

Date: 24th August 2017

To
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Deputy Secretary
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Department of Justice
Ministry of Law and Justice
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*L.O. 4/9/17
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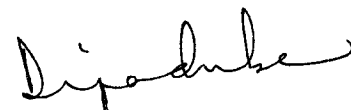
Ref: File No. N/9/4/2013-NM

Dear Sir,

With reference to the above, please find enclosed herewith the Final Report of the project titled "Designing the Continuing Legal Education for Advocates in India". The Utilisation Certificate and Audited Statement of Account is being prepared by the respective department (Sponsored Research and Industrial Consultancy, IIT Kharagpur) and will be send shortly.

For kind information, please.

Sincerely,


(Dipa Dube)

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**Designing the Continuing Legal Education System in India for
Advocates**

FINAL REPORT

Ministry of Law and Justice

Government of India

June 2017

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ACKNOWLEDGEMENT

A task is never too big when it is the co-coordinated effort of all. This report is an excellent illustration of the same. The project was constrained in terms of time and colossal in terms of perceived deliverables. Yet the job has been successfully accomplished by the dedicated and sincere efforts of one and all who have inexorably worked in course of these few months. I wish to express my heartfelt thanks to all the members of the team, especially, Dr. Indrajit Dube, whose valuable inputs and wholehearted cooperation have helped in shaping up the project. Thanks are due to the Dean of the School, my colleagues, administrative staff for their support and co-operation.

I express my sincere gratitude to Prof. P. Ishwara Bhat, Vice Chancellor, WBNUJS, Kolkata, Prof. Sri Krishna Deva Rao, Vice Chancellor, National Law University, Odisha, Prof. Nirmal Kanti Chakrabarti, Director, KIIT Law School, Bhubaneswar, Prof. K.I. Vibhute, Dean, Rajiv Gandhi School of Intellectual Property Law for sharing their views and critical opinion on the subject. I am also thankful to the several Judges, Lawyers and Academics for their whole - hearted participation and enthusiasm towards the successful conduct of the study.

The project has been sponsored by Ministry of Law and Justice, Government of India. I take the opportunity to thank all the officials associated therewith.

In the end, I intend to express my gratefulness to the numerous other people whose names have not found mention in this page, having being lost in memory, but whose mute yet inspiring presence have made the study a reality. Sincere thanks to all of you.

August, 2017

Dipa Dube

EXECUTIVE SUMMARY

“Lawyer is not merely a craftsman- or even an artist. He has a special role in our society. He is a professional specially ordained to perform at the crisis time of the life of other people; and almost daily to make moral judgments of great sensitivity. And of course, he is the custodian of the flaming sword of individual and personal liberty as well as of public order.”

The profession of law is one of the well- regarded professions in society. It holds the key to securing socio - economic justice and establishing the principle of Rule of Law. It is, but natural, that a lawyer must be adept with the changing demands of the profession in order to meet the necessities of society. Traditional wisdom stated that a lawyer’s time is his stock in trade. This maxim is true; but today’s advocates need to offer much more than his time. To serve the clients adequately, a lawyer must be able to apply specialized knowledge in a skillful and effective way. He must be abreast with the ever-expanding legal horizons. The introduction of continuing legal education is therefore not merely a matter of choice, but a *sine qua non* to maintain the standards of the bar. It formalizes practices, updates knowledge and develops skills which ensure the efficient providing of services to the client and the court. The present study intended to enumerate the international standards with regard to continuing legal education and thereby understand the feasibility of introducing such practice in India.

The system of Mandatory Continuing Legal Education is in vogue almost throughout the world in all jurisdictions. The study in US, UK, Australia, on the one hand and civil law countries, like Germany, France on the other, clearly show that CLE is mandatory for all lawyers, virtually throughout the entire period of their practice at the bar. They are required to undertake stipulated number of hours of CLE activities accredited by the appropriate authorities whereby their competence improves. Such activities range from teaching, mentoring, participating in online courses, webcasts, attending CLE lectures etc. It is only on completion of the mandatory hours that an advocate is allowed to continue his practice, while a failure to fulfill the same may lead to suspension.

In the backdrop of these international practices, an empirical study was conducted in specified States of the country with respondents, especially including legal professionals. The views elicited indicate an overwhelming support in favour of CLE in India. However, there was a difference in opinion with regard to the mandatariness of the same. While majority believed that it is necessary for junior advocates, as also middle level lawyers, others opined that it should be voluntary, at the choice of individual advocates. However, the concern over the falling standards of the bar was echoed loud and clear by the advocates themselves. Different formats with regard to CLE requirements were suggested by the respondents which have been

systematically analyzed in the present report. From the responses as well as certain standard practices, an attempt has been made to identify the key parameters with regard to CLE in India. A categorization of lawyers has been suggested and different CLE requirements have been mandated for junior and other lawyers. The Bar Council has been given the responsibility of monitoring the program throughout the country with the help of the State Bar Councils.

INTRODUCTION

Legal education had never been at the epicenter of country's development, right since the time of Independence. While other disciplines gained the attention of the intellectual and political class for the purposes of its surge towards excellence, law remained in the background. Infact, the profession was the choice of the last rank of students who failed to make it to the more sought after professions of engineering or medicine. Thus, the standards of legal education remained abysmally poor and neglected.

With the passage of time, however, things improved. The establishment of the Bar Council of India, the emergence of the National Law Schools and Centers for Advanced Legal Studies and the generational experiments conducted therein proved to be milestones in the quality and improvement of legal education in the country. The 80s, 90s and the millennium witnessed this churning and the result is palpable from the birth of brilliant group of young talents who are working in the best law firms and corporates in the country and abroad, as well as joining the Bar to practice the profession. Reportedly, India has the second largest number of lawyers in the world, next only to USA. The number of lawyers in India is estimated to be approximately one million, with the law schools of India graduating another 80,000 each year. The students who take up legal profession appear in the All India Bar Examination on completion of the undergraduate degree program and on being qualified, enroll in the Bar. The age of enrolment is generally 21 years for an advocate, though a person may choose the profession, anytime thereafter. Throughout the long years of practice, maybe ranging over a period of thirty to fifty years or even more, an advocate, at present, need not undergo any further training in terms of knowledge or skill orientation to continue effectively and efficiently in the Bar.

A pertinent question which arises thus is whether law is static or dynamic one? Does a basic degree in law enable a lawyer to continue in the profession for a lifetime? Is it not imperative on the part of lawyers to continuously update their knowledge base and keep themselves abreast with the developments?

In this backdrop, the proposed research attempted to design a program of continuing legal education (CLE) for lawyers in line with international standards and practice.

SIGNIFICANCE

Introducing a system of CLE is significant for certain basic reasons:

1. Legal education provides the ground for an efficient justice delivery process. Infact, the advocates who join the profession are graduates from different colleges and Universities. They join the Bar after qualifying the examination stipulated by the Bar Council. While some quality check is done through this process, it is important to retain and periodically upgrade the general standards of professional services provided by the advocates. The understanding and appreciation of law, in general and its interpretation, in consonance with the constitutional mandate based on social, economic and political justice, human rights and rule of law, cannot be ignored. The advocates are the most significant stakeholders in the justice delivery process to make it a living reality and achieve the noble standards for which the country and its sacrifices stand for.
2. In the contemporary world of globalization, advocates need to keep themselves abreast with the latest developments in all fields of law. The latter is no longer a municipal phenomenon but is transnational in character. Thus, a limitation of learning merely of the country's legal system seriously impairs the growth and mobility of advocates; it also restricts them in uplifting the general standards of the Bar as well as the Bench.
3. CLE is the key tool towards development of professionalism, ethical value orientation, client handling techniques and management skills. All these aspects do not form a part of the regular curriculum but are a *sine qua non* for any professional expert providing the best services in the field. Continuing education can be the only forum where the honing of life skills for the lawyer may be effectuated in the best possible manner.

SCOPE OF THE STUDY

Traditionally, in India, professional development has been considered as a one-time affair, occurring at the stage of pre-service education. However, changing professional needs have compelled some kind of reflection on the need for in-service or on-the-job professional development. Continuing Legal Education ensures that legal and judicial reforms contribute to changing the attitudes and behaviors of lawyers and citizens. For this reason, Continuing Legal Education should be an integral part of legal and judicial reform strategies that are anchored on the rule of law and reflect a country's societal values. Legal education strengthens professionalism, builds public confidence, and facilitates consensus and momentum for further

reforms. Continuing Legal Education also improves the performance of legal professionals, enhances service quality and stimulates public respect.

Continuing legal education may be defined to mean any organized legal educational activity accredited by any regulatory body. Its purpose is to ensure that every active member of the Bar pursues a plan of continuing legal education throughout his or her career in order to remain current on the law in the rapidly changing society. Continuing Legal Education requirements exist in nearly all developed other countries, such as in United States, United Kingdom, Canada, Australia, to name a few. Some jurisdictions such as Israel recommend, without requiring, their attorneys to participate in CLE courses, other have made it obligatory.

Continuing Legal Education in the United States is a requirement for attorneys to maintain their ability to practice law after initial admission to the bar. CLE credit usually have a set class-hour requirement for a period of years, sometimes with specific hour requirements for special topics. CLE courses are offered throughout the year by state bar associations, national legal organizations, law schools, and many other legal associations and groups. Many states allow CLE classes to be taken on-line as part of distance education courses. Often, a portion of CLE requirements may be satisfied through reading and self-study as well. CLE courses are usually taught by attorneys and cover legal theory as well as practical experiences in legal practice. United Kingdom, Canada, Australia etc. have different models in place for the purposes of CLE. Thus, for example, in Canada, lawyers must complete in each calendar year at least 12 hours of continuing professional development in eligible educational activities. No less than 3 of the 12 hours must be concentrated on topics related to ethics, professionalism and/or practice management.

India has no mandatory system in place for the purpose. Law Schools have initiated the program of proximate education which has enabled some advocates to avail of the diploma courses in diverse subjects in law on a part time basis. Few law schools have conducted series of Continuing Legal Education programmes for Lawyers, Judges, Administrators and Law teachers on identified subject areas. In recent times, private organizations have been seen offering tailor made courses for young professionals in the field. However, none of these endeavors are mandatory, nor are they regulated, in terms of quality and need criteria.

The proposed study attempted to fill this void by developing a workable plan on the structure, design and implementation of CLE in India, on the basis of International practices and standards.

OBJECTIVES

- To study the varied International practices with regard to Continuing Legal Education for Advocates
- To develop the best practices code in this regard.
- To study the need and adaptability of such a program in Indian scenario.
- To design a CLE program for Indian Advocates.

METHODOLOGY

The present study involved two distinct methodologies - one analytical and the other, empirical. The researchers identified the developed countries across the world where CLE is mandated as a Bar Council/ Association requirement. Such countries include US, UK, Australia, Canada, France, Italy and Germany. The systems of each of the countries have been critically analyzed. At the next level, the researchers have undertaken an empirical study on the feasibility and structure of such a program in Indian scenario. For the purpose, the Bar Councils, Bar Associations, Judges, Legal educators as well as Advocates have been contacted. The sample selected is a purposive one with data drawn from different states of India including West Bengal, Orissa, Maharashtra, Gujrat, Tamil Nadu, Karnataka, Uttar Pradesh, Delhi, Assam and Tripura. Efforts have been made to make the sample as representative as possible. Personal interviews, consultations have been conducted with each of the bodies/individuals and their views elicited on the subject. On the basis of the interviews, the researchers have tried to identify the specific factors which are to be kept in mind which designing the CLE. Thereafter, on the basis of the responses, and the International practices, a best practices code have been drawn. Finally, a probable system of CLE for India has been outlined. The same has been presented at a Validating Workshop/ Consultative Meeting of select group of Advocates and Academicians and based on the feedback, certain inputs have been added to improvise the system as well as make it workable in Indian scenario.

INTERNATIONAL PRACTICES ON CONTINUING LEGAL EDUCATION

Continuing legal education (CLE) is an educational mechanism for lawyers after their enrolment with the bar. It inculcates the training of the mind, development of personality and culturing the advocate. It acts as a precondition to serve the greater cause of justice from the lawyer's end. In developed countries, like the United States of America, Canada, Australia, United Kingdom, France, Germany, and Italy, continuing legal education is in vogue. Continuing legal education is a compulsory program for the advocates to keep their practice of license by scoring maximum credit points in various CLE based activities which further ensure the professional competency.

In this part, a detailed study has been made of the practices of some select nations. The key issues relating to CLE have been identified and efforts have been made to understand the rules relating to those in each of the countries. It may be mentioned here that the source of the work has been majorly the information available in the public domain in different websites relating to CLE. However, for the countries like France, Italy and Germany, which do not use English as their official language, contacts with people engaged in Law Societies/Associations of these countries were made. Rules of CLE as prevalent in these countries have been sent by them which have been translated for the purpose of the research.

UNITED STATES OF AMERICA

In the USA continuing legal education is a mandatory program and the attorneys are required to participate in it, in order to maintain their license to practice law. There the CLE accreditation is given on a state-to-state basis. There is no nationwide accreditation as CLE programs are supervised by special CLE Commissions or Boards.

CLE activities are extended by the State Bar Associations, National Legal Organizations such as American Bar Association, Law Schools etc., throughout the year. CLE credit has equipped the requirements over a period of years, sometimes with specific hour requirements for special topics too, ethics, diversity training, professional responsibility, elimination of bias, basic skills, prevention of malpractice, attorney- client disputes and other topics. In most states, the CLE activities are to be fulfilled up to the age of 65 years.

Some Important forms of Continuing Legal Education requirement in different States of USA

I. **Presentation**

The CLE requirement may be satisfied by presenting an approved continuing legal education activity. Through presentation one can interact with the audience, observe their reactions, gauge their level of understanding about the topic, emphasize key

points and evaluate the acceptance of the topic/CLE activity. Presentations that accompany thorough, high-quality, readable and carefully prepared written materials qualify for MCLE credit. Presentations that are not accompanied by significant written materials, doesn't qualify for MCLE credit. The CLE credit hours allotted for this is minimum 3 to maximum 8.

II. **Teaching**

The CLE requirement may be satisfied by teaching in an approved ABA law school or any other law school approved by the MCLE Commission. Through teaching one can contact with many young and creative students, impart them proper knowledge and information about continuing legal education, one can learn very interesting things from each other- both the teacher and students. CLE credit hours allotted for this norm is minimum 3 to maximum 10.

III. **Post- graduate study**

The CLE requirement may be satisfied through formal enrolment and education of a post graduate nature in an accredited law school. The CLE credit hours allotted for this norm is minimum 3 and maximum is 30.

IV. **Self-study**

Credit hours may be earned by an attorney by participating in self-study of CLE programme materials, by taking an open or close book self-test and submitting it to a provider who returns it with a grade. The self-study CLE activities must be open to observation by members of CLE commission and its staff. Some of the CLE activities that are qualified for self-study credit are reading materials specifically prepared for an accredited activity, viewing non-accredited videotapes or digital media produced for legal education purposes, listening to non-accredited audiotapes or digital media produced for legal education purposes, etc. Some states do not allow CLE credit for self-study programs and mandate to attend live programs. The credit hours available for this norm are minimum 3 and maximum 6.

V. **Speaking**

A member may claim participatory CLE credit by speaking at an approved CLE activity. The minimum CLE credit hour allotted for this norm is 2 and maximum is 6.

VI. **Pro bono legal services**

Upon application to the commission, an attorney receives credit for performing pro bono legal services for clients who are unable to afford counsel. Eligibility for pro bono legal services are: (1) legal services for which there is no compensation to the attorney

performing the legal services or (2) legal services for which the compensation to the attorney is provided by someone other than the recipient of those services. Minimum CLE credit hour allotted for this norm is 6 and maximum is 10.

VII. Publish research/books/articles

Credit may be earned for a published research provided that the activity (a) has published findings personally authored, in whole or in part, by the applicant; (b) contributes significantly to the continuing legal education of the applicant or other attorney or judges; (c) is not done in the ordinary course of practice of law; (d) is an original writing that is published, in print or electronically, in a professional legal journal or publication in the form of an article, chapter, book, revision or update. The minimum CLE credit hour provided for this norm is 6 and maximum is 12.

The course of continuing legal education is a challenging one. In recent years, many states allow CLE classes to be taken on-line as part of distance education courses or by listening to MP3 downloads, such as www.lawline.com. CLE courses are usually taught by attorneys and cover legal theory as well as practical experiences in legal practice. Classroom materials can be extensive and may represent the most current and advanced thinking available on a particular legal subject. Competency testing is usually not required as part of CLE. Continuing Legal Education is a step towards ensuring that the lawyers are able to obtain the qualitative knowledge, skill and experience to meet the meticulous challenges of the dynamic legal profession and endorse the values of impartiality, competence, efficiency and professionalism.

ALABAMA STATE BAR

The Alabama State Bar established a Mandatory Continuing Legal Education Commission. The Commission consists of nine members who are chosen from and elected by the members of the Board of Bar Commissioners. The Chairman of the MCLE commission is appointed by the President of the Alabama State Bar from among the nine members of the MCLE Commission. The Vice Chairman and Secretary are elected by a majority vote of the members of the MCLE commission.

CLE Requirement

Each attorney is required to complete a minimum of 12 hours of approved continuing legal education annually, 1 hour of which shall be on the subject of ethics and professionalism. Out of 12 credit hours, 6 credit hours must be earned through attendance of live approved programs. The MCLE Commission also awards two hours of MCLE credit to attorneys who attend the annual business meeting of the Alabama State Bar.

Methods of fulfilling the CLE requirement

- i. **Presentations** supported by thorough, high quality, readable and carefully prepared written materials, qualify for MCLE credit on the basis of six credits for each hour of presentation.
- ii. **Teaching** a course in an ABA or AALS approved law school or any other law school approved by the MCLE commission also satisfies the requirement.
- iii. Another method for fulfilling the requirement is by **authoring** a significant research article that is accepted for publication in a national law journal. The executive director determines whether the article is significant. The MCLE commission awards 12 hours of MCLE credit upon publication of the article.
- iv. **Web-based MCLE programs** may also be followed but shall be limited to six hours of MCLE credit per year.

Approval of credit must meet the following requirements

- i. Application for of MCLE activities for approval of credit must be submitted at least 30days in advance of the activity. The MCLE commission then within 30days after receipt of the application will intimate the applicant whether the authorization is approved or not. The applicants who are denied the authorization may appeal the decision by submitting a letter of appeal to the commission within 15days from the receipt of the notice of denial.
- ii. The activity must have significant intellectual/cognitive and practical content and its primary objective should be to enhance professional competency of the lawyers.
- iii. The activity must involve substantive legal issues, practice management, professional responsibility or ethical obligations of lawyers. The subject matter of ethical suggestions of practice management should be inserted whenever it is possible.

Non-Compliance and Sanctions; Late Fees

- i. A lawyer/attorney who fails to earn 12 hours credit in any particular year is considered as non-compliant for that year and that lawyer is required to pay Late Compliance Fee. Any attorney/lawyer who is considered as non-compliant is required to submit a plan for curing deficiency to the MCLE commission in a prescribed form. If that attorney fails to submit a deficiency plan within time, then he/she is liable to pay Late Filing Fee.
- ii. After the completion of the deficiency plan, the non-compliant attorney shall report it to the MCLE Commission. If the attorney fails to fulfill the requirement within time then he/she is liable to pay Late Reporting Fee.
- iii. After April 15 of each year, the executive director is required to furnish to the office of General Counsel of the Alabama State Bar, a list of attorneys who have failed to comply with the CLE requirement.

Exemption

An attorney who holds an occupational license when reaches the age of 65 or begins to receive Social Security Benefits, whichever is earlier is exempted from the requirements.

STATE BAR OF CALIFORNIA

Since, 2014, the California Bar has prescribed a requirement of 25 credit hours of MCLE activity within 36 months. A total of twelve and a half credit hours may be taken through self- study. A member must report MCLE compliance not later than the day following the end of the compliance period.

Record of MCLE

After reporting MCLE compliance, a member must preserve and provide upon demand and to the satisfaction of the State Bar (a) a provider's certificate of attendance; (b) a record of self-study that includes the title, provider, credit hours and date of each MCLE activity; or (c) proof of exempt status.

MCLE Activitiesi. **Attending programs and classes**

A member may earn MCLE credit by attending programs and classes, such as, lecture, panel discussion, law school classes, in person or by technological means.

ii. **Teaching**

A member may earn participatory MCLE credit for teaching a law school course. Self-Study can also add credit points.

iii. **Education taken while physically out of state**

A member may claim MCLE credit for an MCLE activity which is authorized by an approved jurisdiction provided that it meets all the requirements of these rules and the member attends or does the activity outside California.

Exemption

The following active members are exempt from MCLE requirements, provided they claim the exemption in their assigned compliance periods using My State Bar Profile online or an MCLE Compliance Form:

- i. officers and elected officials of the State of California;
- ii. full-time professors at law schools accredited by the State Bar of California or the American Bar Association;
- iii. those employed full-time by the State of California as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law; and

- iv. Those employed full-time by the United States government as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law.

STATE BAR OF COLORADO

The Rules and Regulations were adopted by the Colorado Supreme Court on August 14, 1978 and amended on September 1, 2014. The minimum requirement is that every registered attorney is required to complete 45 units of continuing legal education during each applicable compliance period of three years. Out of 45 units, at least 7 units are to be devoted to continuing legal education specifically addressed to legal ethics.

Board of Continuing Legal and Judicial Education

There is an established board of continuing legal and judicial education which consists of nine members and they are appointed by the Supreme Court. Six members shall be registered attorneys, at least one shall be a judge, and three members shall be non-attorneys. At least one registered attorney shall be under 35 years when he/she is appointed. Members shall serve three-year terms. The Supreme Court shall appoint one of the members to serve as chairperson at its pleasure. In the event of a vacancy, a successor shall be appointed for the unexpired term of the member whose office is vacated.

