessed on the basis of an annual written examination which is predominantly essay type the question papers being set exclusively by external personnel. The valuation is by external examiners and internal examiners consisting mainly of teachers of the different colleges or constituent units of the University, as well as teachers from other Universities, practising lawyers and members of the subordinate judiciary. There is no double valuation and there are no other tests of any sort whatever. The examination may extend over any period of time, but normally they do

* See appendix III for the questions generally discussed with the teachers and students and for a summary of their evidence.
not extend beyond two weeks. The time taken after the examination for the declaration of results is often two the three months. There are three divisions. The first division consists of those securing 60% or above of the total marks, the second of these who get 50% to 59% and the third of those securing 40% to 49% in the aggregate for each part. The papers of each year are grouped under two parts. There is only a part minimum and no separate minimum for each paper. There are eight papers each year, i.e., a total of twenty four papers for the three years. The failure rate is about 50%.

For these examinations the committee recommend (1) substantial reformation of the question paper, (ii) the establishment of a University Committee for Law Examinations (iii) the introduction of the Semester system (iv) the abolition of the present third division (v) the introduction of continuous internal assessment to the extent of 15% of the total marks of each University examination, (vi) the permission to bring into the examination hall, for consultation, bare Acts for selected topics, and (vii) the allocation of the first division called a division constituting the top 20% of successful candidate and of the second division called B division constituting all other successful candidates, the individual total marks being shown in every case and (viii) the calling of a post-examination conference.

Each of the above eight recommendations is briefly explained.

1. Reformation of the question paper.

From the study of the different types of question papers it was found that one type alone cannot test the attainments acquired from University instruction. A combination of the different types of questions is necessary. The essay type, the problem type and the objective–limited response type are to be used in each of the question papers. Not more than one question may be of the essay type. Two questions may be of the problem type and three questions of the limited response type. Three internal options may be given the chairman of the board of examiners has to take the responsibility to see that the questions are scientifically constructed that the content validity¹ the construct validity² and objective

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¹ The quality of covering the whole portion set down for teaching.
² The quality of uniform skill and difficulty required for answering each of the questions.
validity and practicability have been properly fulfilled. The setting of the question paper has to be done with much more care and precision than is being done today.

(2) Establishment of the University Law Examination Committee.

This committee feels that the reason for the non-implentation of the various reforms suggested by numerous commission and committees is the absence of a specific authority charged with the responsibility of implementing them. This committee earnestly recommend the constitution of a Law Examination Committee consisting of a judge of the High Court nominated by the Chief Justice, the University Professor and the Principals of Law Colleges presenting candidates for the examination. The University Professor or in his absence are of the principale of the Law colleges shall be the chairman of this committee. This committee shall be responsible for the conduct of the examinations. Proper questions can be set and satisfactory evaluation of the scripts can be made eliminating arbitrariness and freakibleness only if the teaching commuity is closely associated with every aspect of the examinations system, at least indirectly, through the University Professor and the Principals of Law Colleges.

(3) The Introduction of the Semester system.

The discussion of the merits and defects of the Semester system revealed that the merits exceed the defects. Every one who gave evidence before the committee, except one student, whole-heartedly welcomed the introduction of the semester system. The introduction of this reform will considerably reduce the present delay in the publication of the examination results and encourage the students to work continuously from the beginning of the academic term. The present unreasonably heavy load on the memory of the student will be lifted by the semester system. It enables the student to study more intensively the subjects for each examination they being only half of what he had to face in one annual examination.

(4) Abolition of the existing third Division of the LL. B.

3. The quality that the question is based on an objective or objectives of the curriculum.
4. The quality that the question paper is capable of being completed in the prescribed time, that its scope is within the curriculum and that the language is not equivocal or obscure.
The Faculty of Law of this University had already recommended, when approving the reports of the Sinha Commission in 1964 and the Sinha-Sadasivan Commission in 1970, that the third division should be abolished in the faculty so that, among other reasons, our successful candidates may have competitive parity with those who pass from the large majority of Indian Universities where there is no third division in law examination. We endorse that view even now and request its implementation at an early date.

The Introduction of the Open Book system of Examinations.

