



**A STUDY TO CREATE EVIDENCE-BASED PROPOSALS  
FOR REFORM OF LEGAL EDUCATION IN INDIA -  
SUGGESTIONS FOR REFORMS AT THE NATIONAL LAW  
UNIVERSITIES SET-UP THROUGH STATE LEGISLATIONS  
(Draft of Final Report)**

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## **CHAPTER 1: INTRODUCTION TO THE STUDY**

The legal education sector prepares the judges, practitioners and scholars of tomorrow. The quality of justice-delivery in the future is dependent on the training and exposure that we are able to provide to present students. Hence, it is important to continuously assess the challenges faced in the delivery of legal education. The present study can be treated as another effort in this direction. The distinctive feature of this particular study is that it has been conducted with the explicit intention of generating actionable recommendations. An instrumental approach will be visible in this report and some readers may find that our discussion foregrounds practical considerations over conceptual analysis.

We believe that our study comes at an appropriate time because it has been nearly three decades since the first National Law University was created in India. These institutions were visualized as pace-setters which would serve as models for overall improvement in the legal education sector. It is worthwhile to critically reflect on whether they have been able to perform this stated role. We engaged in such an exercise with considerable enthusiasm since we were also keen to locate our own experiences as teachers at one of these institutions in relation to the evolution of structurally similar institutions. We have presented our report in the form of three substantive chapters followed by a conclusion. This introductory chapter outlines the establishment and growth of the NLUs and proceeds to survey the existing literature related to them. The second chapter engages with questions related to the improvement of access to these institutions. The third chapter presents the core of this report by examining the scope for reforms in academic and administrative processes. The concluding part includes a statement of the actionable recommendations that can be synthesized from the preceding chapters.

If we turn to the existing literature on these questions, the overarching tendency has been to rely on personalised experiences while framing suggestions for reforms at a systemic level. Many of the prescriptions have been difficult to implement, primarily owing to the immense disparity within our country. There is a perceptible gap between what is discussed in closed-door meetings and the ground realities of a developing society. Therefore, we collected evidence by way of direct interactions with a representative sampling of all the immediate stakeholders, namely those involved in the administration of these institutions, faculty members and current students. Accordingly, our narrative is based on trends that can be inferred from an aggregation of the data that has been generated. In this introductory chapter, we begin with a short description of the establishment and growth of the National Law Universities (Section 1.1) followed by a survey of literature on their functioning so far (Section 1.2) and an explanation of the methodology used for conducting this study (Section 1.3).

### **1.1 Establishment and Growth of the National Law Universities**

While the enactment of the Advocates Act in 1961 was primarily intended to ensure nation-wide mobility for legal practitioners,<sup>1</sup> it also empowered the Bar Council of India (BCI) to play a regulatory role in the legal education sector.<sup>2</sup> This marked a departure from practices during the colonial rule when formal legal education was delivered under the regulatory purview of larger State Universities, be it through specialized departments or affiliated colleges. The explicit involvement of the Bar Councils was intended to ensure that the Universities received feedback from practitioners in the design and delivery of legal education.

There was also a perception that legal education in post-independence India needed to evolve in line with developments in other parts of the world. Writings from the 1950s and 1960s had clearly documented concerns about deficiencies in the content and delivery of legal education in the country (e.g. Aggarwal 1959; Von Mehren 1965; Bastedo 1969).<sup>3</sup> It was observed that the curriculum privileged rote-learning and memorization of legal materials instead of encouraging critical thinking about the role of law in a rapidly changing postcolonial context. Even the most well-known law colleges largely relied on part-time instructors and classes were often quite unstructured. The students who chose to study law often came to it after having found it difficult to secure admission in other disciplines. A large number of law graduates would not eventually choose a career related to legal practice. Most law departments and affiliated colleges were part of State universities which largely consisted of faculty members and students who were predominantly from the respective regions. Most students in law colleges located outside the larger urban centres found it difficult to absorb the instructional materials which were