An Executive Director is appointed by the Board and such other staff as may be necessary to assist it in performing its functions. The Board administers the program of Mandatory Continuing Legal Education. The Board frames rules and regulations and amends or modifies the same from time to time.

Compliance

To aid administrative implementation of the mandatory continuing legal education requirement, the Board divides all registered attorneys to 3 groups. The 1st group is required to complete 15 units of continuing legal education during the 1st year, and after that all registered attorneys of that group are required to complete 45 units of continuing legal education during each subsequent three years' compliance period.

The 2nd group is required to complete 30 units of continuing legal education during the first 2 years, and afterwards, they are required to complete 45 units of continuing legal education during each subsequent three years' compliance period.

The 3rd group is required to complete 45 units of continuing legal education during the first three years; afterwards all the members of the third group are required to complete 45 unit of continuing legal education during each subsequent three years' compliance period. All the

registered attorneys admitted to the bar within the two calendar years proceeding January 1, 1979 are placed in the third group.

Approved Activities

- i. **Graduate Legal Study:** An attorney may earn credit by attending graduate level legal courses and courses taken in pursuit of LLM degree. The courses must be administered by accredited law schools.
- ii. **Pro Bono:** Any attorney may earn credit by participating in qualified pro bono or mentoring activities.
- iii. **Home Study:** An attorney may earn credit for activity generally referred to as "home study" provided that such activity (a) is a structured course of study; (b) is organized by eligible sponsor.
- iv. **Teaching:** Credit may be earned for teaching that contributes to continuing legal education of other attorneys or judges.
- v. **Published Research:** Credit may be earned for a published research provided that the activity (a) has produced published findings personally authored, in whole or in part, by the applicant; (b) contributes significantly to the continuing legal education of the applicant or other attorney or judges.

Exemption

Any registered attorney is exempted from the minimum educational requirements following the year of the attorney's 65th birthday.

DELAWARE BAR

Continuing legal education is of utmost importance to the public and also to the members of the Bar so that the attorneys maintain their professional importance. The rules underneath establish the minimum requirements for continuing legal education.

Commission on Continuing Legal Education

There is an established commission on Continuing Legal Education. The commission consists of 6 members and they are appointed by the Supreme Court. Members are appointed for 3 year terms. One member of the commission is designated by the Supreme Court to serve as Chairman and one member as Vice chairman. The Executive Director of the commission serves as secretary of the Commission.

The Executive Director of the Association, the Chair of the CLE Committee of the Association, the Dean of the Widener University School of Law or the Dean's designee, the Executive Director of the Commission, and the Chief Staff Attorney of the Supreme Court serve as the ex-officio members of the Commission. The commission determines the rules and regulation of CLE and also the number of credit hours to be allowed for each course or educational activity.

The commission also sets Accreditation Standards of continuing legal education activities and checks that the activity must contain significant intellectual and practical content and the primary purpose should be to increase participant's professional competence as a lawyer.

Minimum Continuing Legal Education Requirement

- i. Each attorney is required to complete a minimum of 24 hours of actual instruction in approved continuing legal education activities during each two-year period.
- ii. Out of the 24 hours, a minimum of 4 hours is to be obtained from programs or portions of programs that provide instructions in enhanced ethics.
- iii. If an attorney completes more than 24 credit hours of instruction in a two-year period, the excess is carried forward and applied to the education requirement.
- iv. Senior Attorneys are also subjected to these rules. They are required to complete 12 credit hours during each two year and out of that 12 credit hours, minimum 2 credit hours shall be from instruction in enhanced ethics. In addition, to fulfill all other credit requirements only one-half of the amounts shall be applied to senior attorneys.

Approved Activities

- i. Scholarly Writing
- ii. Instruction in or Participation in the Presentation of Accredited Courses
- iii. Professional Work and Court- Appointed Board and Committee Service
- iv. Pro Bono Legal Services
- v. E- CLE programs

Non-Compliance

If an attorney fails to complete required credits in any of the compliance year, then the attorney is required to submit a plan for making up deficiency of necessary credits. If the attorney fails to complete the makeup plan, then the Commission promptly sends a notice of non-compliance to the attorney informing that if the attorney does not present satisfactory evidence of compliance within 20 days from the date of the notice, the commission will file a statement of non-compliance with Disciplinary Counsel. Then the attorney is required to pay to the Supreme Court \$5.00 for each business day that the attorney's make-up plan has not been fully completed and reported to the Commission. The Commission may waive all or any part of this penalty for good cause shown.

STATE BAR OF NEW YORK

In New York, an Attorney must register and complete CLE requirement by the end of the reporting period. Attorneys who are admitted to the New York State Bar two years or less are considered to be newly admitted attorneys and are required to take 32 hours of transitional

credit in each of the first two years. Sixteen accredited hours are to be completed in the first-year including

- 3 hours of ethics and professionalism,
- 6 hours of skills, and
- 7 hours of law practice management or areas of professional practice each year.

Newly experienced attorneys must take accredited transitional CLE courses in the traditional live classroom setting, or through fully interactive video conferences that have been approved for use by newly admitted attorneys. Experienced Attorneys are required to complete a total of 24 accredited CLE credit hours during each biennial reporting cycle. At least 4 hours of this must be in Ethics and Professionalism.

Approval Authority

The American Bar Association (ABA) gives the certificates of attendance to attorneys of New York after verifying their participation. Attorneys must retain these certificates for four years after the program and certify completion of CLE requirements in each reporting period.

There is a CLE Board which is established. The Board consist of 16 resident members of the bench and bar. Three members are chosen by each of the Presiding Justices of the Appellate Divisions, and four members are chosen by the Chief Judge of the State of New York. The Chief Judge shall designate the Chair. Board members shall serve at the pleasure of the Administrative Board of the Courts.

The CLE Board is authorized to: accredit providers of courses, programs, and other educational activities that will satisfy the requirements of the Program; determine the number of credit hours for which continuing legal education credit will be given for particular courses or programs; adopt or repeal regulations and forms consistent with these rules; examine course materials and the qualifications of continuing legal education instructors; consult and appoint committees in furtherance of its official duties as necessary etc.

CLE Program Format

For newly admitted attorneys, the fulfillment of credit maybe by attending accredited transitional courses:

- i. **Law Practice Management and Areas of Professional Practice**
Credit may be completed in any approved format, including non-participatory formats such as on-demand audio or video, or live broadcast.
- ii. **Ethics and Professionalism**
Credit may be completed in the traditional live classroom setting; by fully interactive videoconference; or by simultaneous transmission with

synchronous interactivity, such as web-conference, or teleconference, where questions are allowed during the program.

iii. **Skills**

Credit, which still must be completed in the traditional live classroom setting or by fully interactive videoconference.

For other Attorneys, continuing legal education courses or programs may include traditional live classroom or audience settings; teleconferences; video conferences; satellite transmissions; videotapes; audiotapes; motion picture presentations; interactive video instruction; activities electronically transmitted from another location; self-study; correspondence work; and on-line computer courses. Additionally, the following are also approved:

i. **Credit for Speaking and Teaching Activities**

Credit may be earned through speaking, teaching or participating in a panel in an accredited CLE program.

ii. **Credit for Teaching Law School Classes**

Credit may be earned through teaching in an ABA-accredited law school as may be permitted pursuant to the Regulations and Guidelines of the CLE Board.

iii. **Credit for Attending Law School Courses**

Credit may be earned for attending courses at an ABA-accredited law school after admission to practice in New York provided (i) the attorney is officially registered for the course, and (ii) the attorney completed the course as required by the terms of registration.

iv. **Credit for Judging Law Competitions**

Credit may be earned for preparing students for and judging law competitions, mock trials and moot court arguments, including those in high school.

v. **Credit for Publications**

Credit may be earned, as may be permitted pursuant to the Regulations and Guidelines of the CLE Board, for legal research-based writing upon application to the CLE Board, provided the activity (i) produced material published or to be published, in print or electronically, in the form of an article, chapter or book written, in whole or in substantial part, by the applicant, and (ii) contributed substantially to the continuing legal education of the applicant and other attorneys.

vi. **Credit for Performing Pro Bono Legal Services**

Credit may be earned for performing uncompensated legal services for clients unable to afford counsel pursuant to (a) assignment by a court; or (b) a program, accredited by the CLE Board, of a bar association, legal services provider or other entity. Credit shall be awarded pursuant to the Regulations and Guidelines of the CLE Board, provided that no more than ten hours of CLE credit may be earned in a two-year reporting period for performing pro bono legal services.

Continuing legal education credit will be granted only for courses, programs and activities approved by the CLE Board.

Exemption

The following persons are exempt for the requirements of New York's continuing legal education program:

- i. Attorneys who do not practice law;
- ii. Full-time active members of the United States Armed Forces;
- iii. Attorneys with offices outside of New York who are temporarily admitted to practice in a court within New York for a case or proceeding;
- iv. Attorneys who certify that they are retired from the practice of law.

Non-compliance

The names of attorneys who fail to comply with transitional continuing legal education requirements are to be submitted to the Appellate Division for appropriate action.

CANADA

In Canada, CLE is known as Continuing Professional Development (CPD). It is any learning activity that is relevant to the professional needs of a lawyer and related to the professional ethics and responsibilities of a lawyer. CPD must contain significant substantive, technical, practical or intellectual content.

In Canada, CPD rules vary from province to province. CPD activities are extended by CPLED, i.e., Canadian Centre for Professional Legal Education. Canada has equipped hour requirements for CPD credit in the substantive topics. In some province, the CPD hours is to be fulfilled on an annual basis, whereas, in some province, the CPD hours are to be fulfilled on a two-year term basis.

Some different formats of Continuing Professional Legal Development requirement in Canada

I. CPD courses

Credit may be obtained based on the following criteria: (a) attending a course in person; (b) participating in an online “real-time” course, streaming video, web or teleconference course; (c) reviewing a previously recorded course. The maximum credit hour allotted for this form is 6.

II. LL.M programs/post graduate study

Credits may be earned for participation in LL.M programs in an area relating to the practice of law. There is no prescribed credit hour for this norm.

III. Self-study

Credits may be earned by participating in self-study activities. A lawyer may claim credit for self-study activities like reading legal journals, publications, newsletters etc. A lawyer may claim minimum 2 credit hours to maximum 4 credit hours each year by participating in self-study activities.

IV. Teaching

Credit is available for teaching a course related to Law or practice of law and it must be in compliance with the overall subject matter requirements. Lawyers can claim credit for teaching provided that if they taught (i) audience (must include lawyers, paralegals, articling students and/or law school students); (ii) a continuing professional education or licensing program for another profession; or (iii) a post-secondary educational program. A lawyer may claim up to 3 hours of credit for each hour of teaching but the total number of eligible credit cannot exceed 6 hours per year. If teaching is directed to audience other than lawyers, law students such as general public, then 1 credit per hour of teaching may be earned.

V. Writing

Credit is available for writing law books, articles, blogs that are intended for publication or to be included in course materials and are relating to the study or practice of law or are intended for one or more of the following audiences: (i) lawyers, paralegals, articling students and/or law school students; (ii) other professionals including students in a licensing program for another profession; (iii) students in another education program or (iv) the public. CPD hours will also be available for non-legal content if the member can exhibit that the writing is directly related to upgrading professional competence in the lawyer’s practice. A maximum of 6 credit hours per year can be claimed for each writing project by a lawyer based on the actual time to produce the final product.

VI. Study groups

Study groups also known as in-house educational sessions or roundtables are an easy and economical way to earn credit. Credits will be given for study group activities only if following conditions are fulfilled: (i) at least two lawyers or a lawyer and articling students must be together for educational purpose (including by telephone and other real communications technology) at the same time; (ii) a lawyer must have over all administrative responsibility for each meeting; (iii) attendance at a meeting of an editorial advisory board for legal publications, but not as a part of regular employment; or (iv) attendance at a meeting of a law reform body or group, but not as a part of regular employment. The hours available for credit are the actual time spent on at a structured study group session to a maximum of 8 hours per term.

VII. Local bar/ Canadian Bar Association section meetings

A lawyer can apply for credit for the actual time spent in attending an educational program provided by a local or County Bar Association or County Law Society, as well as for section meetings of the Canadian Bar Association. To qualify for credit, at least two lawyers or a lawyer and an articling student must participate in the activity at the same time. The meeting can be held, either in person or by telephone, or by some other means of real time communications technology.

VIII. Mentoring junior lawyer

A lawyer who is engaged in practice of law in Canada, either full or part-time, for a minimum period of 7 years may mentor a junior lawyer. Credit for mentoring is available for mentoring another lawyer or an articling student. The mentoring goals should comply with the subject matter requirements available for any other CPD credit. Mentoring can be done by face to face interaction, telephone, real time video conferencing, email or similar electronic means. A mentor is entitled to a maximum of 6 hours of credit per mentee. If there are two mentees, then the mentor is entitled to 12 credit hours. If two or more mentees are mentored in a group then the mentor is entitled to receive only 6 credit hours and each mentee is entitled to 6 credit hours. The credit is given on the basis of actual time spent together on mentoring sessions.

Continuing Professional Development in Canada is an essential component for becoming a successful lawyer. The systematic and ongoing provision of opportunities to maintain, update, develop, and enhance professional skills, knowledge and attitudes lead to building up of intellectual credibility of a lawyer and this ultimately creating a win-win situation for both the clients and the lawyers.

BRITISH COLUMBIA (BC)

BC lawyers became the first in Canada to be subject to a comprehensive continuing professional development (CPD) requirement on January 1, 2009, effective on January 1, 2012.

BC practicing lawyers must complete 12 hours of accredited CPD within the calendar year. At least two of the 12 hours must pertain to any combination of professional responsibility and ethics, client care and relations, and practice management. The Law Society has endeavored to implement a program with sufficient flexibility to permit lawyers to meet the requirement in a way that matches their own professional goals and learning preferences, and that is as straightforward as reasonably possible for lawyers and education providers.

Compliance and Reporting Requirements

The CPD requirement is based on the calendar year, with the compliance date being December 31 each year. Credits in excess of 12 hours cannot be carried over into a subsequent year. Lawyers must keep their own record of the number of hours of professional responsibility and ethics, client care and relations, and practice management, to keep in their CPD report.

Lawyers who complete their CPD hours by December 31 but do not report completion by the December 31 deadline, will be levied late fee plus applicable taxes; lawyers who do not complete the required CPD hours by December 31, are required to complete and report the required CPD hours by April 1 of the following year. In case a lawyer fails to report completion by April 1 of the following year, the lawyer will be suspended until all professional requirements are completed.

Overall Subject Matter Requirement for all Accredited Learning Modes

The subject matter of all accredited learning modes, including courses, must deal primarily with one or more of

- i. Substantive law,
- ii. Procedural law,
- iii. Professional ethics,
- iv. Practice management (including client care and relations),
- v. Lawyering skills.

Accredited learning activities are not limited to subject matter dealing primarily with BC or Canadian law. Credit is available for subject matter related to the law of other provinces and countries.

Approved Credit Format

- I. **Participation in courses** - Lawyers may participate in online “real time” courses, streaming video, web and/or teleconference courses, if there is an opportunity to ask and answer questions; or even review previously recorded course.

- II. **Online Interactive Programs** - A lawyer may apply for credit for individually completing an online program, including an audio, video or web program, for up to a pre-accredited limit per online program, if the program has a quiz component, where questions are to be answered etc.

- III. **Study Groups** - Where at least two lawyers or a lawyer and articled student are together for educational purposes (including reviewing a recorded program) at the same time (including by telephone or other real time communications technology);

Attendance at an editorial advisory board meeting for legal publications and on legal reform groups is included, provided it is not part of regular employment.

- IV. **Teaching** - Teaching a legal course, professional education or licensing program or a post-secondary educational program to an audience that includes as a principal component, lawyers, paralegals (who are employed or supervised by lawyers), articled students and/or law school students.

- V. **Writing** - Writing law books or articles intended for publication and relating to the study or practice of law.

- VI. **Mentoring** - A lawyer who has engaged in the practice of law in Canada, either full or part-time, for 7 years is eligible to be a mentor; Six hours of credit can be earned provided at least six hours of approved mentoring is completed; Mentors can claim a total of 12 hours maximum if mentoring two mentees separately.

Exemption

Lawyers with a practicing certificate, whether full or part-time, are subject to the fulfil CPD requirement, with the following exemptions:

- lawyers not practicing law and are inactive;
- those on medical or maternity leave;
- taking a sabbatical;
- new members who have completed the bar admission program of a Canadian Law Society during the reporting year.

NEW BRUNSWICK

In the State of Brunswick, the Mandatory Continuing Professional Development is regulated by the *Law Society Act, 1996*. The number of CPD requirement is 12 hours within the calendar year. A member is not required to complete twelve hours of continuing professional development in the calendar year in which the member successfully completes the Society's admission program or the equivalent in another Canadian jurisdiction. Credits earned in one year may not be carried over to the following year. All practicing lawyers may claim up to 2 hours of continuing professional development credits annually for self-study. The Law Society recommends that each member complete 50 hours of self-study per year.

Approved Program Format

For activities to be accredited, the subject matter must deal exclusively with one or more of the following:

- Substantive law,
- Procedural law,
- Professional ethics,
- Practice management (including client care and client relations),
- Lawyering skills.

Credits may be obtained for participation in these types of activities:

i. **Courses**

Credits may be obtained for attending a course in person or online, reviewing a previously recorded course or participating in a post LL.B. or JD program in Law.

ii. **Online Interactive Programs**

A lawyer may apply for credit for individually completing an online program, including an audio, video or web program, for up to a pre-accredited limit per online program, if the program has a quiz component.

iii. **Teaching**

Lawyers may claim one continuing professional development credit for each hour of qualifying teaching.

iv. **Writing**

Lawyers may claim credit for writing law books or articles that meet the subject matter requirements and are intended for publication or to be included in course materials (including Bar Admission Course);

v. **Study Groups and In-house Educational Sessions**

In-house "lunch and learns" or roundtables are an easy and inexpensive way to earn credits. An example is dedicating a lunch hour to a firm-wide or in-house training seminar, covering a mix of topics such as updates on case law or legislation, practice

management or client relation skills. Such activities must ensure the presence of two lawyers for educational purposes and the same must be structured.

Other than the above, Local Bar and other meetings as well as self- study also qualify for credits.

MCPD Committee

There is a Mandatory Continuing Professional Development Committee consisting of not less than five members of the Society and not more than seven members of the Society appointed by Council, one to be designated as chairperson. The Committee shall in cooperation with the Executive Director, implement, administer and enforce the continuing professional development program. Before the commencement of each calendar year, the Council shall approve types of activities or courses of study to be completed by members in order to meet the continuing professional development requirements and shall publish such requirements and other information as it considers necessary for the administration of the program.

Exemption

Every member of the Law Society who holds practicing status is required to complete 12 accredited hours of continuing professional development each year, with the following exceptions:

- members who submit a declaration that they are temporarily and for a specific purpose not currently engaged in the practice of law.
- new members who have completed the Bar Admission Course of a Canadian Law Society during the reporting year;
- members who resume practising law within the reporting year after having been exempt;
- new members by way of transfer pursuant to the National Mobility Agreement. These members are required to complete one hour of continuing professional development for each full and partial calendar month they are engaged in the practice of law in the reporting year; and
- any other exemptions as granted by the Law Society or MCPD Committee or on a case by case basis.

Non-Compliance

Any member who fails to comply by 1st April of the following calendar year the CPD requirements is suspended from practicing law until all required continuing professional development is completed and certified in compliance with the rules.

AUSTRALIA

As members of a profession, attorneys have an obligation to develop and maintain their knowledge and skills so that they can maintain high standards of service to the clients. Continuing professional development (CPD) is a mandatory requirement for all legal practitioners in Australia for renewal of their attorney registration. The purpose of CPD is to ensure the ongoing competence of practitioners, including practitioners' knowledge and skills remain updated.

Like USA and Canada, the CPD activities in Australia vary from province to province. The CPD activities are extended by the Law Society of each State throughout the year. In Australia, at least 1 CPD unit is to be earned by every attorney in each core area i.e. legal ethics and professional responsibility, practice management and business skills, professional skills, substantive law and procedural law. The CPD hours are to be fulfilled on an annual basis but an attorney who has already completed 40 years of practicing experience gets full exemption from completing CPD requirements.

Some important types of Continuing Professional Development activities are as follows:

I. **Seminar**

A CPD activity may consist of attending or participating in a seminar. 1 CPD unit for 1 hour is credited for this type of activity and attorneys can earn unlimited credit hours through this norm. If an attorney prepares or presents a CPD seminar, he/she earns 1 credit hour but he/she can earn maximum 5 credit hours per year.

II. **Workshop**

Attending or participating in a workshop is a kind of CPD activity. An attorney can earn 1 CPD unit per hour by performing this form and he/she can earn unlimited credit hours per year.

III. **Lecture**

By attending or participating in a CPD lecture an attorney can earn 1 CPD unit per hour. An attorney can earn unlimited credit hours per year by undergoing this type of CPD activity.

IV. **Conference**

Attending or participating in a CPD conference helps an attorney to earn 1 CPD unit per hour. Through this type of activity an attorney can earn unlimited credit hours per year.

V. **Discussion group**

Attending/participating in a CPD discussion group helps an attorney to earn 1 CPD unit per hour but with the help of this method an attorney can earn unlimited credit hours per year.

VI. **Writing/editing/publishing a legal article in a legal publication**

If an attorney writes, edits or publishes any legal article then he/she is eligible to earn 1 credit hour per 1000 words and he/she can earn maximum 5 credit hours per year by performing such CPD activity.

VII. **Post graduate studies**

If an attorney undergoes post graduate studies relevant to his/her practice needs then that attorney can earn up to 5 CPD units per subject and he/she can earn unlimited CPD units per year through this activity. If the attorney prepares any thesis as a part of post graduate study then he/she is entitled to earn 0.5 units per 500 words up to 5 CPD units per annum.