After hearing the evidence and considering the matter, the committee recommend that the open book system of examination deserves encouragement though it need not be introduced in all the subjects immediately. While the committee do not be little memory power it venture to state that the real test of a lawyer's proficiency is not so much his ability to reel off the precedents on a point by memorising but his capacity to spot the law knowing where it is. The introduction of the open book system is justified by this aspect of a lawyer's work. Therefore a beginning to the open book system has to be made immediately. We recommend its introduction in certain subjects like the Indian Penal Code, Criminal Procedure Code, Civil Procedure Code, Law of Evidence and even Constitutional Law in which bare Acts can be permitted to be taken by the candidates themselves into the examination hall. Eventually the candidates in examination halls may be allowed to bring not merely the bare Acts but also other books prescribed or recommended by the University on that subject because only intimate familiarity of the relevant materials by their prior study will enable the student to solve a problem within the prescribed time even if he has a whole library at his command. The Committee want to emphasise again that the question paper under the open-book system will be a complete departure from the existing mode of setting questions. The change suggested imposes considerable burden on the person who has to set the questions. Questions will have to be so devised that they can be answered only from a thorough familiarity with the curriculum, a developed faculty of critical acumen and a full sense of creative imagination.

The Introduction of Continuous Internal Assessment to the extent of 15% of the total marks of each University Examination.
Many of the problems of the modern examination system being the result, in the opinion of the committee, of making the fate of students depend upon a single annual performance of three hours, one of the ways of solving the problem is to make the examination an integral part of the studying process. The examination has to be spread over the entire course: weekly, monthly and other tests of an oral, written and in the written, both theoretical and practical, varieties are to be introduced.

The Committee felt that if continuous assessment of studying is to be a viable process the proportion of internal assessment will have to be much more than what is now provided for in the Kerala University.

It is on this question that the committee had to deliberate for long. It was agreed that if University teaching is considered useful and attendance at University lectures is a foundation on which the University instruction is built, preparation and student participation in lectures is a condition for the whole operation. Internal assessment gives a motivation for each student to be attentive, up to date and to prepare for the discussions because he knows fully well that his labours on each of those heads will be reflected in his final grades. Considering the good effect of the system of an internal assessment on discipline and overall performance on the teachers and the students, the committee considered that there is only one drawback namely the possibility of partiality on the part of the teacher firstly to one or some of the many students in the same institution and secondly to the candidates of their own institution collectively in comparison to those of other institutions in the same University. The Committee felt that individual preferences by teachers to students in the same institution could be prevented by the finalisation of the total marks of each student, per subject, by the staff council as a whole, secondly if a student by his general good behaviour, regular attendance and even by his enthusiasm in his approach to law receives higher grades than what he would have merited by his bare intellectual capacity the committee is fortified by the thought that all these talents are current coins at his professional counter. The partiality that the teachers of an institution might collectively feel in favour of a student of their own institution is a matter that required more attention. The Oxford and Cambridge universities which have many constituent colleges associated teachers from other colleges in the grading of the public examination. That system can be followed in your University also, the teachers from the various affiliated or
constituent colleges forming a panel for the guarding of each other. It may also be provided that if the internal assessment of a candidate in a subject differs from the external assessment by more than 15% the internal assessment shall be proportionately altered.

The short point is that both these principles examination to be a continuous process throughout the academic year and internal assessment to be an integral part of the examination system are to be the fundamentals of law examinations.

We strongly recommend the following practical details for the introduction of internal assessment. The assessment has to be by the teachers who teach the respective subjects on the performance of each student in the class and in the tutorial work assigned to each. The marks entered by each teacher are to be moderated by the staff council meeting. It shall amount to 15% of the total marks of the Public examination. For example if the total marks for the public examination for a semester are 400 (each of the four papers bearing a maximum of 100 marks) the sessional marks shall be 60 only. Formal official record of marking with short observations by the teacher are to be kept by each teacher. The record of the moderated final sessional mark of each student has to be kept in an official register by the principal or by the head of the department as the case may be. The final role of sessional marks signed by the teachers at the staff council has to be forwarded to the Controller of the examinations so as to reach him before the University examination starts.

(7) The introduction of two grades in the examination called A and B. In the group A the first 20% of the candidates obtaining the highest marks in the examination are to be included. The remaining successful candidates are to be placed in Group B.

This reform has been suggested by a joint body of the U. G. C. the Inter-University Board and the Union Ministry of Education to create an All India standard for purposes of comparison.

(8) Post-examination conference:

Immediately after the valuation or the declaration of results of each semester a conference should be called for a day or two consisting of the members of the committee for University Law Examinations, all the examiners for the particular semester examination and all the teachers of law in the State. The Conference should
discuss all the aspects of the examination that has just been over. This will meet the need for intimate and immediate communication between the teachers of the various subjects and the setters of Questions in those subjects so that the pedagogical approaches respond to that of the question papers and the question papers encourage the method of teaching that has been followed through out the preceding semester.