VIII. **Multi-media or web based program**

When an attorney undertakes any multi-media or web based CPD program then that attorney becomes eligible for earning 1 CPD unit per program. The attorney can earn unlimited CPD unit per annum.

IX. **Membership of a committee, taskforce or practice section of a professional association, designated local authority or the law council of Australia**

A legal practitioner who is a member or an invited participant of a committee, taskforce or practice section of a professional association or the Law Council of Australia, and regularly attend its meetings may claim 1 CPD unit for every period of 2 hours engaged in, provided that the work performed is of substantial significance to the practitioner's practice of law and is reasonably likely to assist the practitioner's professional development but, in any CPD year a practitioner cannot claim more than 3 CPD units for such participation.

X. **Preparation/presentation of oral or written material to be used in CPD activity**

The presentation and /or preparation of written or oral material by an attorney which is to be used in a CPD activity or in any other forms of education provided to attorneys and /or to other professionals and /or to other persons including those undertaking practical or supervised legal training may claim 1 CPD unit for every hour of the activity but in any CPD year a practitioner cannot claim more than 5 CPD units for such participation.

WESTERN AUSTRALIA

The Legal Practice Board is the regulator of Continuing Professional Development (CPD) in Western Australia. This Board is constituted under the Legal Profession Act, 2008 and Rules frame thereunder, Legal Profession Rules 2009. The Board has statutory responsibility for the regulation of all legal practitioners of the State. It also regulates the issue of annual practicing certificates. The Board assists the Supreme Court in the process of admission to practice.

The CPD year commences on 1 April and ends on 31 March of the following year. In each year, a minimum of 10 CPD points must be completed for a practitioner to renew their Practising Certificate.

Each practitioner must complete 10 points from the following competency areas,

- Competency Area 1 - Practice Management,
- Competency Area 2 - Professional Skills,
- Competency Area 3 - Ethics/ Professional Responsibility,
- Competency Area 4 - Substantive Law.

Exemption

Exemption or variation to compliance with CPD requirements may be considered in the following circumstances:

- the practitioner has been in practice for a period exceeding 40 years; or
- the practitioner, by reason of the practitioner's geographical location or any physical or other disability, experiences particular hardship or difficulty in completing the required number of points; or
- the practitioner has been absent from practice because of parenting leave or illness or other extenuating circumstances (in which case exemptions will be considered on a pro rata basis); or
- the practitioner undertook CPD activities as part of the requirement of either practicing in another jurisdiction or the equivalent thereof.

Non-compliance

A practitioner who has not met the CPD compliance by the designated time will be required to declare this in the practicing certificate renewal application. The practitioner will be required to provide an explanation for the non-compliance which will then be considered by the Board.

A practitioner will normally be required to make up any unfulfilled CPD requirements and that requirement will become a condition for continuance in practice.

SOUTH AUSTRALIA

In the Law Society of South Australia which comes under the jurisdiction of the Supreme Court of South Australia, the mandatory continuing professional development is governed by The Legal Practitioner's Act, 1981(SA) and it is regulated by the board of examiners under the direction and supervision of Legal Practitioners Education and Admission Council Rules (LPEAC). The LPEAC is a body corporate formed under the of Act of 1981 and one of the functions of this body is to see the qualifications for the issue and renewal of practicing certificates, including requirements for post-admission education, training or experience. The CPD Scheme is regulated by the Law Society which receives the requisite documentation from individual legal practitioners, determines in the first instance compliance with the Scheme, issues Practicing Certificates and conducts audits as to compliance.

The continuing professional development (CPD) starts from 1st April to 31th March. The legal practitioners who have been admitted to legal practice and holds a practicing certificate issued pursuant to the Act are mandated to go through CPD programs.

All the legal practitioners must complete 10 units of CPD activity over the course of the CPD year (1 April – 31 March) as a condition of every Practicing Certificate issued to an individual in South Australia. Of the 10 CPD units, each individual legal practitioner must complete, at least 1 (one) unit in each of the following CPD activities each CPD year:

- practical legal ethics;
- practice management or business skills;
- Professional skills.

As CPD activity is to enhance the professional development and not merely to engage in legal practice, it is a matter for each legal practitioner to choose the subject matter undertaken, as long as it qualifies the CPD activities. A CPD activity involves participation in, or preparation of material for others in one of the following forms:

- Attendance at or presenting material for, a seminar, workshop, lecture, conference, educational program or course or discussion group; or
- Viewing or listening to material for, a multi-media, web-based or recorded program;
or
- Preparing material for any seminar, workshop, lecture, conference, educational program, course, discussion group or a multi-media, web-based or recorded program; or
- Publishing, or substantively editing or refereeing an article in a legal or non-legal publication; or

- Regular attendance at meetings, and participation as a member, of a committee or other body undertaking work of substantial significance to the practice of the law and which is reasonable likely to assist the attender's professional development.

Exemption

Exemption from CPD are allowed in defined circumstances:

- Illness or disability;
- The location of the practitioner's legal practice in Australia;
- The temporary absence of the practitioner from ongoing legal practice (for example, by reason of a period of leave such as maternity leave); or
- Financial hardship; or
- Any other special circumstances.

Non-Compliance

Failure to comply with the MCPD condition is a serious matter, for the following reasons:

- It is a breach of a condition of practicing certificate;
- It jeopardizes the issue or renewal of Practicing Certificate;
- Continued failure to comply with the MCPD requirements may be capable of constituting unsatisfactory conduct or unprofessional conduct (depending on the nature and circumstances of the breaches) under the Act.

Where a practitioner does not comply with his or her MCPD obligations by 31 March, he/she must:

- by 14 April lodge with the Society a statutory declaration setting out the extent of the non-compliance and the plan for rectification;
- by 31 May complete the rectification;
- by 7 June lodge with the Society a statutory declaration setting out and confirming compliance with the rectification plan;

The Law Society may charge a practitioner, who does not comply with a time limit, a reasonable fee for receipt and processing documents lodged after the expiry of the time limit.

TASMANIA, VICTORIA AND NEW SOUTH WALES

The CPD requirements are the same as in the other Law Societies of Australia. The law society of Tasmania governs the Continuing Professional Development of Tasmania and it has an independent body like any other state in Australia. Its CPD year starts from 1 April to 31 March. It is compulsory for all the individual practitioner to obtain at least 10 CPD points in each CPD year. In calculating the minimum 10 CPD points of a year, the total units must include at least:

- One CPD point relating to practical legal ethics;
- One CPD point relating to practice management or business skills;
- One CPD point relating to professional skills;
- One CPD point relating to substantive law, in order to retain their practice of license.

In Victoria and New South Wales, CPD is governed by the Legal Profession Continuing Professional Development Rules which came into operation on 1 July 2015. The practitioner to hold the practicing certificate in this jurisdiction must complete a minimum of 10 CPD units each CPD year (1 April to 31 March). A maximum of 3 CPD units accrued in any CPD year may be carried forward into the following CPD year but can only be counted in one CPD year.

CPD activity includes an activity accredited by the Law Society and includes:

- a. attendance or presenting material for, a seminar, workshop, lecture, conference, educational program or course or discussion group; or
- b. completing a course at a tertiary institution relevant to law or legal practice; or
- c. viewing or listening to, or preparing material for, a multimedia or web-based program or recorded material; or
- d. publishing, reporting a case, editing a law report, or substantively editing or refereeing, an article in a legal or non-legal publication; or
- e. regular attendance at meetings and participation as a member, of a committee or other body undertaking work of substantial significance to the practice of the law and which is reasonably likely to assist the attendee's professional development.
- f. attendance at, or preparing or presenting material for, a seminar, workshop, lecture, conference, educational program or course or discussion group conducted within a legal practice.

A solicitor must maintain a record of his or her engagement in CPD activities. He must retain the information and evidence in support of the activities for at least three years after the end of the CPD year. At the same time, for the renewal of his or her practicing certificate, a solicitor must certify to the designated local regulatory authority whether the solicitor has complied with these Rules in respect of the CPD year last ended.

In case of non-compliance, the designated local regulatory authority may give written notice to the solicitor requiring submitting a plan to the designated local regulatory authority within 21 days setting out the steps that the solicitor intends to take to rectify the non-compliance within 90 days.

Exemption

The designated local regulatory authority may exempt the solicitor in whole or in part from any requirement to undertake CPD activities imposed by these Rules on an application for exemption made in writing. An exemption may be granted in whole or in part on the following grounds:

- illness or disability,
- location of practice,
- absence of the solicitor from legal practice,
- the solicitor has reduced hours of practice owing to part time or casual employment,
- the solicitor's circumstances are such that the solicitor is required to hold a practising certificate but is not engaged in legal practice,
- the solicitor has been in practice for a period exceeding 40 years and does not practise as a principal,
- hardship or other special circumstances.

UNITED KINGDOM

In United Kingdom (England and Wales), Continuing Professional Development regulations are set by SRA, i.e. Solicitors Regulation Authority, to ensure that all the solicitors/lawyers maintain their professional competence. The CPD regulations are set forth in SRA Training Regulations 2011 Part 3.

The SRA regulations form part of the Handbook in which 10 mandatory Principles are all pervasive:

- i. Uphold the Rule of Law and the proper Administration of Justice;
- ii. Act with Integrity;
- iii. Not allow independence to be compromised;
- iv. Act in the best interests of client;
- v. Provide a proper standard of service to each client;
- vi. Behave in a way that maintains the trust the public places in the Advocate and legal services;
- vii. Comply with legal and regulatory obligations and deal with regulators and ombudsmen in an open, timely and cooperative manner;
- viii. Carry out the business effectively and in accordance with proper governance and sound financial and risk management principles;
- ix. Carry on the business in a way that encourages equality of opportunity and respect for diversity;
- x. Protect client money and assets.

These principles embody the key ethical requirements on firms and individuals involved in legal services.

SOLICITORS

In UK, a solicitor needs to undertake 16 hours of CPD per year. CPD regulation focuses on providing positive outcome from the solicitors for the benefit and protection of the clients and public. There are no exemptions from the CPD scheme. Solicitors are encouraged to assume responsibility for their own development by choosing from the wide range of activities that can be pursued in order to meet the yearly CPD requirement. Currently, all solicitors and those registered as European lawyers (REs) who,

- a. Are in legal practice or employment in England and Wales, and
- b. Work 32 hours or more per week,

are required to complete a minimum of 16 hours of CPD per year. Any hours accrued over and above the 16 hours per year cannot be carried to the next CPD year. At least 25 per cent of such CPD must consist of participation in accredited training courses. A solicitor or registered European lawyer must keep a record of such continuing professional development undertaken to comply with these regulations and produce the record to the Law Society on demand.

The CPD requirement can be met by undertaking a course, lecture, seminar or other programmes or methods of study, whether requiring attendance or not. However, courses on legal practice, client care and professional standards are compulsory during the first year. To qualify as a CPD activity, it should be at an appropriate level and contribute to the general professional skill and knowledge.

Continuing competence is the new system which is replacing the old CPD regime. It is a way of showing that an advocate meets the requirement under principle 5 of the SRA Handbook to provide a proper standard of service to the client by meeting the competences set out in the Competence Statement adopted on 1 April 2015.

In order to comply, an advocate has to undertake regular learning and remain up to date with the issues relating to the subject. This should form part of a process of reflecting the learning needs, planning the CPD activities, carrying them out and recording what have been done in order to make an annual declaration to the SRA. The new system does not require a set number of hours, or to undertake accredited courses or training. It is for advocates to decide which activities to undertake to best address his/her learning needs.

Some important types of CPD activities are as follows:

I. Coaching or mentoring sessions

In order to undertake coaching/mentoring sessions as CPD activity, a solicitor should ensure: (a) they are structured; (b) they involve professional development; (c) he/she have set aside some specified time dedicated to the CPD activity; (d) there are written aims and objectives; (e) the sessions are documented showing an outcome. The sessions may be face to face or delivered from a distance.

II. Work shadowing

Work Shadowing means following or shadowing someone in their work role for a period of time for the purpose of enhancing performance. A solicitor while work shadowing should ensure that it is structured; have clear aims and objectives. Work shadowing activity requires feedback or reflection.

III. Writing

A solicitor may undertake CPD activity around writing on law or practice for publication. For example, law books and journals, publications for clients, newspapers and magazines whether legal publications or not, the internet etc.

IV. Research

A solicitor may consider research as a CPD activity. The research should relate to legal topics or relevant to practice/organization. It should result in some form of written document, precedent, memorandum, questionnaire, survey etc.

V. Development of specialist area of law

Participating in development of specialist area of law and practice is considered as CPD activity. A solicitor can participate in such activity by attending meetings of specialist committees and /or working parties of relevant professional or other competent bodies charged with such work.

VI. General research, reading and discussion

When any gap is identified in one's knowledge, perhaps in the context of a question in a particular case, research and reading is an effective way of addressing that gap. Discussing the findings with colleagues helps him/her to develop further understanding of a particular issue.

VII. Post graduate study

Undergoing post graduate study also forms a CPD activity. If a solicitor study for or production of a dissertation which is counted for qualification from any recognized

university then it will be counted as a part of CPD activity and CPD unit will be credited. Post graduate study helps the solicitor to develop his/her professional skill and knowledge.

VIII. **Watching/listening to DVDs, webcasts etc.**

Watching/listening to DVDs, webcasts, audio and video tapes, podcasts produced by learning and development providers helps a solicitor to earn CLE credit. Additionally, if any solicitor watches any television broadcast that is produced by learning and development providers they can enhance their knowledge and skills more effectively and this also helps in earning CPD credit.

Exemption

An exemption as such from CPD requirements is not available. However, the requirements may be suspended in the following circumstances:

- Not in legal practice or employment,
- Retired from practice as a solicitor,
- Working less than two hours a week in legal practice or employment.

In UK, CPD providers provides numerous benefits for the solicitors, both tangible and intangible. Solicitors attend various CPD programs and meetings and even utilize CPD publications in ever increasing numbers. The array of CPD opportunities listed suggests that CPD provision meets lawyer's needs very effectively. This motivation results from professionally oriented higher degrees where there is a focus on analyzing practice with view to developing it, rather than on supposing that bits of general knowledge can be learnt and implemented. Continuing Professional Development is an essential component of becoming a successful lawyer. The systematic and ongoing provisions of opportunities to maintain, update, develop and enhance professional skills, knowledge and attitudes can lead to improved practice experience and positive outcome for the clients.

BARRISTERS

So far as Barristers are concerned, the Bar Standards Board is committed to ensuring that the profession continues to offer legal services of the very highest quality. Therefore, all practicing barristers are required to complete compulsory CPD. The Bar Standards Boards accredits and monitors the provision of courses to ensure that all practitioners can benefit from relevant, worthwhile and affordable continuing professional development.

Under the New Practitioners' Program (NPP), newly qualified barristers are required to complete a minimum of 45 hours of accredited CPD, including 9 hours of advocacy training and

3 hours of ethics for the first three years of practice. The remaining 33 hours of CPD must be relevant accredited courses chosen at their discretion. Practitioners are also required to complete the Forensic Accounting Course during their pupillage or till the three years of practice.

- **Advocacy Training** - All the Inns and Circuits offer accredited NPP advocacy training programs; the Crown Prosecution Service and the National Institute of Trial Advocacy (UK) are also accredited providers. The object of the advocacy training is to develop and advance skills appropriate to the demands made on practitioners in the early years of practice. This includes a mixture of group practical training including lectures, seminars by approved trainers.
- **Ethics** – The objectives of this components is to enable the new practitioner to identify those situations which raise ethical problems, to understand the principals that govern professional conduct and to apply these principles to given situations. Courses incorporate discussions on core duties, the duty to the court, the duty to act in client based interest and duty to third parties.

Barristers are encouraged to conduct their own research on relevant training areas.

There is an Established Practitioners Programmes (EPP) under which a barrister has to complete twelve CPD hours every calendar year, four of which must have been accredited by the Bar Standards Board. This EPP programme is to be taken on the completion of first three years of the practice during which the Barrister complies with the new practitioners' program. The appropriate committee has the power, in relation to any individual Barrister, to waive any or all of the CPD requirements or extend the time within which they must be completed. Such applications shall be decided on the basis of the mitigating circumstances and relevant evidences provided in support thereof. If a Barrister does not complete the minimum number of hours of CPD, then he is asked to complete Corrective Action to regularize the CPD position. Non-compliance with the requirements are recorded, even where Corrective Action is taken and may lead to further check in future years. Where corrective action is not completed or non-compliance is repeated, a Barrister may be referred to the Professional Conduct Department for breach of conduct rules.

GERMANY

In Germany, lawyers are required to undertake Specialist Lawyer education so that he/she can boast specialist knowledge and experience in a particular field of law. In principle, a lawyer of

three years' registration and operation within the last six years prior to the application must show points to reach the specialist lawyer. In addition, special hands-on experience through the personal and autonomous handling cases in the art must be supported. European lawyers who are members of German Bar Association and settled in the federal territory for at least three years may also apply for the award of specialist lawyer. With regard to professional requirements, a lawyer is needed to complete stipulated hours of time followed by writing of at least three supervisory works. A lawyer is required to possess some specific theoretical knowledge which is to be demonstrated at the time of awarding of specialist lawyer.

Continuing Training for German Lawyers

In Germany, the legal basis from where we can extract details about Continuing Legal Education are: One, BRAO (Federal Lawyers Act) which came into force in the year 1994 and the other, Legal Profession Act which came into force in the year 1996. There is no formalized system of CLE credit in Germany, although as per section 43a of BRAO (Federal Lawyers Act), a German Lawyer is under an obligation to update his professional expertise. There are some additional requirements for a specialized solicitor. As per section 15 of the *Fachanwaltsordnung* (Legal Profession Act) German Lawyers must take part in advanced training for at least 10 hours per year in order to maintain the title of "Fachanwalt" (specialist lawyer). If there remains any surplus amount of hours during training, then that training hours are not transmitted in the following years.

Exemption

If any Lawyer has any motivated reasons (i.e illness), then only he/she gets exemption from following such practices. This exemption must be granted by the Local Bar (specific body working with these issues).

Activities

The following activities are followed by the German Lawyers in order to fulfill the requirements of their training programme:

i. Courses

German lawyers are required to undergo certain courses for fulfilling the training requirements. They can claim the actual time spent for courses. There are no maximum/minimum hours prescribed for attending courses.

ii. Teaching

The lawyers are required to teach in order to fulfill the requirements. They can claim the actual time spent for teaching and there are no minimum/maximum hours prescribed for teaching.

iii. **Writing/Publishing**

A lawyer can fulfill his/her training requirements by writing/publishing legal articles etc. He/she can claim the actual time spent for writing/publishing.

iv. **Foreign Training Activities**

If any lawyer undergoes any foreign training activities then also he/she can fulfill the required hours for the training purpose. They can claim the actual hours spent for such training activities.

Compliance

Training Institute of German Bar Association and the German Federal Bar provides courses for advance training. Training activities are assessed during the compliance period. For foreign training activities, the content is assessed. Lawyers are required to submit a report of their training activities to the local bar annually.

FRANCE

In France, the CPD/CLE program is undertaken under UIA (Union Internationale des Avocats) principles and guidelines on CPD/CLE programs. These guidelines were approved by the Governing Board in Macau on October 31, 2013. The main objective of UIA is to promote the development of science of law in all areas and to facilitate the continuing education of the lawyers and other legal professionals.

It is evident that lawyers cannot effectively advise or represent their clients unless they have the appropriate professional education and training. Recently, post-qualification training (continuing professional development) has gained increasing emphasis as a response to rapid rates of change in law and practice and in the technological and economic environment. Compliance by lawyers to their CLE duties represents a means for guaranteeing both the competence and the independence of the lawyers as well as the quality of the professional services offered and to secure a more effective Access to Justice and to safeguard the rights of all individuals. The UIA recommends keeping CLE/CPD as a lifelong learning duty of all lawyers.

Recommended UIA Guidelines relating to Continued Legal Education

I. **Nature of the CLE/CPD Duty**

The nature of the CLE/CPD duty should be **(a)** mandatory or minimum¹, **(b)** recommended and **(c)** purely voluntary.

II. Substantial Content

CLE/CPD includes educational and training activities aimed at improving, developing and updating the lawyers' professional knowledge, competence, skills and abilities and their education with respect to their professional or ethical obligations, by means of taking part in accredited "events" or carrying out accredited "self-study" or other "activities" that can be relevant for CLE/CDP purposes. More specifically "educational and training activities" deals with:

- i. **General and Specific legal areas and topics:** General and specific legal areas and topics include human rights, professional code of conduct, ADR (mediation), pleadings (written or oral), class actions, programmes relating to the promotion of racial and ethnic diversity in the legal profession, the promotion of full and equal participation in the profession of women and persons with disabilities, and the elimination of all forms of bias in the legal profession.
- ii. **Management and organization:** It includes management of a law firm, anti-money laundering and privacy, use of technological equipment.
- iii. **Communication and Client Care skills:** It includes communication for lawyers, negotiation skills, and psychological aspects of dealing with clients.
- iv. **Other areas relevant to the lawyer's practice:** Other areas include any area designed to improve an individual's ability to operate properly, ethically and effectively as a lawyer.

III. Duration and Contents of the CLE/CPD Duty

- i. **Length of the Reporting Period:** Annual reporting of CLE activities, or alternatively, two or three years reporting period.
- ii. **Unit of Measure:** Credits (1 credit= 1 hour)
- iii. **No. of credits per year:** 15 credits per year is the recommended minimum number of credit hours.

¹ The Rule for Continuing Legal Education uses the term "minimum" rather than "mandatory" continuing legal education which it considers as more accurately reflecting the spirit of the rule's intent; in Europe, 18 of the 31 member states of the CCBE (the 27 EU member states plus Norway, Liechtenstein, Switzerland and Iceland) have mandatory CLE, 5 more are considering introducing a mandatory system.

- iv. There is a different **special regime** for **young lawyers**. For example, the newly admitted lawyers are required to earn at least 10 credits on the professional code of conduct during the first 2 years.
- v. It is suggested that the CLE duty should be a **lifelong learning duty**, with no exceptions for more senior lawyers.

IV. **Methods of CLE**

A. **Events**

i. **Group Study**

The Group Study method includes: (I) Conferences, Seminars, Training Courses, Specialization Courses, Masters, Round Tables, etc.

(II) Being a member of Special Commissions or Committees set up local, national or federal law societies.

(III) Other events specifically identified by the authorized institutional entities or accredited entities or organization; up to a maximum number of credits for each single event.

ii. **Self-Study**

It is recommended that self-study CLE activities should be subject to certain standards, such as: (I) be part of a structured course study; (II) be organized by an accredited course provider; (III) include the use of thorough, high-quality written or electronically transmitted materials which are available to the registrant upon completion of the course; (IV) not be used to satisfy more than a given percentage (for example one-third (1/3) of the total CLE requirement; and (V) not be used to satisfy more than one-half (1/2) of the total CLE requirement when combined with approved in-office CLE courses and distance learning courses.

B. **Other Activities that are relevant for CLE purpose**

i. **CLE Teaching:** Reports or lessons at CLE events or specialization schools for the legal profession.

ii. **Writing:** Writing for CLE publications such as, books or articles in legal periodicals or textbooks- in which case the time occupied may be up to 10 hours of the total CLE requirement for the particular practice year.

iii. **Teaching**

Teaching CLE topics at universities or equivalent higher educational institutions or colleges.

iv. Being a member of the local / national Bar admission examination commission.

It is suggested that "other activities" should not be used to satisfy more than a percentage, for example: one-third (1/3) or one-half (1/2) of the total requirement.

C. **Distance Learning**

It is suggested that the CLE requirement can be met also by means of participation in educational activities involving the use of distance learning including computer-based resources (by audio/visual/ correspondence courses (teleconference), television and radio courses, and computer-based learning, so-called Webinar), rather than by attending courses in person.

Distance learning activities should offer to participants the opportunity to ask questions or make comments to the activity trainers or, if not available in person, via telephone or on-line, then a qualified "commentator" should be available to offer comment and answer questions directly, electronically, or in writing. Distance learning should be limited to a percentage of the entire CLE obligation, for example one-third (1/3) of the total CLE requirement.

D. **In-Office CLE**

In-Office law firm continuing legal education efforts may be considered for credit when they meet certain conditions, such as:

- Experienced lawyers must contribute to the development or teaching of the course;
- The courses must be attended by five (5) or more lawyers, including the instructor;
- The course must be scheduled at a time and location so as to be free of interruption from telephone calls and other office matters, and should be made available to other lawyers to the extent feasible and consistent with client confidentiality; and
- Not more than one-half (1/2) of the approved credits for any reporting period may be earned through in-office activities.

V. **Accreditation of CLE Events, Programs and Providers**

The Accrediting Entity or Committee identified by local legislation (the federal, national or local Law Society or Bar Council or the Continuing Legal Education Committee / Commission appointed as an administrative body) has the authority to accredit CLE providers and /or accredit CLE events. Whatever the system, the UIA recommends special care and attention so as to ensure the highest quality of the Events.

VI. **Monitoring and Enforcement**

Each lawyer is required to file with his own Bar Council a report certifying in detail the CLE activities of the previous year /period. Failure to comply with the CLE duty or to

report to the Bar Council amounts to a disciplinary breach. Each Bar Council monitors the effective compliance of the CLE duty by each lawyer enrolled and decides on the number of credits granted for each event.

If anyone breaches the rules of Professional Code of Conduct, then they are suspended of the lawyer's license to practice, after the expiry of that generous grace periods and appeal mechanisms for complying with the rule.

ITALY

In Italy, there is a regulation on Continuing Education which has been adopted by the National Council on 13/07/2007 and it came into force on 01/01/2008. The regulations are as follows:

Continuing Professional Training

"Continuing professional training" means all activities for the improvement of knowledge and professional competency, and by refreshing them through participation at cultural events in the judicial and legal field. A lawyer who is listed on the bar roll and a trainee approved for appearance in court, from the conferring of the practice certificate have the obligation to maintain and refresh their own professional preparation. For that purpose, lawyers have the duty to participate in the continuing professional development activities governed by this regulation, according to the methods indicated in it.

Duration and Content of the Obligation

The training obligation runs from the first of January of each year subsequent to that of listing in the bar roll or grant of the certificate of practice fulfilled, but in compliance with the requisites of this Regulation, in the period running between the date of entry on the bar roll or the grant of the certificate of practice accomplished and the beginning of the training obligation. The training year coincides with the solar one. The period for evaluation of continuing training runs over three years. The measurement unit for continuing training is the *training credit*.

Training Credits

Every registered lawyer must achieve at least 90 training credits within the three years' period, which shall be attributed according to the criteria indicated in the articles 3 and 4, of which at least 20 training credits a must be attained in each individual training year. Every registered lawyer may choose freely the training events and activities to be followed, in relation to the sectors of professional practice exercised. At least 15 training credits in the three-year period must derive from training activities and events which have the subject of the professional and providential system and ethics.

Training Events

Effective and adequately documented participation of the following events constitutes accomplishment of the continuing professional training obligations:

- refresher courses and master's courses, seminars, conferences, study days and round-table discussions, including where performed with distance learning technology, provided that verification of participation is possible;
- study commissions, working groups or councilor commissions, set up by bar Councils, or by national and international organisms for the professional category;

Participation in the above indicated training events attributes one training credit for every hour spent, with a maximum limit of 24 credits for participation at any single training event.

Other Activities

The performance of the following activities fulfill compliance with the obligations of the Continuing Professional Training:

- a. reports or lessons in the training events, in law schools or specialized schools for the legal professions;
- b. publications on legal subjects in specialized reviews of national importance or coverage, including online, or else publications of books, essays, monographs or treatises, including as a collected edition, on juridical questions;
- c. teaching contracts in legal subjects made to University institutions or equivalent entities;
- d. participation in commissions for the state examinations of lawyers, for the entire duration of the examination;
- e. The undertaking of other study and up-dating activity performed autonomously within the scope of one's own professional organization.

The Bar Council attributes training credits for the above indicated activities, having taken account of the nature of the activity conducted and the effort required of the same.

Exemption

- a. University teachers of the first and second grade, as well as researchers with a teaching appointment, are exempted from the training obligations in relation to the subjects of their teaching, but there remains the obligation of keeping up-to-date in matters of ethics, providential and professional organization.
- b. The Bar Council, at the request of the person concerned, may exempt, also partially, a lawyer from the conduct of training activity, and determine the content and manner of the exemption, in cases of:

- pregnancy, birth, performance by the man or the woman of duties connected with paternity or maternity where there are minor children;
- serious illness or accident or other personal conditions;
- interruption of professional activity or transfer of the latter abroad for a period of not less than six months.

The Bar Council may further dispense a lawyer who makes such application and has exceeded 40 years of bar registration from the training obligation, in whole or in part.

Non-Compliance

1. Each registered lawyer must file with the Bar Council at which he/she is registered a brief report which certifies the training programme followed in the previous year, indicating the training events attended, including by way of self-certification.
2. Failure to comply with the training obligation, and failure or wrongful certification of the training programme attended, constitute a disciplinary offence.
3. Punishments are proportionate to the gravity of the violation.

POSITION IN INDIA

The Advocates Act, 1961 is the principal legislation for lawyers in India and it gives the Bar Council of India (BCI) the power to lay down the standards of legal education and grant recognition to Law colleges and Universities which grant Law degrees. The State Bar Council is responsible for issuing the certificate of practice to advocates under the Act. Under Section 7 of the Advocates Act 1961, the BCI has framed rules relating to 'Standards of Legal Education and Recognition of Degrees in Law for admission as Advocates'. Chapter IV of the Rules provides for the establishment of Directorate of Legal Education. The Directorate is under the charge of a Director of Legal Studies and the Director is appointed by the BCI on the advice of the Legal Services Committee. The Directorate has been entrusted with the task of organizing, running, conducting, holding and administering (a) Continuing Legal Education (CLE), (b) teachers training and (c) advanced specialized professional courses. It also provides for conducting research work, seminars, workshops and other related assignments.

Unfortunately, however, till date, there has been no concerted efforts to introduce the system of CLE in India. There have been sporadic efforts in different parts of the country and at different points of time to initiate practicing lawyers into a system of continuous professional development. Earlier, there was the system of apprenticeship, wherein junior advocates used to be trained and taught by the Senior Advocates. Next, NLSIU Bangalore instituted a CLE Chair Professorship under the auspices of International Bar Association (IBA). The Chair is headed by

Founder Director of NLSIU Prof. (Dr) N.R. Madhav Menon. The IBA-CLE Chair with the financial support from the Ford Foundation initiated a 3-years program for conducting professional development for the benefit of advocates and law teachers. The technical support has been provided by Menon Institute of Legal Advocacy Training (MILAT). Similarly, many other law schools, in association with the State Bar, as well as the Bar Council of India, has initiated training programs from time to time for advocates. The Rajiv Gandhi Advocates Training Scheme is another effort of the Ministry of Law and Justice in association with the High Court and Law School, Delhi. The Scheme envisaged the selection of 10 young practicing advocates from each State of India, every year for being imparted professional training. Lawyers from almost 12 States were trained in this process. Similarly, Judicial Academies in some States have taken up the dual responsibility of training both judges and advocates. Thus, from time to time, they organize training programs in different areas of law. In some States, like Gujrat and Maharashtra, regular lectures are organized by the Bar Associations. These are modest attempts to apprise the advocates of the emerging issues in Law, but as revealed in the empirical study, the attendance for these programs are poor and they are not far reaching. The State Bar Council of Assam is reported to have taken few steps towards the setting up of Advocates Academy, but in the absence of adequate financial support, matters did not proceed further. The States of Odisha and Jharkhand are due to start with Advocates' Academies soon, while Kerala has an Academy functioning under the name of M. K. Nambyar Academy for Continuing Legal Education sponsored by the Bar Council of Kerala which conducts year-long programmes, free of cost, in different areas of law, in association with the National Law School of India University, Bangalore, for Advocates and Law Teachers.

Against this backdrop, the observations of the Court may be noted. The Supreme Court in the leading case of *V. Sudeer v. Bar Council of India*² recognized the falling standards of the legal profession and the crying need for improving the standards of legal education as well as the requirements for new entrants to the legal profession of being equipped with adequate professional skill and expertise. In the case of *State of Maharashtra v. Manubhai Vashi*³ the apex court has observed the need for a continuing and well organized legal education as absolutely essential in light of the ever-growing challenges of the profession. The Chhattisgarh High Court⁴ reflecting the falling standards of the practicing advocates has demanded the implementation of the CLE programs in order to uphold the exalted status of the legal profession. The Allahabad High Court in the leading case of *Prashant S. Gaur v. the State of U.P*⁵ highlighted the importance of CLE programs as an effective measure to ensure professional development of the members of the legal fraternity and recommended the implementation of

² AIR 1999 SC 1167.

³ (1995) 5 SCC 730

⁴ *Raj Kumar Agarwal v. State of Chhattisgarh*, 2002(3) CGLJ386.

⁵ W P No. 9925 (MB) of 2010.

the same by the BCI. Thus, it is of paramount importance to implement CLE programs in India for the purpose of ensuring professionalism, accountability and public respect for lawyers.

A COMPARATIVE CHART ON CLE

Country	CLE Requirement	No. of credit to be obtained.	Nature of Activity	NO. of Years	Exemptions	Whether paid program?	Accreditation Body
USA	Yes	12 hours annually	Presentation, Teaching, Post-Graduate Study, Authoring, Self-Study, Speaking, Pro Bono Legal Services, Published research/	65 years	As attorney who holds occupational license when reaches the age of 65 or receive social benefit certificate whichever is earlier , under medical treatment ,	Yes	CLE Commissions/Boards under State Bar
CANADA	Yes	12 hours as per the calendar year.	CPD Courses, LL.M programs, Self-Study, Teaching, Writing, Study Groups, Local Bar/Canadian Bar Association Section Meetings, Mentoring Junior Lawyers.	Lifelong but it is essential for the lawyers in the 1 st five years of practice.	Lawyers who are not practicing law and are not inactive practice due to medical or maternity leave; or under sabbatical leave, new members who have completed the bar admission program of a Canadian law society during the reporting year;	Yes	The Law Society of each State
AUSTRALIA	Yes	10 units of CPD points.	Seminar, Workshop, Lecture, Conference, Discussion Group, Writing/editing/publishing a legal article in a legal or non-legal publication, Post Graduate Studies, Multimedia or Web-based programs, Membership of a committee, task force or Practice Section of a professional association or the Law Council of Australia, Preparation/Presentation of oral/written materials to be used in CPD activity.	Up to 40 years of practice	The designated local regulatory authority may exempt the solicitor in whole or in part to undertake CPD activities on an application for exemption. An exemption may be granted in whole or in part due to illness or disability as set out in rules.	Yes	The Law Society of each State

UNITED KINGDOM	Yes	16 hours per year and 32 hours per week.	Coaching or mentoring sessions, Work Shadowing, Writing, Research, Development of Specialist Area of law and practice, General research, reading and discussion, Postgraduate study, Watching/listening to DVDs, webcasts etc.	Life long	Exemption to be provided only if mentioned in the SRA Handbook and the requirements are fulfilled.	Yes	Solicitors Regulation Authority Board
GERMANY	Yes	10 hours of training annually.	German lawyers are required to undergo certain courses for fulfilling the training requirements. Teaching, Writing/Publishing, Foreign Training Activities.	Life long	If any Lawyer has any motivated reasons (i.e. illness) an exemption is provided. This exemption must be granted by the Local Bar (specific persons working with these issues).	Yes	Fachanwaltsordnung (FAO)
FRANCE	Yes	24 credit points per years.	Group study, Self-study, Writing, Distance Learning, In-office CLE	Lifelong	If anyone breaches the rules of Professional Code of Conduct then they are suspended off the lawyer's license to practice, after the expiry of that generous grace periods and appeal mechanisms for complying with the rule.	Yes	UIA (Union Internationale des Avocats)
Italy	yes	90 training point credit every three years.	<ul style="list-style-type: none"> ➤ Refresher courses and masters courses, seminars, conferences, study days and round-table discussions. ➤ Publications on legal subjects in specialized reviews of national importance, including online, or publications of books, essays, monographs or treatises. ➤ teaching contracts in legal subjects made to University institutions or equivalent entities; 	Age not mentioned but upto 40 years of practice.	Exemptions are provided to the University teachers and researchers with a teaching appointment, but they must keep updating in matters of ethics, providential and professional organization. The Bar Council, may exempt, in cases of: pregnancy, birth, performance with paternity or	Yes	The National Forensic Council

			<p>➤ Participation in commissions for the state examinations of lawyers.</p>		<p>maternity duty having minor children; serious illness or other personal conditions;</p> <p>Also, the lawyer who has exceeded 40 years of practice in whole or in part.</p>		
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EMPIRICAL STUDY

An empirical study on the feasibility and structure of Continuing Legal Education in India has been conducted as part of the third objective. The states of Assam, New Delhi, Gujarat, Karnataka, Maharashtra, Odisha, Tripura, Tamil Nadu, Uttar Pradesh and West Bengal have been covered. The Bar Councils, Bar Associations of the different states were contacted and advocates practicing in High Court and district courts were selected for the purpose. In addition, few retired Judges of Supreme Court, High Courts and District Courts as well as Academicians of Law Schools and Universities have been included in the study. The selection of respondents has been through purposive sampling based on the knowledge and standing of the persons in the profession as well as willingness to participate in the above study.

Fig. 1

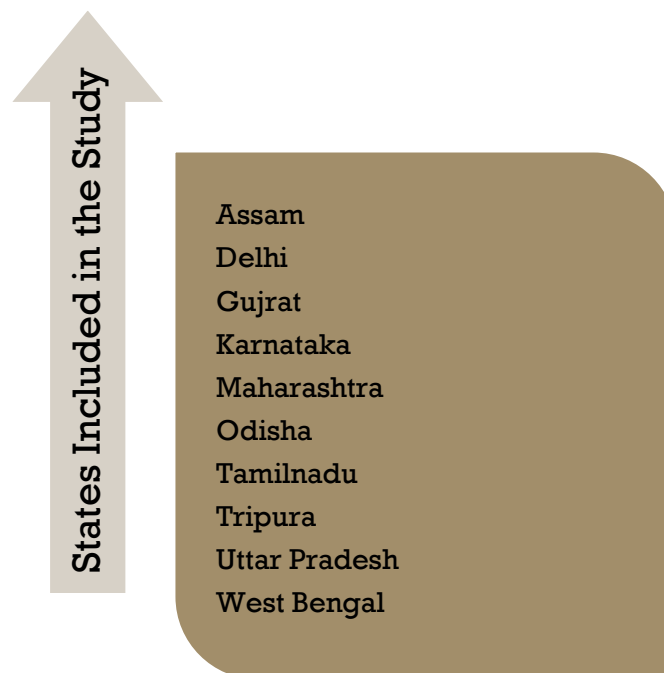


Fig. 2



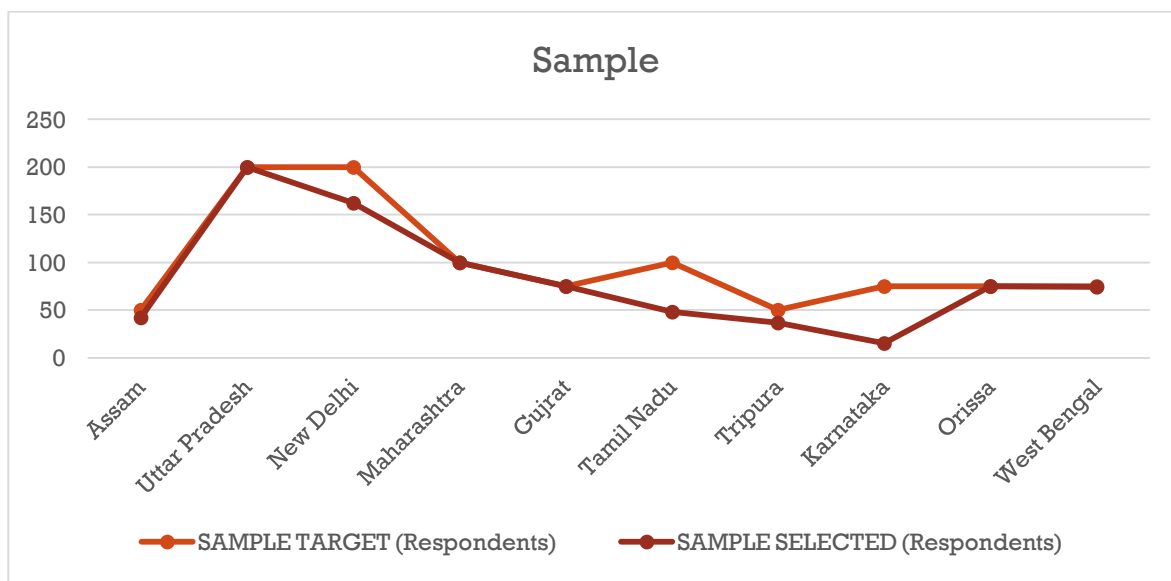
Different research tools have been utilized for carrying out the study. While predominantly, personal interviews have been conducted with the respondents in the different States, additionally questionnaire and focus group discussion / consultations have also been used. Through the Bar Councils and Bar Associations, advocates in the respective regions have been contacted. Care has been taken to ensure that advocates of diverse standing, ranging from junior to senior ones, are included as part of the study. Thus, junior advocates (0-5 years), middle level advocates (6-15 years) and senior advocates (above 15 years) are well represented in the process. After taking their consent to participate in the study, the researcher has conducted interviews over a period of about 40 minutes. The questions were mainly themed on three areas: feasibility of CLE in India, modalities of CLE and perceivable problems. Additionally, based on the replies elicited, further questions have been posed to understand the viewpoints of the respondents.

In some cases, advocates expressed their inability to directly interact with the researcher due to paucity of time and work pressures, in which case, questionnaires were handed over to the advocates after explaining the scope and purpose of the present study. The respondents have personally filled up the questionnaires and sent them by post or handed it back to the researcher in due course of time. In some States, like West Bengal, Odisha, Tamil Nadu etc., focus group discussions/consultations have been conducted. Initially, the concept of CLE and its underlying purpose have been explained to the group and thereupon on key issues, they have been asked to discuss. In the process, different viewpoints have come up. The data has been recorded using standard recording techniques.

Fig. 3

STATES	SAMPLE TARGET (Respondents)	SAMPLE SELECTED (Respondents)
Assam	50	42
Uttar Pradesh	200	200
New Delhi	200	162
Maharashtra	100	100
Gujrat	75	75
Tamil Nadu	100	48
Tripura	50	37
Karnataka	75	15
Orissa	75	75
West Bengal	75	74
	1000	828

Graph 1



The target sample size for the present study was 1000. A total of 957 samples were collected in course of the entire study. The data was scrutinized for errors and defects and about 130 samples was rejected in the process. The final sample size selected was 828. It may be noted that the response of the States with regard to the issue has been varied, from one of over-enthusiasm to despair. This is reflected in the number of people who agreed to participate in the process. Thus, some States have fallen short of the requisite target, especially the southern states of Tamil Nadu and Karnataka. To fill in the gap, efforts were made to collect additional data from States which showed overwhelming appreciation including Uttar Pradesh, Maharashtra, Gujrat.