Before we conclude it is necessary to state that most of the reforms suggested in this report put much more work and responsibility on the Law teacher. The continuous review process requires very intensive teaching and internal review in the presence of the student of the frequent test papers which alone will benefit the student and help them to be properly equipped, require very strenous work on the part of the teachers. Better salaries and better remuneration for setting questions and valuing answers have to be given. It may be that legal education has to be recognised as it is in fact, as part of professional education and salaries of the teachers are to be reorganised on the terms of the government medical and engineering colleges.

In conclusion, the committee desire to make one point. As has been pointed out by the Gajendragadkar Committee in its report on legal Education in the University of Delhi, Law Faculties are ideal for introducing reforms, being the faculty that has the least number of students. More for reaching reforms than those recommended in this report have been introduced in the law Faculties of the Delhi and Banaras Universities. The committee therefore recommended immediate implementation of the report in the faculty of law even though conditions are not considered completely congenial for the introduction of reforms in other faculties.

APPENDIX I

Number of meetings held by the Faculty Committee of the Kerala University for Reforms in Law Examinations.

1st meeting : 2.30 P. M. Saturday the 13th March 1971 at the University Office Trivandrum.

2nd meeting : 12th May 1971 at University Dept. of Law, Cochin-22.

3rd meeting : 29th May at 11 A. M. at the Govt. Law College, Cochin-11.

4th meeting : 5th June 1971 at the Govt. Law College, Trivandrum at 11 A. M.

5th meeting : (of the members of the committee residing at Cochin). at the office of Hon. Shri. Justice V. R. Krishna Iyer on 14.6.1971 at 5.30 P. M.

6th meeting : 27th November 1971 at 11 A. M. at Syndicate room in the University.

Abbreviations

BIICL : British Institute of International and Comparative Law.

Camb. L. J. : Cambridge Law Journal

Cmd : Command Papers (U. K.)

Col. L. Rev. : Columbia Law Review

J. L. Ed. : Journal of Legal Education (U. S. A.)


JSPTL : Journal of the Society of Public Teachers of Law (U. K.)

KULR : Kerala University Law Review.
List of persons who attended hearings before the Committee.

Sri. P. O. Abdul Kadar: Professor
Sri. Jose T. Manjooran: "
Sri. N. Purushothaman: "
Sri. P. Sreedharan Nair: "
Sri. Dharmadan N.: Lecturer
Sri. Madhavan Pillai K.: "
Sri. Natarajan K.: "
Sri. Sidharthan K.: "
Sri. Subramonia Pillai K.: "
Sri. Vijayakrishnan R.: "
Sri. Vijayapalan P.: "
Sri. K. M. Abraham: University Union Councilor, Trivandrum Law Collgee.

Sri. Alex Thalody: Magazine Editor, Trivan-Law College.
Sri. Chandrasenan Nair N.: Trivandrum Law College
Sri. Kochukunju V. N.: Junior LL. M.
University Department.
Sri. Mohanan T. K.: General Secretary, Trivandrum Law College.
Sri. Muraleedharan K. V.: General Captain, Ernakulam Law College (Full-time)
Sri. Philip Antony Chacko: Trivndrum Law College
Sri. Prakasan V. K.: Ernakulam Law College (Full time)

Sri. Ramachandran V.: "
Sri. Sankara Pillai: Senior LL. M. University Dept.
Sri. Sadasivaran R.: Trivandrum Law College
Sri. Samuel John: Ernakulam Low College (Part-time)
Sri. Sukumaran K. G.: President, Ernakulam Law College Assn. (Full-time)
Smt. Vimala K. K.: Ernakulam Law College (Full-time)
APPENDIX III

The following are the general questions, in as broad outlines as possible, on which the students were requested to give their views.

1. What are the difficulties and defects experienced by you in the present system of law examinations?

2. What are your suggestions for removing those difficulties?

3. Do you recommend the abolition of third division?

4. Would you prefer the open-book system of examination with questions so framed as to test the lawyers' skills to the existing system which is generally stated to test your memory?

5. Will you prefer to the present system of one annual examination the semester system under which there will be two university examinations one in the middle of the academic year and the other at the end? The eight papers now prescribed for each of the three year LL. B. will be divided into four and four for each semester. In each semester the teaching and examination of the courses for that semester will be completed.