Central editing was done after all the recorded interviews and discussions were reduced to writing and questionnaire were completed and returned to the office. Tabulation of the classified data was done through mechanical processes using computer devices. Subsequently, analysis of the findings was done and a draft design of CLE was prepared. The same was presented before a select group of advocates (including senior advocates on record of Supreme Court, representatives of law firms, academicians) and detailed discussion was undertaken. Based on the inputs received, the final design for CLE was prepared, followed by report writing.

LIMITATIONS

The empirical study is subject to certain limitations. These have been mentioned below:

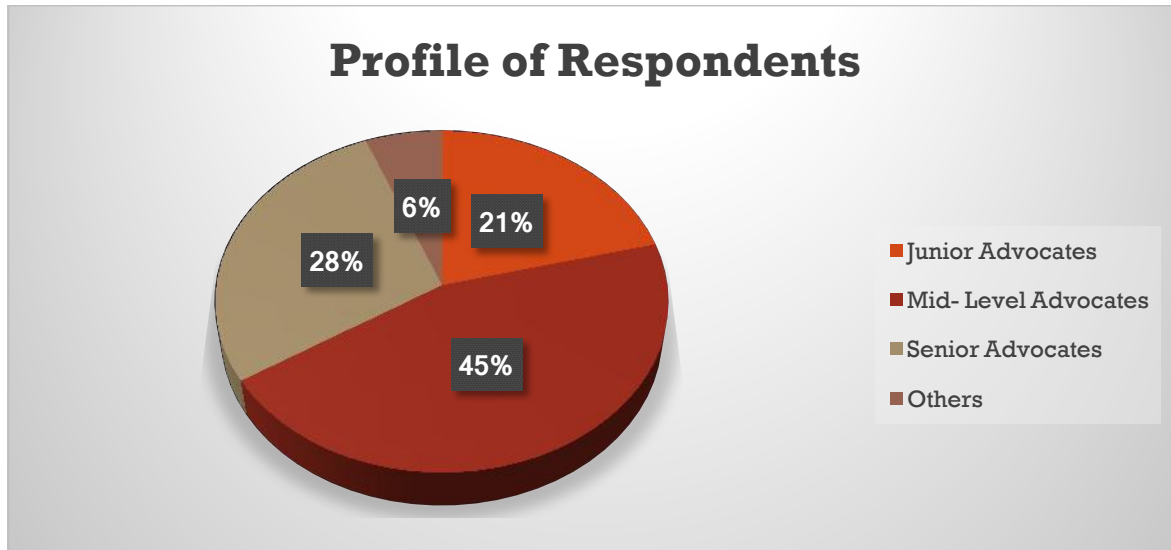
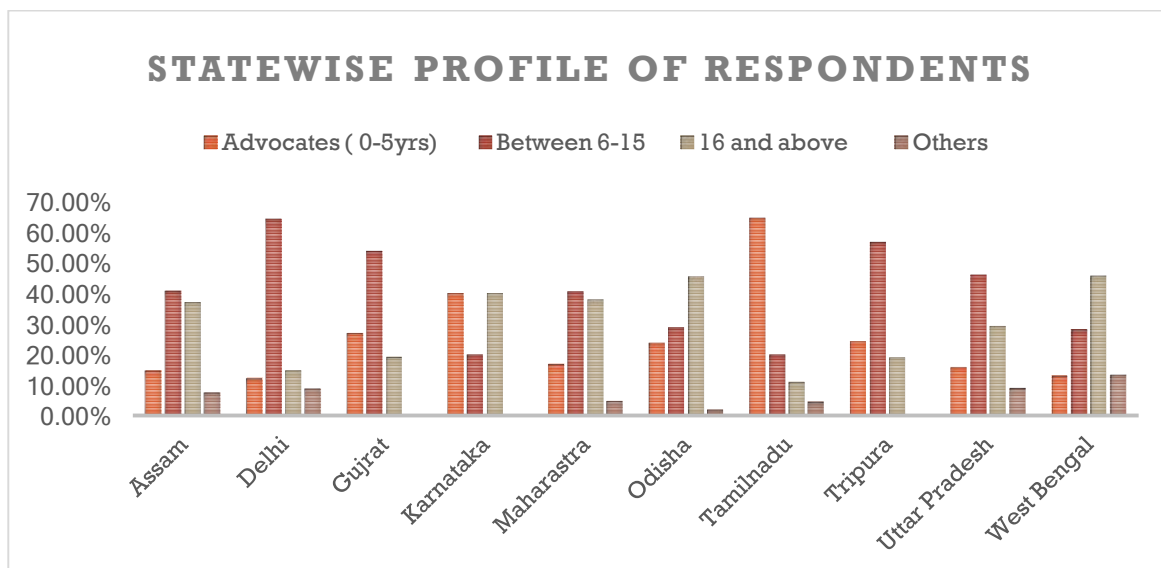
- The sampling method followed for the study has been purposive in nature. Thus, only select advocates, district judges who have consented to share their views on the subject have been included.
- Collecting data from across the different States has been a challenge for the project staff. One issue has been the language barrier; for the purpose, the questions etc. have been translated in local languages but on many occasions, the project staff found it difficult to comprehend the same. Efforts have been made to approach respondents who understand English or Hindi and on other occasions, translators have been approached to facilitate the process.
- Largely, the States of Tamil Nadu and Karnataka have not been receptive to the study. In spite of several measures to reach out to the respondents, including trying to contact the Bar Councils of the respective States, it has been difficult to satisfy the requisite number of respondents.
- Several advocates have stated the inadequacy of time and work pressures to decline participation in interviews. In those cases, with consent, materials have been handed over to them, including the questionnaire, to fill the same and return. Unfortunately, out of about 1200 questionnaires circulated, we could get less than 100.

In spite of the limitations, the study has been greatly successful in highlighting the enthusiasm amongst the respondents with regard to CLE in India. In fact, a large section of the respondents, including the practitioners themselves, feel that there is a dire need to introduce a well-structured and well administered system of CLE in India. They agreed that such a system will improve the quality of the bar and help all levels of advocates to keep themselves abreast of legal developments, which is the need of the times.

FINDINGS AND ANALYSIS

The profile of the respondents, as already stated, included Judges, Advocates and Academicians. The majority of the respondents were Advocates practicing in the High Courts and district courts of the country. A small percentage included retired Justices as well as Teachers.

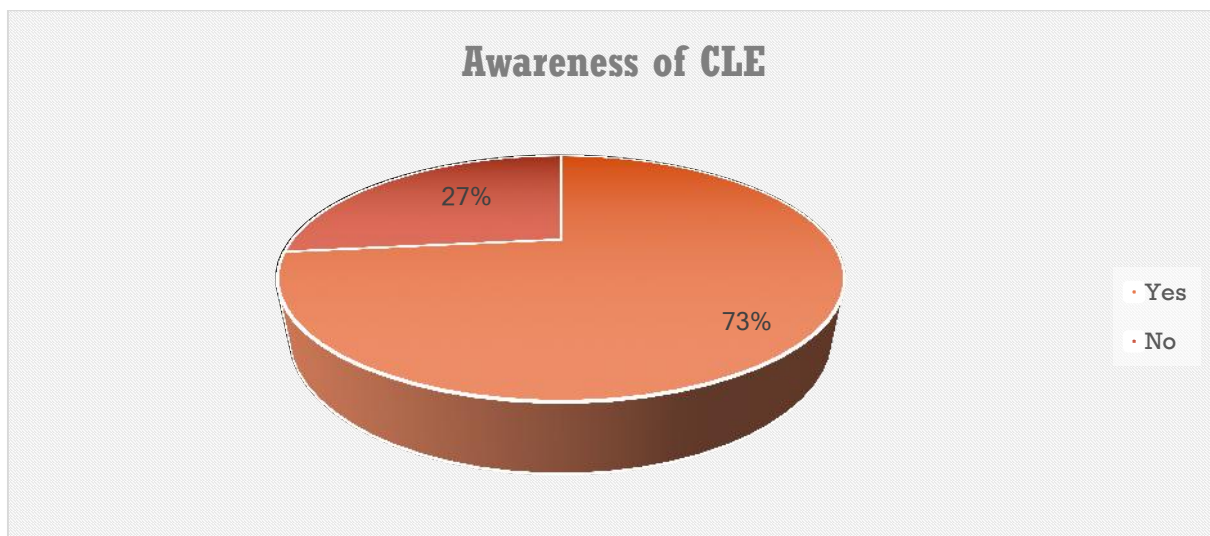
Graph 2



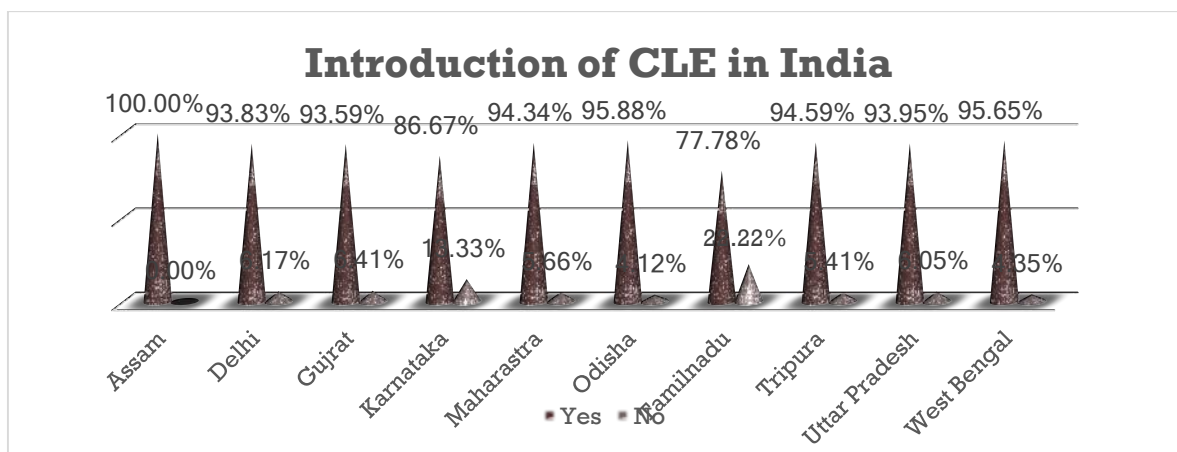
The respondents were first asked as to whether they have any awareness about the concept of CLE. An overwhelming percentage of the advocates responded in the positive, about 70% -80 % in the different States. However, the states of Tamil Nadu and Karnataka recorded an exception with the former having 70% of participants and Karnataka with 47% of participants responding in the negative. In these cases, a brief introduction of the concept and purpose of CLE was given to further proceed with the interview.

Graph 3

The pie chart attached below shows the total percentage in terms of awareness of CLE in all the states taken together. So, 73% of the total participants were aware of CLE and only 27% of the total participants were not aware of CLE.



Once the researcher was convinced that respondents have an understanding of the concept, they were asked as to their views with regard to introduction of CLE in India. The majority of the participants supported the idea that CLE needs to be introduced in the country excepting the states of Karnataka and Tamil Nadu with minimum variation of 23% to 13% who did not support the same. The percentage in terms of responses is given below.

Graph. 4

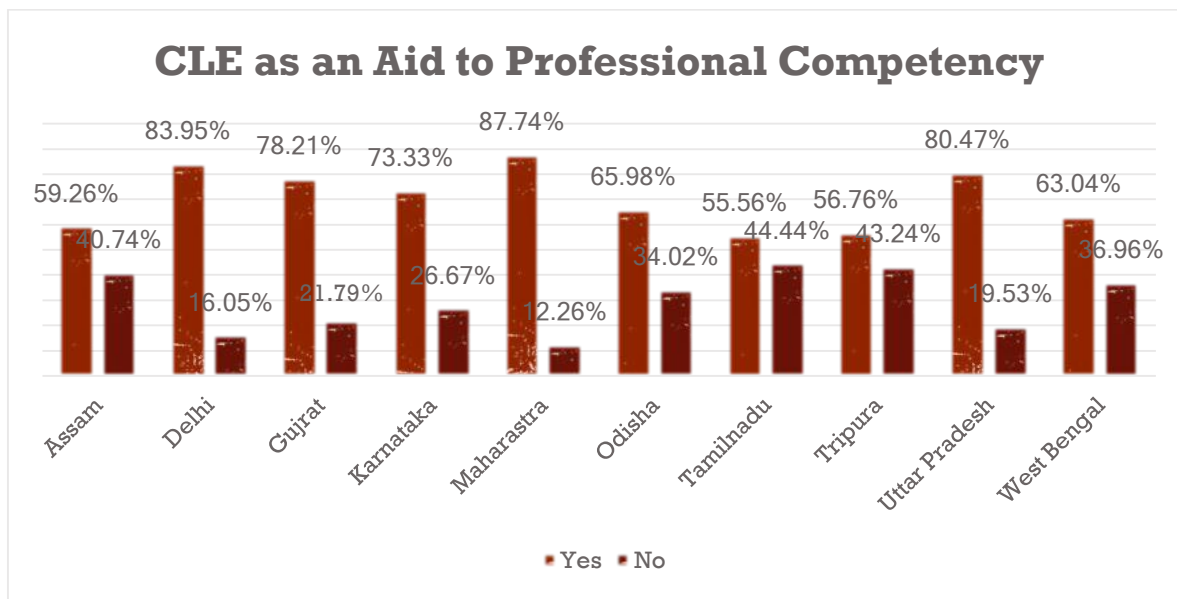
The pie chart attached indicates the total percentage of the participants in support of the introduction of CLE, near about 93%; just 7% of the participants out of 828 were not in support of the same. The primary reason forwarded by them was that all practitioners have successfully completed the LL.B. curriculum prescribed by the Bar Council of India before enrolment and it

would be futile to again insist on further studies. They also reasoned that introduction of such continuing programs would affect their practice and make it difficult for them to attend to the multifarious activities, viz. attending court, meeting clients, attending seniors' chamber etc.

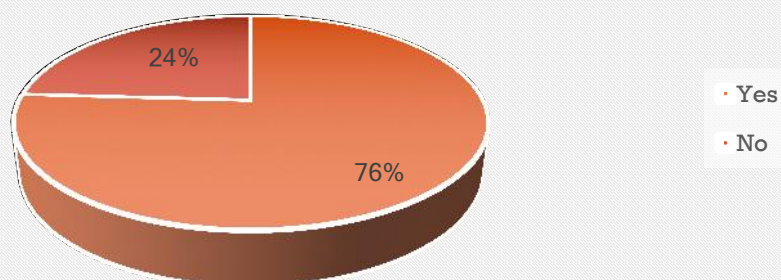


The respondents were asked as to the manner in which they perceive CLE. Majority of the participants expressed the view that CLE would be greatly beneficial for the legal practitioners. It would enhance their skills, keep them updated of the developments and overall improve their professional competency at the bar. It may be mentioned here that some advocates opined that such programs generally would not have any effect on their economic well-being but it would nevertheless be a good idea to have an option to attend different programs under CLE. Thus, about 60% to 90% of the respondents across States have agreed to CLE as an aid to the professional competency, while in the States of Tamil Nadu and Tripura, a considerable number of respondents have indicated otherwise. The views expressed by them have been that CLE do not have any impact on the quality of advocacy and experience indicates that even in the absence of CLE, advocates have performed well, especially economically.

Graph 5

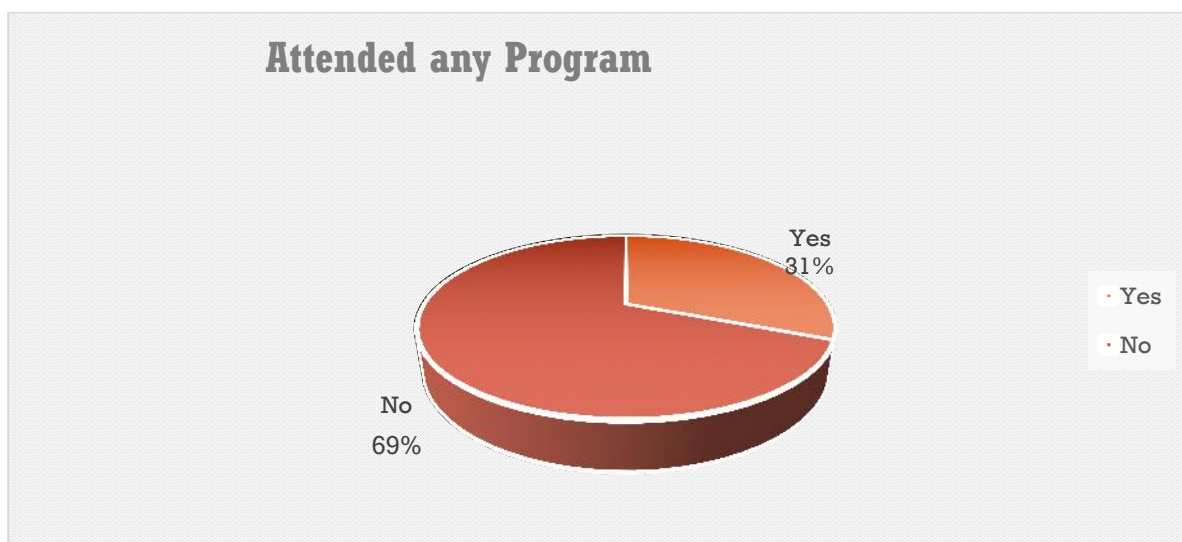
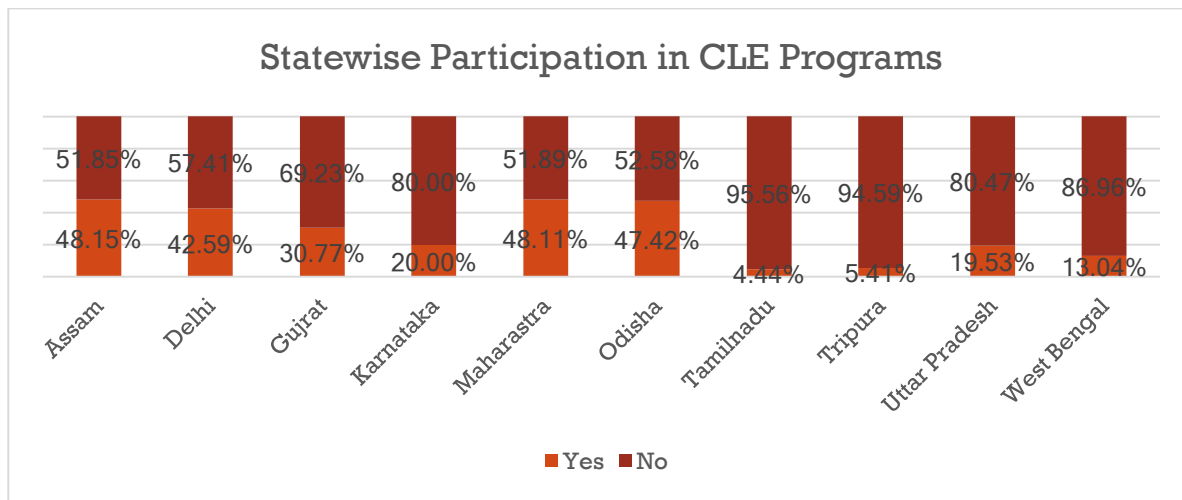


CLE - Aid to Professional Competency



In the study, the participants were asked if he/she had ever attended any CLE based program. Unfortunately, such programs are not frequent in the country as yet. Only some States have taken initiatives towards that end and organize lectures or theme-based workshops. However, the same has not reached the larger section of the advocates as in clear that 570 respondents have never attended any such programs in their career. Lack of awareness, lack of publicity as well as sporadic occurrences of these programs have precluded larger number of advocates from being a part of these.

Graph 6

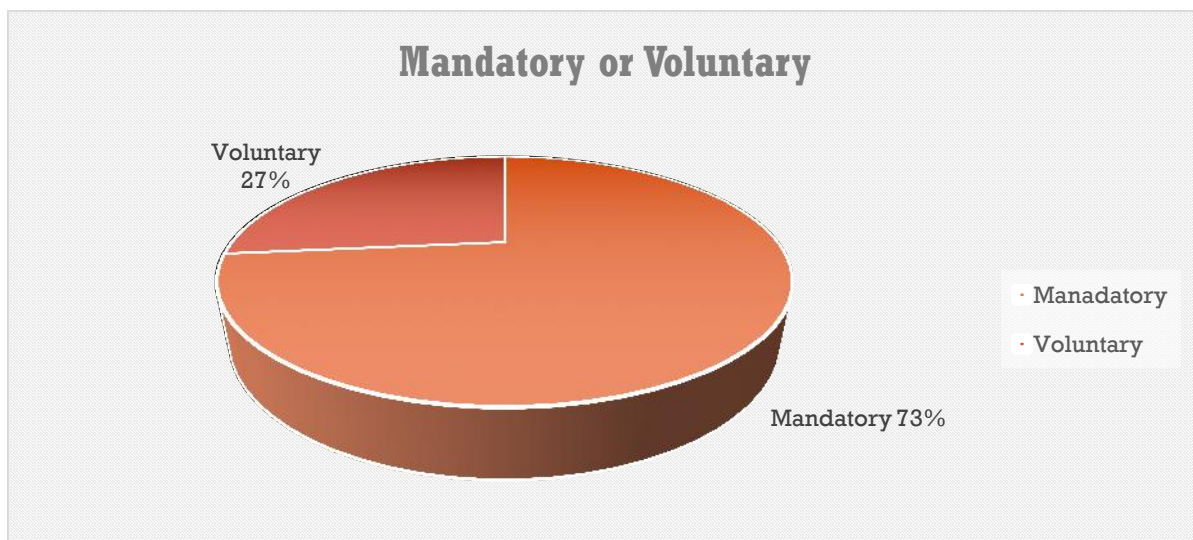
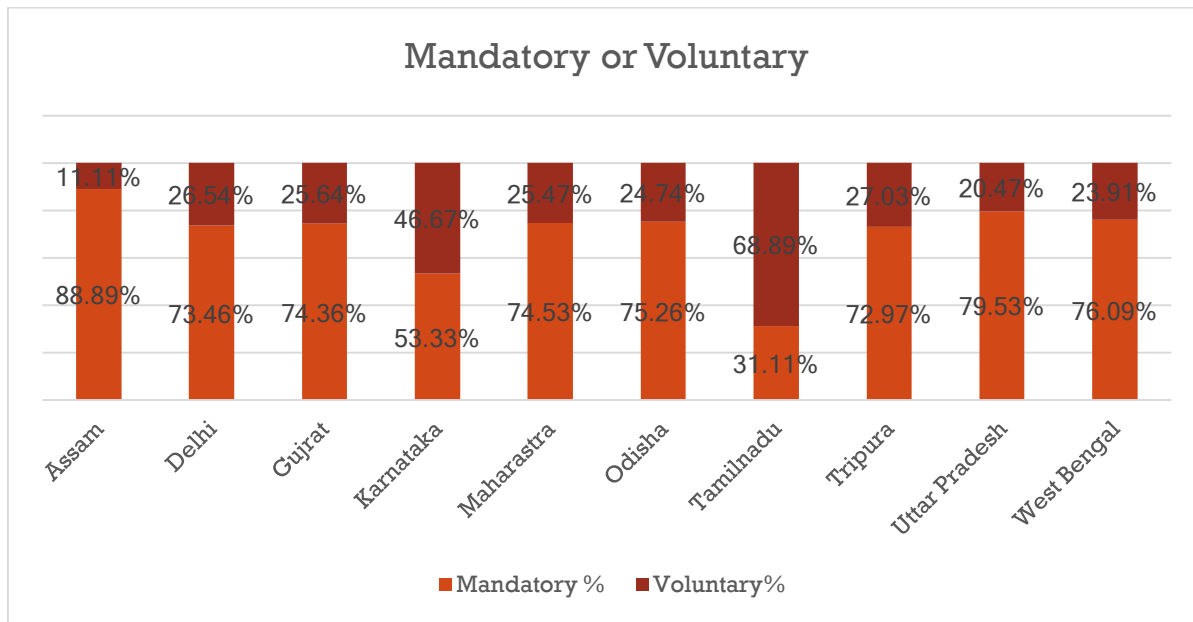


For those who attended such programs, further interactions were made about the nature of the programs, their frequency and their benefits. Most of the respondents in this category have attended Seminars, Conferences, Workshops, Legal Awareness programs organized by Law Schools and Universities. In many cases, lectures have been organized by Bar Associations, (example Pune, Solapur), Judicial Academy (e.g. Odisha) which the respondents have attended while in some others, the State Bar Council has arranged for such programs. However, these have been intermittent, not organized on a regular basis as well as discretionary, on the choice of the participant. However, majority of those who attended have found such programs beneficial and expressed satisfaction about the same.

The next query pertained to the nature of CLE, whether the same should be mandatory or voluntary. The question invited lots of discussion with the respondents, though the respondents majorly gave the opinion that it should be mandatory in nature as it will enhance and bring quality to the legal profession. In the states of Tamil Nadu and Karnataka, however, 70% to 48%

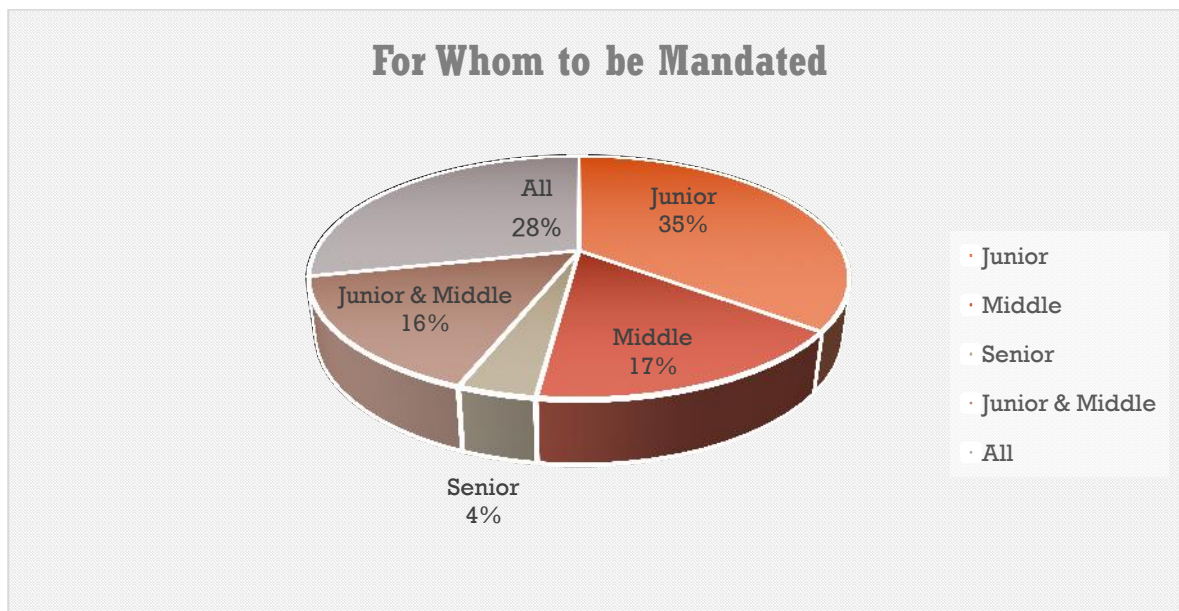
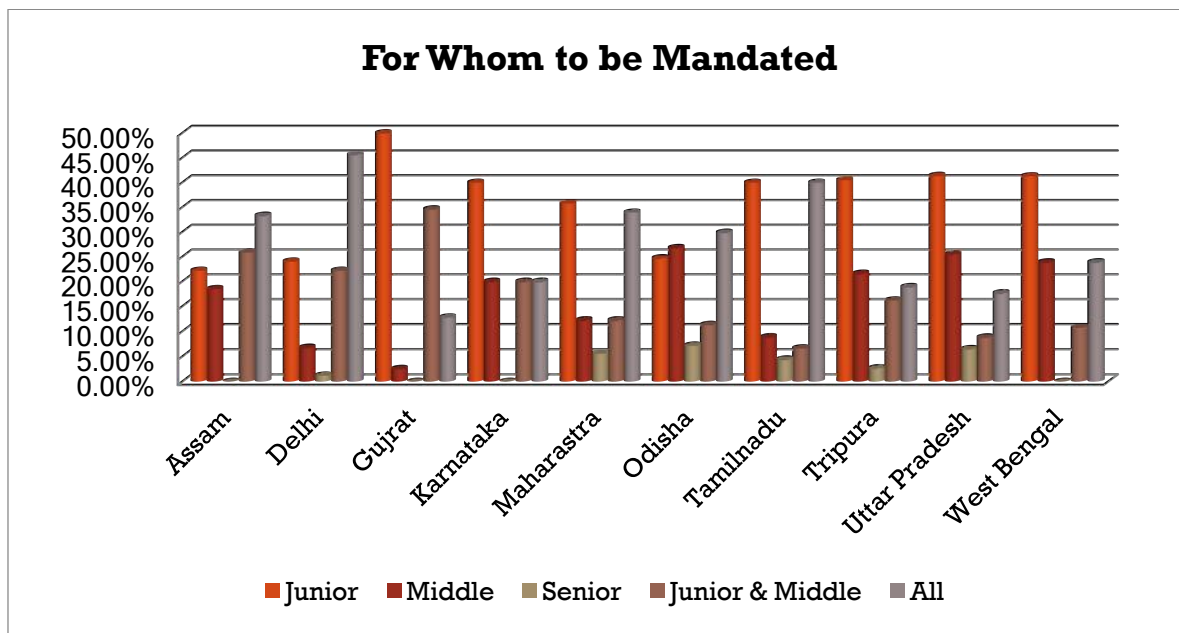
of the respondents expressed the opinion that it should be voluntary. Overall, on all India basis, 73% of the participants supported that CLE must be mandatorily applicable to all the legal practitioners and only 27% supported CLE to be voluntary.

Graph. 7



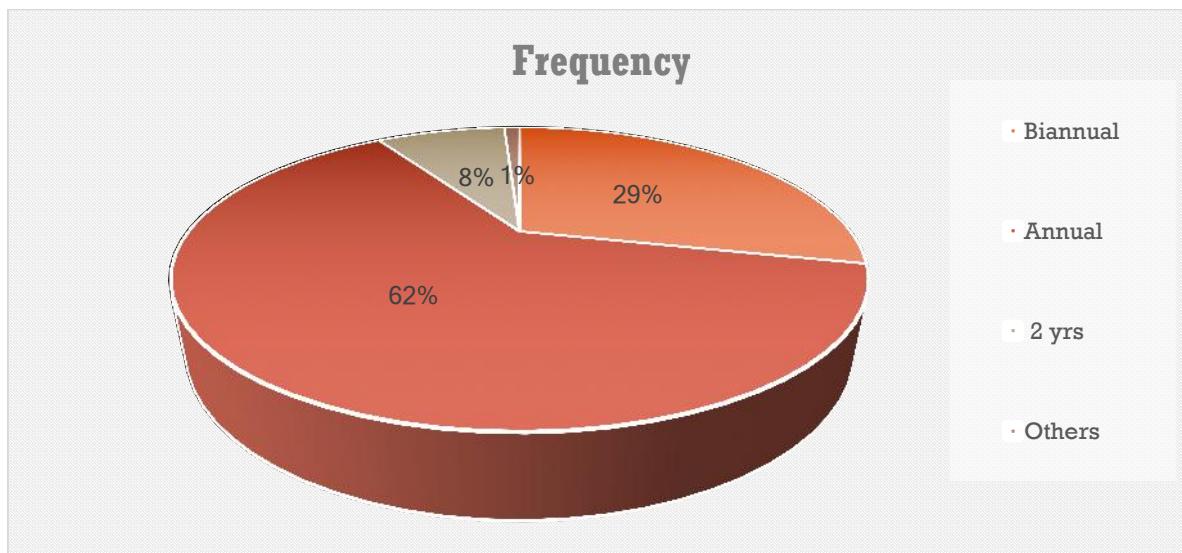
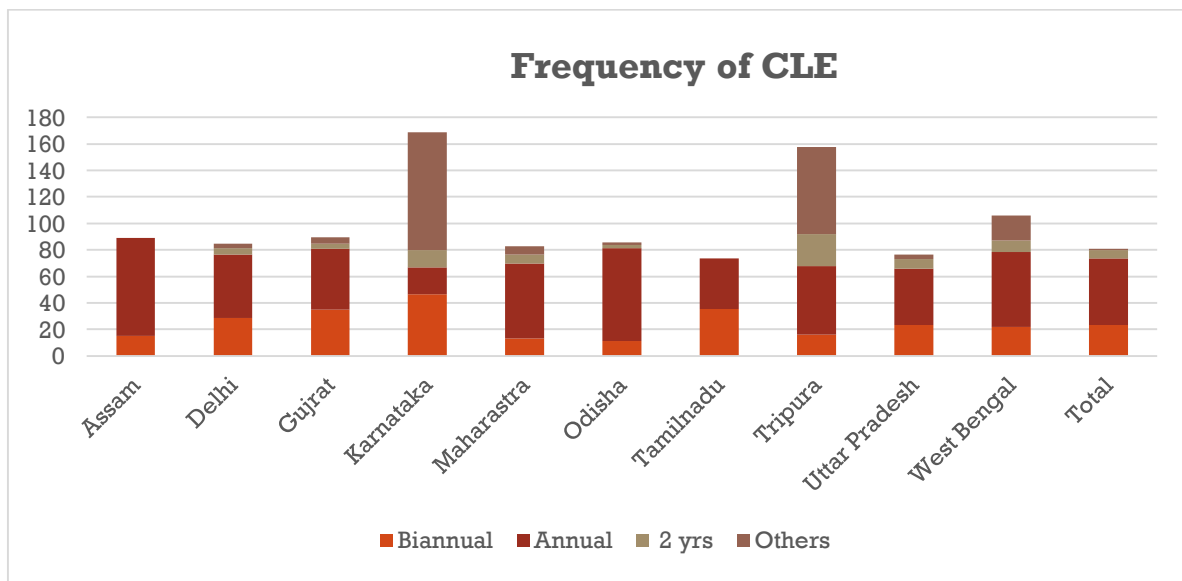
Thereafter, the participants were asked as to which category of lawyers the system should be applicable. For the purpose, we had classified them into three categories, junior (0 - 5 yrs), middle (6 -15 yrs) and senior level advocates (16 yrs and above). About 35% percent of the respondents replied that it was necessary for junior advocates, while another 17% and 16% respectively responded that even middle level lawyers should also be mandated to attend CLE programs. Some advocates, about 4% in the States, expressed the need of participation of senior advocates as well. However, such participation, should be more for the purpose of mentoring the junior advocates as well as updating themselves with the new laws and cases.

Graph.8



The opinion of the respondents for designing the modalities of CLE was asked. The respondents reacted differently in this regard. As regards the frequency of such programs, most of the respondents opined that these could be annual in nature, meaning that on an annual basis, they may be required to attend programs based on their time and availability; others, about 23%, spoke in terms of attending such programs on a bi-annual basis (every 6 months) and another 20% preferred a longer time period of 2 years to fulfil the mandated requirement of CLE programs to be attended.

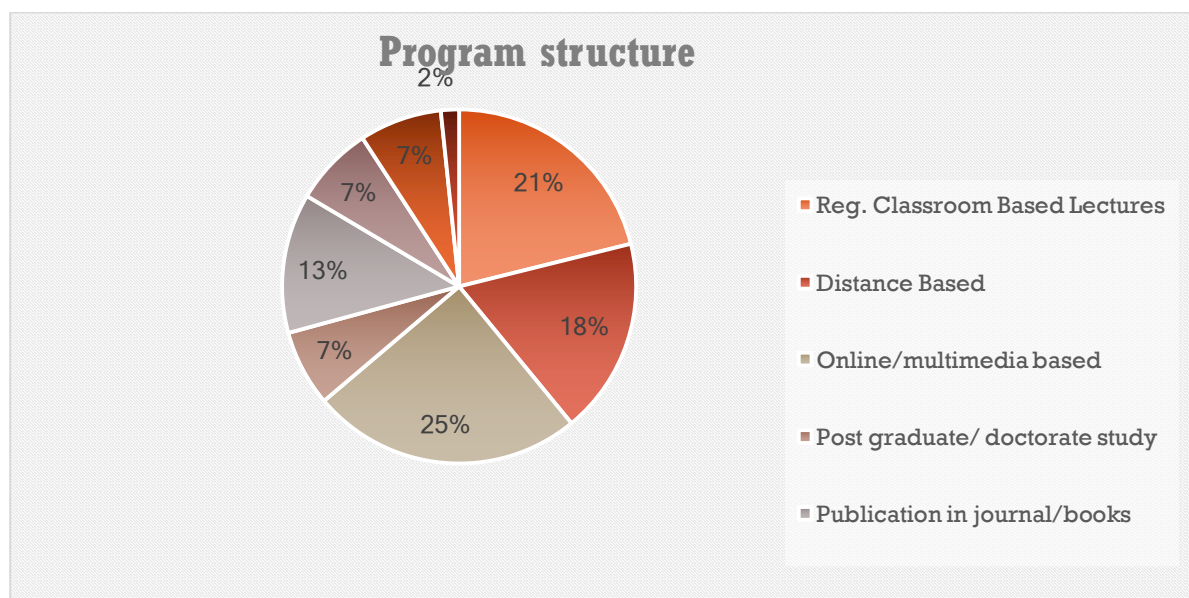
Graph 9



The respondents were questioned as to the nature of such CLE programs which they would prefer to attend and which they believe would be convenient as well as enriching for them. Multifarious answers were elicited from the large body of respondents across the states. The most predominant idea forwarded by the respondents were online learning systems to facilitate them in their professional capacity as well as knowledge building. Thus, a considerable number of advocates (25%) opined that online or multi-media based programs were most suitable to their needs, since they could continue in their profession as well as update themselves from time to time. Alternatively, about 18% favoured distance based programs (offline mode) where during vacations they could attend lectures, evaluations etc. Additionally, regular classroom lectures have also been preferred by few respondents, about 21%, but their main contention have been that these should be so organized as to not affect their professional practice. Advocates have shown preference for weekend classes by noted legal luminaries and jurists for the purpose, but emphasized that these should be planned, structured and organized on a

regular basis. Pursuing higher degree courses, publishing in journals, teaching in law colleges as well as pro bono legal services should also be encouraged and considered as part of CLE for advocates. Few respondents have responded to that effect and it may be emphasized that it is laudable that the advocates have considered academic enrichment as a means to strengthen their professional capabilities.

Graph 10

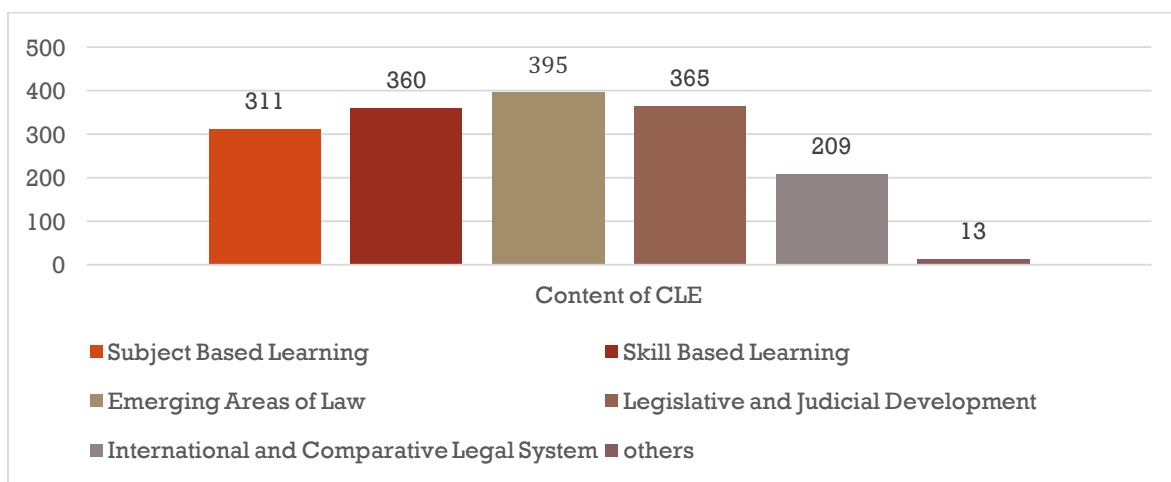


As to what should be the contents of CLE, whether in online mode or distance based learning or classroom teaching, was the next question posed to the respondents. Again, the responses elicited were varied; each respondent has given their own choice of subjects etc. The responses have been classified into specific categories and presented here. Thus, about 398 respondents have selected subject based learning; they want more exposure and enrichment in the specific areas in which they are practicing. Thus, for advocates practicing in land matters, they want specific programs/ lectures on that subject; some advocates put forward the view that basic laws like Code of Civil Procedure, Code of Criminal Procedure, Evidence law etc. should be continuously and regularly taught to the junior advocates to enable them to understand the intricacies of procedure. In this regard, about 360 respondents have replied that skill based learning is what should be given importance in CLE. The junior advocates, as highlighted by several respondents, face immense difficulty in adapting themselves to the court atmosphere as well as basic procedures. They lamented that the first year basically is wasted merely to understand how things happen in court. Therefore, if there are measures by which they could save this time they would be greatly benefitted. And CLE can be an effective instrument in this regard. Emphasis have also been put on learning new emerging areas of law as well as legal developments, which many times even the senior advocates felt that they found difficult to comprehend. A number of senior advocates who took part in the study revealed that many times they depend on the research done by their juniors for argumentation and unfortunately

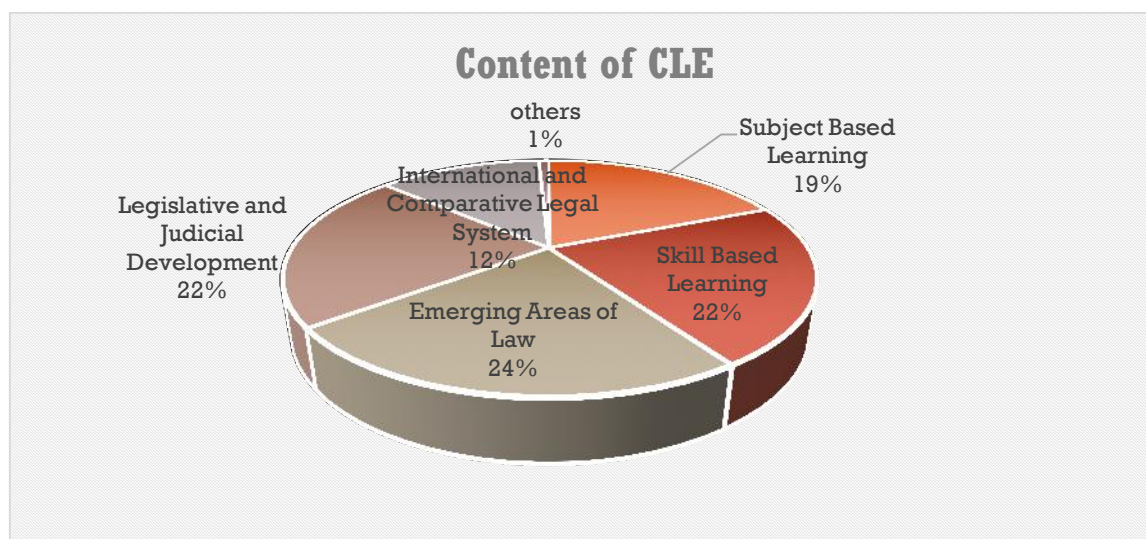
sometimes such dependence becomes bad for them. Again, new areas of law, example, cyber laws, infrastructure law (as mentioned by respondents,) are somewhat unknown to them and they would like to join some intensive lectures on these areas.