6. Will you recommend an internal assessment as an additional item to the grading system in any form? If so how by way of each teacher giving marks according to his opinion of a student's performance throughout a course; or on the basis of written work submitted to the teacher and corrected by him in the presence of the candidate and regularly entered in his register or on written work and on the judgement of each teacher on the performance of the candidate in the class also?

7. The students were made aware of the communication of March 1st 1971 of the U.G.C. informing the University of the view of a joint meeting on February 3, 1971 of the U. G. C. and the Standing Committee of the Inter-University Board of India and Ceylon (based on the recommendation of the Education Commission) for obtaining uniformity of marks for classification of 'divisions' in post-graduate
examinations, namely that in addition to whatever system of
marking that is existing in each University, the introduction
of "the system of awarding relative grades for the first 20%
students in each law examinations". Instead of this, single
device as an addition to the existing system of marking and
grading the committee suggested an alternative system.
Briefly it is the division of all successful candidates into two
groups A and B and then to put in group A the top 20% of
the successful candidates. The merit of this suggestion of
the committee is the availability of a better All-India classi-
fication for the successful candidates.

A Summary of the Evidence Submitted before the Committee.

All witnesses except one expressed their dissatisfaction with
the existing system of examination. It did not encourage studies
throughout the year, it placed a great premium on memory, it gave
ample opportunity for malpractice, it encouraged the study of
cheap 'guides' and 'question and answer series' in preference to
standard text books with its question papers demanding answers for
only six out of nine questions it enabled students to omit large
portions of prescribed subjects without study in short the present
system of law examination did not cater to the goal of the educat-
ional system and did not test the real merit of the candidates.

All the students agreed that the third division should be
abolished.

All the student except one welcomed the open-book system
of examination. The one who did not agree pointed out that it
will make the questions more difficult to answer and will raise the
standar of the examination. However, those who welcomed the
reform welcomed it realising that it will upgrade the course.

All except one agreed that the semester system should be
introduced. The lone dissenter did not elaborate his point but
rested his argument on the inconvenience, from his point of view,
of two examinations where now only one exists. There came up a
suggestion that in the first year there need not be any semester
examination but when the lack of logic of this view was pointed out
the suggestion was not pressed.
It was the question of internal assessment which evoked much thought and discussion in the witnesses who gave evidence. One rejected the suggestion of the internal assessment apparently because of his fear that impartial assessment might not be certain. One agreed in principle but did not advocate it because of practical difficulty to establish it, a polite way of agreeing with the first student. One group was of the view that the assessment should be done by not less than three teachers in council. The majority was for having the assessment on written tests to be regularly entered in formal registers while a substantial majority wanted it on discussions that usually take place in the class room. The general consensus was to have the internal assessment monthly or at least once in two months. Not more than 15 to 20% of total marks for the semester was to be assigned for the internal assessment. One student suggested that students may be allowed to submit six short written works may be case-notes, case comments, book-reviews, brief essays or any form of written work on the portions prescribed for the semester. Fifty percent of the total marks for the semester is to allotted to these six written works. The remaining 50% is to be divided equally between an oral test and a problem oriented written test of one three hour session or two hour sessions covering subjects for the entire semester.

All agreed that the top 20% of the successful candidates in an year shall constitute the first division, to be designated by the letter A. One teacher and one student suggested that the final grade should reflect the average of marks of all the three years of the LL. B. course.

A deep grievance that was articulated by most of the students was about absence of response to their grievances from the existing University machinery for law examinations. The injustice resulting from the utter disparity in standards between the questions of one year and the next and that of one paper and another in the same year, the level and the approach of a many question being at a tangent with actual instruction that has been taking place in the
classes, is a common concomitant of any examination system. But machinery should be provided to take note of the defects of each year, to see that they did not adversely affect that year’s candidates and that they did not occur in the succeeding years. The students stated that in their experience such a machinery did not now exist in the University. Whether it is an annual examination or a semester examination they pointed out that unless the examining body is closely correlated to the teaching body each examination to the student would be like a blind shot at a hidden target. They said that there would be no guarantee that the pedagogical approach pursued in the classes would be reflected in the questions, that the level of difficulty of the question paper in the previous year would be adhered to in the succeeding year or that the difficulties experienced by the student in one year and ventilated to their teachers will be removed in the next year. The committee assured the students that a machinery would be recommended with a view to remove these defects in the existing system.