It is worth mentioning that almost all respondents, in general, have emphasized the need of continued education on ethics and professionalism. All advocates feel that it should be a compulsory subject taught through innovative means, such as simulation exercises, group discussions or even, online practical problem based assessments.

Graph 11



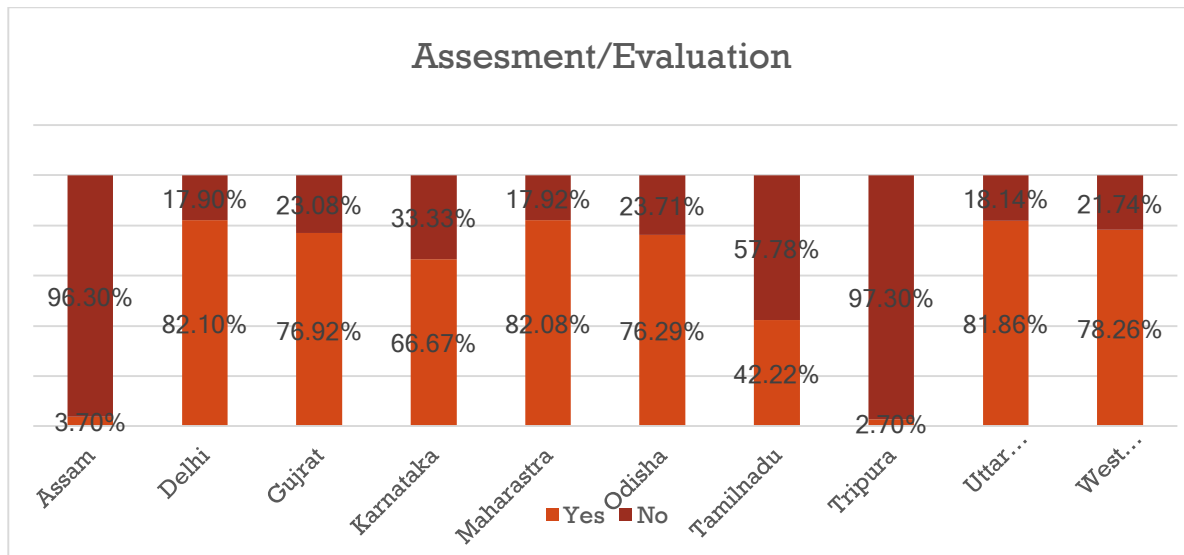
The pie chart shows the percentage of responses in each of the categories.



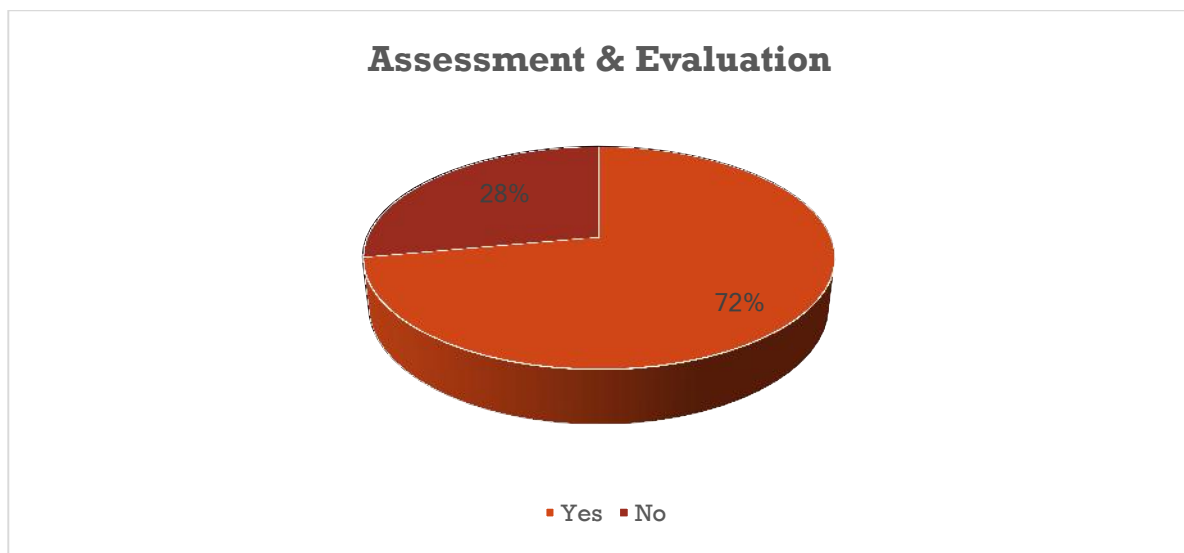
We wanted to know their views on assessment /evaluation of CLE programs. The figure given below shows that only in the states of Assam, Tamil Nadu and Tripura, majority of the participants did not want any assessment or evaluation to be done, otherwise in the remaining

states, majority of the participants have responded that CLE should be assessed. Actually, in these states, somewhat a predominant section has opined for voluntary CLE programs; it is, but natural, that they do not support any sort of assessment for such programs. The other respondents in the seven other states have positively responded to such query.

Graph 12



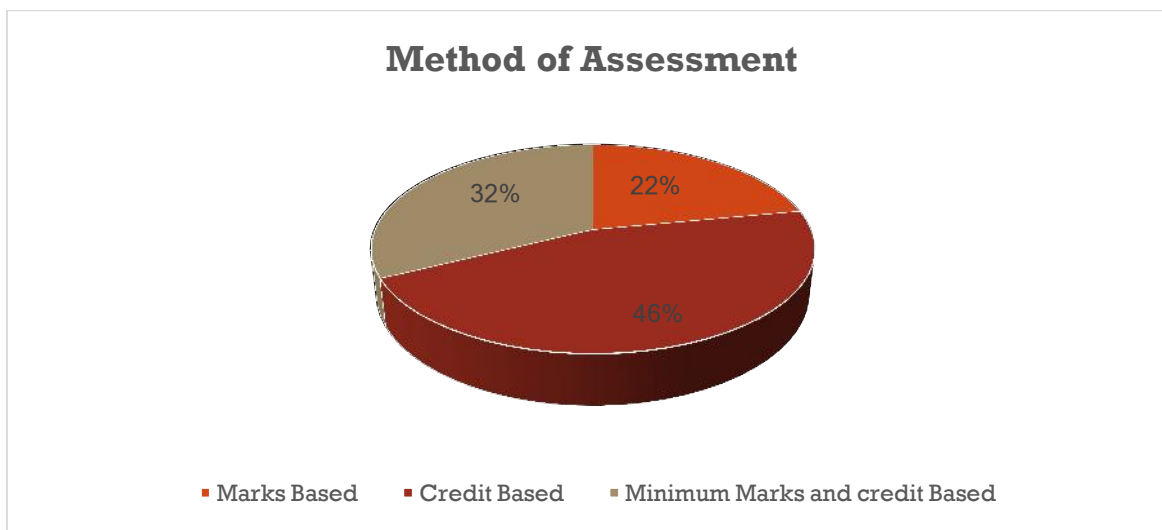
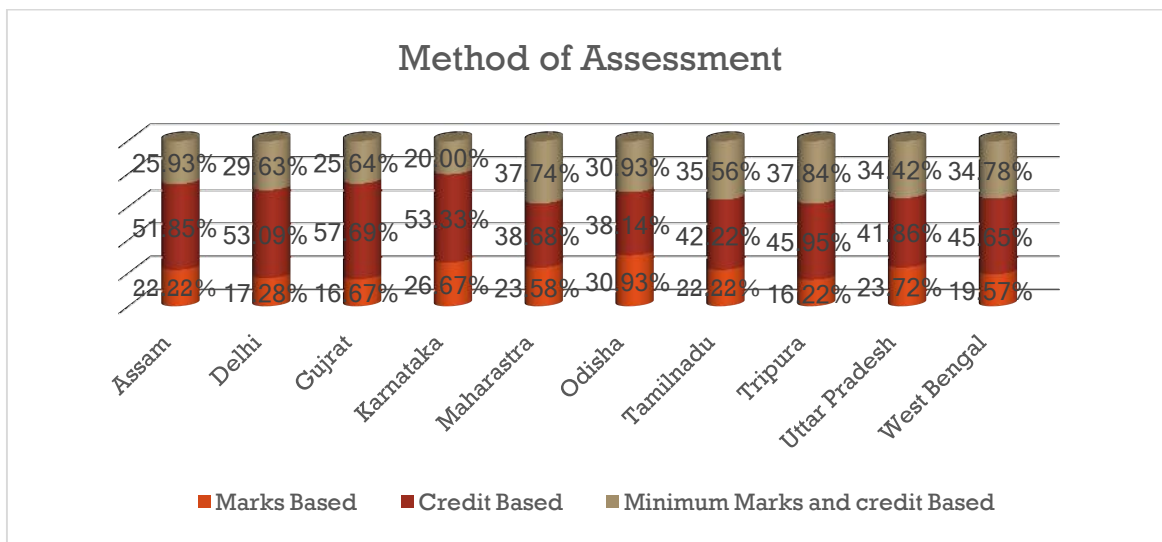
The pie chart below is the total percentage of the support given by the participants in terms of the assessment and evaluation in all the states.



And, if it is assessed then what should be the method of assessment? We floated few ideas to get the reactions of the respondents; one, the advocates may be mandated to attend different CLE programs with credits fixed for each program. Thus, for example, for attending a Conference, an advocate will secure 2 credits. So once he attends the same, he will gain two credits. That may be one way of fulfilling a specified number of credits for advocates. The other

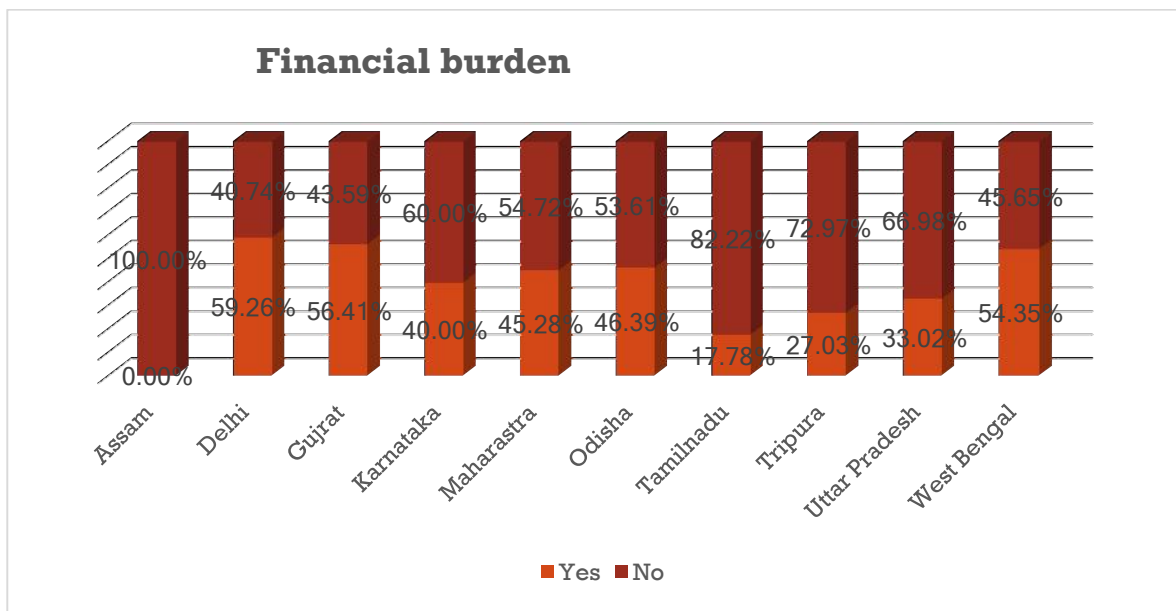
may be a mark based system where an advocate after attending the different programs would be required to appear for examination and successfully complete the same. It may also be a combination of both where advocates for certain categories of CLE programs secure credit and for certain others, like, distance based programs etc. secure minimum percentage of marks. Majority of the advocates, 46%, have preferred credit based system where each component of CLE will be allotted certain credits. Some advocates have also supported a combination of credit and marks based system depending on the nature of CLE program attended.

Graph 13

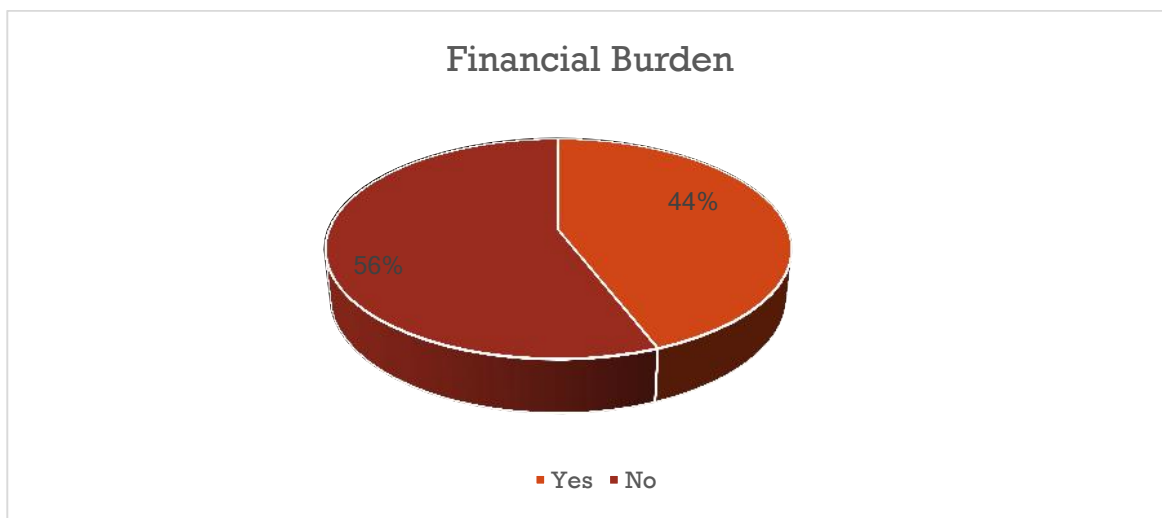


As to what extent they would like to contribute financially for the CLE programs to be designed was posed to the respondents. The larger opinion was in favor of free programs without any contribution from their end, though there is a slight variation in this regard. Respondents who were senior advocates as well as middle level advocates expressed the view that such programs may be charged on them, given their financial position; however, in no case it should impose any burden on the junior advocates who find it difficult to professionally settle during the initial years of life.

Graph 14



The pie chart below represents the total percentage of the participant’s response to the question in all the states.



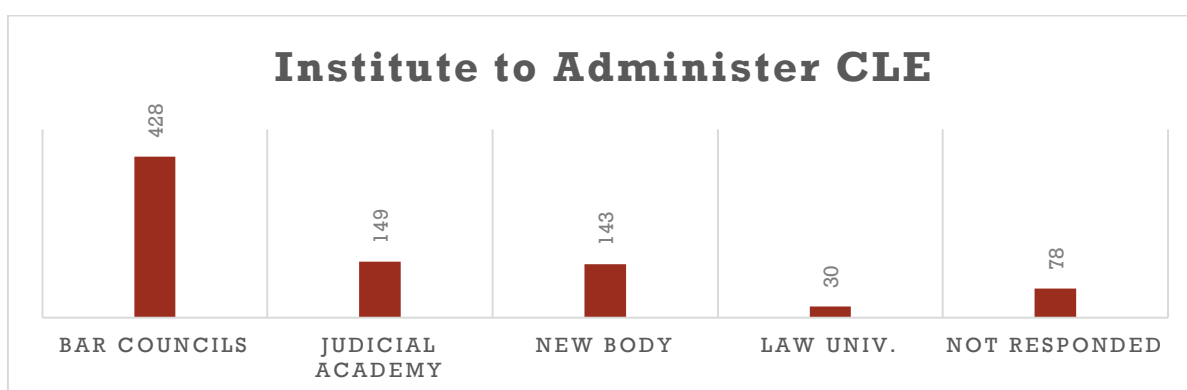
The respondents were also of the opinion that the Government must bear the financial responsibility for the purpose. Some respondents expressed the need to create a corpus, at the level of the Central Government, for CLE programs. For the purpose, the necessary assistance may be provided by the individual advocates, law firms as well as the statutory Bar Council of India in the following ways as suggested:

- First, advocates and law firms may be encouraged to contribute financially to the corpus in lieu of tax benefits to be accorded to them.
- Secondly, all service providers of CLE may be charged some fees by the monitoring authority for providing CLE programs.
- Thirdly, for every vakalatnama, Rs. 5/- stamp duty may be mandated which will go towards CLE funding.

- Lastly, it was also opined that the Bar Council of India may be required to allocate a part of its budget (about 25%) towards the corpus.

In this regard, question on the institutional structure for administration of CLE was posed and it drew mixed responses. Quite an appreciable number of the respondents opined that the primary responsibility should be of the Bar Council of India. It should draw out common programmes and course material which may be used for the purpose. In each State, the State Bar Council in association with the Bar Associations should be made responsible for the smooth conduct of the program. They must form zonal committees with members of Bar Council, select Advocates and select Law Schools. Another category of respondents was in favour of the responsibility being given to the National and State Judicial Academies of respective States. As reasoned by them, these Academies have the proven competence and infrastructure to organize such programs. Additionally, programmes established by them draw respect from the Advocate community and they would be willing to participate. The third category of responses was towards the creation of a new Institution in line with the Judicial Academy, the Advocates Academy. Another group of respondents indicated that the Law Schools and Universities may be mobilized for the purpose.

Graph 15



Lastly, respondents were asked about the perceivable problems in this regard as well as any general observation/suggestions which they have in this regard. Few predominant issues and concerns have been expressed by the respondents, those are listed subsequently.

PROBLEMS AND PERSPECTIVES

- **Time constraints**

The respondents have indicated their huge workload as a practitioner making it virtually difficult for them to attend such programs.

- **Lack of Interest**

In the words of the respondent themselves, lawyers are not interested to join/ pursue such studies after their law degree. So, a more effective means to equip the lawyers would be to strengthen the basic education in Law.

- **Lack of Incentives**

The respondents indicated that CLE does not have any direct impact on their performance. Hence, there are no economic benefits attached with it as such. Unless it is made lucrative, advocates would not like to attend such programs.

- **Quality Assurance**

Respondents expressed apprehensions about the faculty and teaching involved in CLE programs where it related to online and classroom based teaching. Many voiced the fact the senior members of the Bar must be involved since they are aware of the procedures and practices in courts and are better equipped to train the young ones.

- **Coverage**

Respondents expressed concern as to whether CLE can cover advocates upto the taluka level. To them, lawyers joining the far off rural courts are in dire need of such training; even, the district judges have referred to the same. Lack of adequate legal know how poses a great difficulty for them, clients as well as the courts. Hence, the respondents felt that merely organizing programs in cities and towns will not help but it must reach every person.

- **Language**

Respondents in States of Tripura, Karnataka, Tamil Nadu especially highlighted the problem of language. They posed the question whether teaching materials and imparting of necessary training would be done in the local languages. According to them, in district courts, it is the local language which is in vogue and the lawyers practicing in those courts are conversant with their mother tongue only. They have poor knowledge of English or even, Hindi and may find it difficult to follow online programs.

SUGGESTIONS

The following are some of the suggestions which have been forwarded by the respondents:

- There should be widespread awareness created towards CLE in India. Advocates at all levels from the State to the taluka levels should know the benefits of CLE.

- CLE should be incentivized; thus, as commented by many respondents, Advocates pursuing regular CLE must be given preference in case of selection in different Government Panels- Bank, Railways, Education etc.
- It has also been suggested that necessary amendments must be made in the Advocates Act and Rules thereunder whereby continuance in practice must be subject to mandatory attendance and completion of requisite credit scores in CLE. Thus, an advocate must be required to renew his certificate of registration every two/three years' subject to the same condition.
- Translation of legal books pertaining to all areas in local languages have been suggested to facilitate and strengthen CLE programs.
- CLE programs should be organized on Saturdays and other holidays or vacations so that it does not come in the way of work. Moreover, emphasis must be on online programs. A suggestion for legal app was also forwarded which could be installed in all mobiles to provide timely updates of legal judgements.

BEST PRACTICES ON CLE

One of the objectives of this study was to evolve best practices with regard to continuing legal education. These practices are drawn from International practices followed in different countries. However, an attempt has been made to bring it in line with the responses which have been collected through data collection.

Across nations, CLE requirement has to be fulfilled either till the age of 65 years or completion of 40 years of practice. In some countries, there is no limit specified as such indicating that as long as an attorney is in active practice, he has to continue fulfilling the mandatory CLE credit prescribed by the Accreditation body. Thus, CLE is to be regarded as a mandatory requirement to meet the professional requirements and develop the key competencies to serve the client and court to the best of one's ability.

So far as junior or newly admitted advocates to the bar are concerned, there should be special regime for them, which may vary based on credits and subject matter for the other experienced lawyers.

Mandatory or Minimum: Newly admitted advocates are required to take 32 hours of credit in two years, out of which 16 credits are to be completed in the first year, including

- 3 hours of ethics and professionalism,
- 6 hours of skills, and
- 7 hours of law practice management or areas of professional practice.

The accredited CLE courses are to be taken in the traditional live classroom setting, or through fully interactive video conferences.

Recommended: An additional number of 10 credit hours each year is recommended for them which may include work shadowing, participation in CLE discussion groups, conferences, workshops or pursuing higher educational studies.

Another 50 hours of self-study per year is highly recommended for each member, though the same maybe purely voluntary in nature.

A newly joined advocate is exempt from the CLE requirements in the year in which the member successfully completes the Bar Examination.

For advocates (other than those newly joined), a total of 24 credit hours have to be completed during each biennial reporting cycle. At least four hours of such credit must be in Ethics and Professionalism.

The subject matter of all accredited learning modes, including courses, must deal primarily with one or more of:

- i) Substantive law
- ii) Procedural law
- iii) Professional ethics
- iv) Practice management (including client care and relations)
- v) Lawyering skills.

A range of CLE activities may be followed to complete the same including the following:

I. Writing

An advocate may undertake CLE activity around writing on law or practice for publication. For example: law books and journals, publications for clients, newspapers and magazines whether legal publications or not, the internet etc.

II. Research

An advocate may consider research as a CLE activity. The research should relate to legal topics or relevant to practice/organization. It should result in some form of written document, precedent, memorandum, questionnaire, survey etc.

III. Development of specialist area of law

Participating in development of specialist area of law and practice is considered as CLE activity. An advocate can participate in such activity by attending meetings of specialist committees and/or working parties of relevant professional or other competent bodies charged with such work.

IV. Post graduate study

Undergoing post graduate study also forms a CLE activity. If an advocate studies which is counted for qualification from any recognized university then it will be counted as a part of CLE activity.

V. Watching/listening to DVDs, Webcasts etc.

Watching/listening to DVDs, webcasts, audio and video tapes, podcasts produced by learning and development providers also leads to earning of CLE credit. Additionally, if any advocate watches any television broadcast that is produced by learning and development providers they can enhance their knowledge and skills more effectively and this also helps in earning CLE credit.

VI. **Seminar/ Conference/Workshop**

A CLE activity may also consist of participation and presentation in a seminar/workshop or conference.

VII. **Lecture**

By attending or participating in a CLE lecture an advocate can earn 1 CLE unit per hour. An advocate can earn unlimited credit hours per year by undergoing this type of CPD activity.

VIII. **Teaching**

Teaching a legal course, professional education or other educational program to an audience that includes as a principal component, lawyers, paralegals (who are employed or supervised by lawyers) and/or law school students can also be taken to earn CLE credits. An advocate can earn unlimited credit hours per year by undergoing this type of CPD activity.

Another 50 hours of self-study per year is highly recommended for each advocate, though the same maybe purely voluntary in nature.

Transfer of credits is permitted from one accounting period to the next only to the extent of 6 credits (except for newly joined advocates). Each lawyer must be required to file with his own Bar Council a report certifying in detail the CLE activities of the previous two year /period. Failure to comply with the CLE or to report to the Bar Council shall amount to a disciplinary breach. Each Bar Council has to monitor the effective compliance of the CLE requirements by each lawyer enrolled and decide on the number of credits successfully completed.

If anyone breaches the rules of Professional Code of Conduct, then they are to be suspended of the lawyer's license to practice, after the expiry of generous grace periods (six months to report compliance) and appeal mechanisms for complying with the rule.

Exemption

Exemption or variation to compliance with CLE requirements may be considered in the following circumstances:

- the practitioner is no longer in active practice; or
- the practitioner, by reason of any physical or other disability, experiences particular hardship or difficulty in completing the required number of points; or
- the practitioner has been absent from practice because of parenting leave or illness or other extenuating circumstances; or

- the practitioner undertook CLE activities as part of the requirement of either practicing in another province or the equivalent thereof.

CLE REQUIREMENTS- BEST PRACTICES			
1	CLE Credits	Newly Joined Advocates	Other Advocates
	Mandatory	16 Credits every year	12 credits every year
	Desirable/Recommended	10 credits every year	
		50 hours of Self Study	50 hours of Self Study
2	CLE Format		
	Mandatory	<ul style="list-style-type: none"> • 3 hours of ethics and professionalism, • 6 hours of skills, and • 7 hours of law practice management or areas of professional practice To be taken in Live Classroom setting, Fully Interactive Video setting	4 hours of Ethics and Professionalism
	Desirable/Recommended	Work Shadowing, Participation in CLE Discussion Groups, Conferences/Workshops, Pursuing Higher Education,	Writing, Research, Development of Specialist Area of Law, Post Graduate Study, Watching/Listening to DVDs, Webcasts, Seminar, Conference/Workshop, Teaching
3	CLE Subject Matter	Substantive Law, Procedural Law and Professional Ethics and Lawyering Skills	Substantive Law, Procedural Law and Professional Ethics and Lawyering Skills
4	Transfer of CLE Credit	Not Permitted	Permitted till 6 credits
5	CLE Accounting Period	Biennial	Biennial

6	CLE Exemption	None; but exempted for the year in which the member has successfully completed the Bar Examination	<ul style="list-style-type: none"> • the practitioner is no longer in active practice; or • the practitioner, by reason of any physical or other disability, experiences particular hardship or difficulty in completing the required number of points; or • the practitioner has been absent from practice because of parenting leave or illness or other extenuating circumstances; or • the practitioner undertook CLE activities as part of the requirement of either practicing in another province or the equivalent thereof.
7	CLE Service Provider	Bar Associations, Law Schools, Law Societies etc.	
8	Financial Aspect	Paid	Paid
9	Monitoring and Implementation	MCLE or MCPD Boards/ Commissions Set up	
10	CLE Non-Compliance	Grace Period granted for plan and completion of CLE requirements; Failure leading to disciplinary action	

RECOMMENDATIONS FOR INDIA

In India, the importance of continuing legal education for advocates cannot be denied. Law as an institution has functions which are rooted in the social needs and necessities of the society. The legal profession plays a significant role to establish a society governed by the Rule of Law. Furthermore, the legal domain is an ever-expanding body of knowledge. It is the lifelong learning process which makes a person adept to serve the demands of the profession. As stated, compliance by lawyers to their CLE duties represents a means for guaranteeing both the competence and the independence of the lawyers as well as the quality of the professional services offered and to secure a more effective Access to Justice and to safeguard the rights of all individuals.

The practice of CLE exists in some form or the other in the various States of the country. As stated earlier, different initiatives have been taken towards that end. However, it requires a more structured and systematic system in the entire country to provide for mandatory CLE requirement for all advocates practicing in all courts in India.

For the purpose of determining the CLE requirements, we may adapt the best practice indicators and further modify them to suit the Indian perspective, as revealed through the study.

CLE REQUIREMENT AND FORMAT

For newly admitted advocates (till completion of five years of practice), there may be a mandatory requirement of completing 16 credits in each year period of time (April to March). Each credit will be equated with one hour (1 credit = 1 hour). No transfer of credits from one year to the other is permissible. In the first year, out of the credits assigned, a lawyer has to complete

- 3 hours of ethics and professionalism,
- 6 hours of skills, and
- 7 hours of law practice management or areas of professional practice

The remaining credits of the next years may be completed by pursuing different CLE accredited programs on the following subject matters:

- i) Substantive law,
- ii) Procedural law,
- iii) Professional ethics,
- iv) Practice management (including client care and relations),
- v) Lawyering skills.

The accredited CLE courses in the first year are to be taken in the traditional live classroom setting, or through fully interactive video conferences. The remaining credits may be pursued through the following:

- work shadowing,
- participation in CLE discussion groups,
- conferences, workshops,
- pursuing higher educational studies.

Additionally, advocates may undertake any number of credits in CLE programs based on their area of expertise and interest, such as property law, tax matters, intellectual property etc. Another 50 hours of self-study per year is highly recommended for each member, though the same may be purely voluntary in nature.

A newly joined advocate is exempt from the CLE requirements in the year in which the member successfully completes the Bar Examination.

The next category of lawyers would include those who are in practice for more than 5 years (both middle and senior level). This group of advocates may be required to complete 12 credits each year, out of which at least four hours of must be in Ethics and Professionalism.

The subject matter of all accredited learning modes, including courses, must deal primarily with one or more of:

- i) Substantive law,
- ii) Procedural law,
- iii) Professional ethics,
- iv) Practice management (including client care and relations),
- v) Emerging Areas and Legal Developments.

A range of CLE activities may be followed to complete the same including the following:

1. **WRITING:** An advocate may undertake CLE activity around writing on law or practice for publication. For example: law books and journals, publications for clients, newspapers and magazines whether legal publications or not, the internet etc.
2. **RESEARCH:** An advocate may consider research as a CLE activity. The research should relate to legal topics or relevant to practice/organization. It should result in some form of written document, precedent, memorandum, questionnaire, survey etc.
3. **LECTURE:** By attending or participating in a CLE lecture, an advocate can earn 1 CLE unit per hour. An advocate can earn unlimited credit hours per year by undergoing this type of CPD activity.
4. **DEVELOPMENT OF SPECIALIST AREA OF LAW:** Participating in development of specialist area of law and practice is considered as CLE activity. An advocate can participate in such activity by attending meetings of specialist committees and/or

working parties of relevant professional or other competent bodies charged with such work.

5. **WATCHING/LISTENING TO DVDS, WEBCASTS ETC.:** Watching/listening to DVDs, webcasts, audio and video tapes, podcasts produced by learning and development providers also leads to earning of CLE credit. Additionally, if any advocate watches any television broadcast that is produced by learning and development providers they can enhance their knowledge and skills more effectively and this also helps in earning CLE credit.
6. **SEMINAR/ CONFERENCE/WORKSHOP:** A CLE activity may also consist of participation and presentation in a seminar/ workshop or conference.
7. **TEACHING-** Teaching a legal course, professional education or other educational programs to an audience that includes as a principal component, lawyers, paralegals (who are employed or supervised by lawyers) and/or law school students can also be taken to earn CLE credits. An advocate may earn unlimited credit hours per year by undergoing this type of CPD activity. However, an advocate must have completed at least 7 years of practice to undertake such teaching.
8. **PRO BONO LEGAL SERVICES:** Credit for performing pro bono legal services for clients who are unable to afford counsel may be considered towards CLE requirement. Eligibility for pro bono legal services are: 1) legal services for which there is no compensation to the advocate is payable for performing the legal services or (2) legal services provided under the Legal Services Authorities Act 1987, provided the same is assessed and evaluated by the appropriate authority.
9. **DISTANCE LEARNING:** Credits may also be earned through distance learning programs offered by various CLE providers. Such distance learning programs must involve acquiring of legal knowledge and skills and must involve an evaluation conducted by the provider.
10. **MENTORING:** Credits may also be earned by advocates by mentoring junior advocates. In order to undertake coaching/mentoring as CPD activity, an advocate must ensure: (a) they are structured; (b) they involve professional development; (c) he/she have set aside some specified time dedicated to the activity; (d) there are written aims and objectives; (e) the sessions are documented showing an outcome.

In addition to the mandatory CLE requirement, an advocate may undertake any number of credits in CLE programs based on their area of practice. They may also be encouraged to undertake extensive research and teaching activities in the relevant legal domain. Another 50 hours of self-study per year is highly recommended for each advocate, though the same maybe purely voluntary in nature.

CLE PROVIDERS

It is important that CLE must have a wide reach. It must be available and easily accessible for all advocates in the State. As opined by many respondents during the study, it is not a situation of Advocates practicing in metros being exposed to continuing legal education so as to improve the standards of the Bar, it is equally important that every person practicing in the district or taluka level also gets a fair and good opportunity to update himself and develop his competence. For that purpose, the model of CLE services available in the other jurisdictions may be followed. In other nations, there is an accreditation body for CLE programs. However, the programs are offered by private and public bodies, including the Bar Associations, Law Schools and Universities, Law Societies etc. These bodies run different accredited programs throughout the year and provide certificates on successful completion.

In line with the same concept, in India, two categories of CLE approved programs may be initiated:

- CLE (Mandatory)
- CLE (Optional)

For each of the programs, applications may be invited from all concerned institutions, Bar Associations, Law Colleges and Universities, private Law Societies and even, law firms. The service providers may submit detailed design of the courses, course materials, online lectures, conferences, details of experts etc. which they intend to offer. The same has to be evaluated and reviewed for appropriateness and quality and those accredited may be allowed to run. It must be ensured that there are adequate number of service providers' throughout the length and breadth of the State so that all are benefitted. The State Bar Council may also run certain programs for the purpose, especially those included in mandatory CLE. In remote areas where the number of providers maybe less or non-existent, it will be the responsibility of the State Bar Council to set up a Zonal Committees, with the District Judge, select District Bar Association Advocates and Local Law Colleges to offer regular programs.

It may just be mentioned, that such CLE programs, specially which require direct face to face interactions etc. may be organized on weekends or other holidays and vacations so that the advocates are not adversely affected in terms of the practice.

CONTENT DEVELOPMENT AND INSTRUCTIONAL METHODS

As stated above, CLE approved programs are to be offered by the service providers. While at one level, such programs are to be designed by the providers keeping in mind their expertise and consequent requirement of the practitioners, at the other level, a need based content development exercise must be undertaken at the commencement of the program. As has been

revealed through the study, there is great diversity in India as regards professional requirements spread across different regions as well as different courts. So, a content development exercise must be undertaken in each zone, district and state of the country to assess the actual need of the lawyers of the region. For the purpose, committees comprising of Judges, Bar Association members and law teachers must be comprised at the taluka, district and state level. The committee will develop/ design specific modules to be administered as part of CLE for advocates of the regions and the Monitoring Authority, may consider the same while granting accreditation.

Additionally, innovative instructional practices must be evolved to enrich the learning experience of the advocates. For example, 'ethics' is indicated as one of the regular areas of CLE study. Teaching ethics is practically impossible, without making it a repeat exercise of LLB curriculum. It is also an aspect which is linked with day to day working of a lawyer. Therefore, simulation exercises based on real life situations may be the best possible way to imbibe ethical values within the person. Similarly, inquiry based learning maybe another way of addressing the varied needs of the lawyers.

MCLE COMMITTEE

Since legal education as well as the profession comes within the scope of the functions of the Bar Council of India and State Bar Council, it is recommended that the Bar Council may be given the responsibility of monitoring CLE in the country. The Bar Council, at the helm, may set up a specialized body or Committee of Experts, under the aegis of the Directorate of Legal Education, to design and structure CLE requirements for the advocates, based on a nationwide need assessment as well as review and provide accreditation to the CLE programs sought to be offered by the service providers.

Once the requirements are specified, every advocate in practice will be required to submit to the State Bar Council on an annual basis (April to March), the CLE credits he has completed during the year. It is the responsibility of the Advocate to ensure that he undertakes the necessary CLE activities and completes the mandated requirements. The State Bar Council may set up a State MCLE Committee to review and validate the CLE requirements of each lawyer. In case of non- compliance, the MCLE Committee may allow an advocate time till six months to plan and complete the remaining CLE requirements and then submit the same for verification. In case a lawyer fails to comply with the same within the grace period, the matter maybe referred to the Disciplinary Committee and the advocate may be barred from practice.

CLE EXEMPTIONS

The exemptions from CLE requirement may be decided by the MCLE Committee at the State Level. These may include the following:

- 1) Advocates who have completed 40 years of practice at the Bar;
- 2) Advocates who, by reason of any physical or other disability, experiences particular hardship or difficulty in completing the required number of points; or
- 3) Advocates who have been absent from practice because of parenting leave or illness or other extenuating circumstances;

An application for exemption must be submitted to the MCLE Committee of the State Bar Council and the Committee shall decide on the matter based on the documents or other material submitted in support of the same.

FINANCIAL ARRANGEMENT

In India, advocates have expressed grave concerns with regard to financial aspect of CLE. It has been noted that respondents have indicated that CLE programs must be free of cost, while other advocates have opined that junior advocates must be exempted from payment of fees. In these circumstances, the following may be suggested:

First, a corpus may be created for CLE of Advocates under the Central Government. The creation of the corpus may be facilitated through voluntary contributions of advocates, law firms; budget allotment (25%) of Bar Council of India; imposition of stamp duty of Rs. 5/- on vakalatnama(as suggested in course of the study); contributions made by CLE providers etc. There will be two types of programs offered by the service providers- CLE (Mandatory) and CLE (Optional). So far as the former is concerned, it may be free of cost for all categories of Advocates. The cost incurred in the conduct of mandatory programs may be charged to the extent of half the amount incurred towards infrastructure, faculty, food and lodging etc. (as stipulated by the Bar Council of India) on the Bar Council of India which must reimburse the same to the CLE provider. In case of remote areas as well as programs conducted by the State Bar Councils, the entire cost of the program may be paid from the corpus of CLE.

However, for CLE (Optional), the service provider may stipulate necessary fees to be charged from the Advocates. 20% of the amount generated may be paid to the Bar Council of India by the CLE Providers.

CLE INCENTIVES

This is another important as well as interesting aspect which has come out of the study conducted. While the other countries have mandated CLE as a basic requirement towards continuance in practice, the advocates in India are of the opinion that CLE should have certain associated incentives so that advocates would feel the urge to undertake the programs. Unlike the other countries of the world, most of the respondents comprising lawyers are of the belief

that the legal education is sufficient to respond to the changing needs of the profession and no further education is necessary unless there are some allied benefits.

In response to the same, it is hereby suggested that the following incentives may be thought of for advocates continuously pursuing CLE requirements:

- For designation as Senior Advocate, successful completion of CLE credits may be a condition;
- For empanelment of advocates in different sectors by State Governments, CLE may be considered;
- Even in selection of names of Advocates for judges, only those who have successfully complied with CLE requirements must get priority.

These above are just indicative; there may be such other incentives worked out with the cooperation of the Judiciary and State Governments.

CLE REQUIREMENTS FOR ADVOCATES IN INDIA			
1	CLE Credits	Newly joined Advocates (0-5 years)	Other Advocates (More than 5 yrs)
	Mandatory	16 Credits every year	12 credits every year
	Optional	Any no. of credits; of Self Study	Any no. of credits; 50 hours of Self Study
2	CLE Format		
	Subject Matter: Mandatory	Ist Year: <ul style="list-style-type: none"> • 3 hours of ethics and professionalism, • 5 hours of skills, and • 7 hours of law practice management or areas of professional practice 	<ul style="list-style-type: none"> • 4 hours of Ethics and Professionalism every year.
	Optional	Remaining Credits : <ul style="list-style-type: none"> • Substantive law, • Procedural law, • Professional ethics, • Practice management (including client care and relations), • Lawyering skills. 	Remaining Credits: <ul style="list-style-type: none"> • Substantive law, • Procedural law, • Professional ethics, • Practice management (including client care and relations), • Emerging Areas and Legal Developments.
3	Mode of Administration	Ist year: <ul style="list-style-type: none"> • Classroom Lectures • Interactive Video setting Remaining credits: <ul style="list-style-type: none"> • Work shadowing, • Participation in CLE discussion groups, • conferences, workshops, • Pursuing higher educational studies. 	<ul style="list-style-type: none"> • Writing • Research • Development of Specialist Area of Law • Watching/Listening to DVDs/Webcasts • Seminar/Conference/Workshop • Lectures • Teaching • Pro Bono Legal Services • Distance Learning • Mentoring
4	Transfer of CLE Credits	Not Permitted	Permitted till 6 credits
5	CLE Accounting Period	Annual (April to March)	Annual (April to March)

6	CLE Exemption	None but exempted for the year in which the member has successfully completed the Bar Examination	Completed 40 years of practice By reason of any physical or other disability, experiences particular hardship or difficulty in completing the required number of points; or Absent from practice because of parenting leave or illness or other extenuating circumstances.
7	CLE Service Provider	Bar Council, Bar Associations, Law Schools, Other Private Legal Organizations, Law Firms	
8	CLE Accreditation	Bar Council of India, Expert Body (MCLE Board)	
9	Financial Aspect	CLE (M): Free CLE (O): Paid	
10	Monitoring and Implementation	Bar Council of India and State Bar Councils	
11	CLE Non compliance	Grace Period granted for plan and completion of CLE requirements; Failure leading to disciplinary action	
12	CLE Incentives	Selection as Judges, Senior Advocates, Empaneled Lawyers etc.	

ANNEXURE I**CONTINUING LEGAL EDUCATION (CLE) FOR ADVOCATES IN
INDIA**

RAJIV GANDHI SCHOOL OF INTELLECTUAL PROPERTY LAW

INDIAN INSTITUTE OF TECHNOLOGY KHARAGPUR

**SPONSORED BY THE MINISTRY OF LAW AND
JUSTICE****GOVERNMENT OF INDIA****Personal**

1	Name	
2	Designation	
3	Affiliation	
4	Year of Joining the Bar/Teaching	
5	Address	
6	Contact Number	
7	Email	

Feasibility of CLE

8	Are you aware of CLE?	
9	Have you ever attended any CLE based program after your regular education?	
10	If yes, the details of the same.	
11	Do you think that your participation helped you in the profession? How?	
12	Do you think CLE should be introduced in India?	
13	If no, what are your reasons for not supporting CLE?	
14	If yes, should it be mandatory or merely voluntary? Why?	
15	For which category of lawyers do you think that CLE should be mandated?	
16	Do you think that CLE will address your requirements for professional competency?	

Modalities of CLE

17	How frequent should CLE programs be required for Lawyers?	
18	What should be the format of CLE programs?	Regular Classroom Based Lectures Distance based Learning Online/ Multi-media learning system Post Graduate/Doctorate Study Publications in Journals/Books Mandatory Teaching in Colleges/ Universities Pro Bono Legal Services Any other, Pls specify.
19	What should be the contents of CLE?	Subject Based Learning Skill Based Learning Emerging Areas of Law Legislative & Judicial Developments International & Comparative Legal Systems Any other, Pls specify
20	Which substantive areas/skills are most required?	
21	Should CLE programs be assessed?	
22	How would you want the assessment/ evaluation to be done?	Marks Based Credit Based Minimum Marks and Credit Based
23	Should CLE be a paid/ free of cost program? Why?	
24	What should be the Institutional mechanism with regard to administration of CLE?	

Problems and Suggestions

25	Do you perceive any problems in implementation of CLE in India?	
26	What are your suggestions to overcome the same?	

27	Any other suggestion/Observation.	
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