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<sup>1</sup> The Advocates Act, 1961 abolished the multiple grades of legal practice which had evolved during the colonial period (namely Vakils, Revenue Agents and Mukhtars before the subordinate courts and Pleaders, Solicitors and Barristers before the High Courts). The disparity in the qualifications needed for these grades of practice in different States often created obstacles for professional mobility. Their consolidation into a common category, namely those of ‘Advocates’ who were required to register with the respective State Bar Councils, paved the way for standardization. This was directly linked to the need for prescribing uniformity in the educational qualifications required for enrolment as an Advocate. See generally: Samuel Schmitthener, ‘A Sketch of the Development of the Legal Profession in India’, 3 (2/3) *Law and Society Review* 337-382 (Nov. 1968 - Feb. 1969).

<sup>2</sup> In particular, see Sections 7(1)(h), 7(1)(i), 10, 15 and 49 in The Advocates Act, 1961. The Bar Council of India (BCI) is statutorily required to constitute a Legal Education Committee (LEC) which oversees rule-making in this sector. The presently applicable rules were enforced in 2008.

<sup>3</sup> The subject was explicitly discussed in the *Law Commission of India’s 14<sup>th</sup> Report on Reform of Judicial Administration* (1958). For some illustrative academic writings from the time, See: Arjun P. Aggarwal, ‘Legal Education in India’, 12(2) *Journal of Legal Education* 231-248 (1959); Arthur Taylor Von Mehren, ‘Law and Legal Education in India: Some Observations’, 78(6) *Harvard Law Review* 1180-1189 (1965); T.G. Bastedo, ‘Law Colleges and Law Students in Bihar’, 3(2/3) *Law and Society Review* 269-294 (1969).

predominantly in the English language (Getman 1969).<sup>4</sup> The dearth of full-time faculty members and inadequate funding had created an environment where these institutions found it difficult to frame and pursue independent research that would advance the frontiers of legal learning.

It was in this context that the interventions of funding agencies such as the Ford Foundation were instrumental in the establishment of the Indian Law Institute (ILI) in 1956 followed by curriculum reform exercises at Delhi University (DU), Aligarh Muslim University (AMU), Panjab University (PU) and Banaras Hindu University (BHU) in the late 1960s.<sup>5</sup> Several foreign scholars were brought in as Visiting Professors and were involved in the efforts to improve the methods of instruction, the quality of reading materials and the techniques for assessing student performance. While the Indian Law Institute (ILI) was created to pursue intensive research on legal developments,<sup>6</sup> the curriculum reform activities mentioned above proved to be significant in ensuring a transition from the two-year Bachelor of Laws (B.L.) course to the three-year degree (LL.B.). Professor Pradyuman K. Tripathi, who was then serving as the Dean of the Faculty of Law, Delhi University, played a leading role during this phase.<sup>7</sup>

One of the earliest references to the concept of a 'National Law School' in India can be found in a report from 1964 which was prepared by a committee headed by Justice P.B.

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<sup>4</sup> Julius G. Getman, 'The Development of Indian Legal Education: The Impact of the Language Problem', 21(5) *Journal of Legal Education* 513-522 (1969).

<sup>5</sup> For a useful summary of the Ford Foundation's involvement during this phase, See: Jayanth K. Krishnan, 'Professor Kingfield goes to Delhi: American Academics, The Ford Foundation and the Development of Legal Education in India', 46 *American Journal of Legal History* 447-498 (2004). Also see: A.T. Markose, 'A Brief History of the Steps Taken in India for Reform of Legal Education', 5 *Journal of the All India Law Teachers Association* 68 (1968); Bhupen N. Mukherjee, 'Legal Education in Indian Universities', 5 *Journal of the All India Law Teachers Association* 24 (1968).

<sup>6</sup> The Indian Law Institute (ILI) located in New Delhi is an autonomous research institution (now bearing the status of a Deemed University) that offers masters' and doctoral programmes in law. Though it is outside the ambit of the present report, it might be instructive to refer to some scholarship that traces its journey. See: H.C.L. Merillat, 'The Indian Law Institute', 8(4) *The American Journal of Comparative Law* 519-524 (1959); Rajeev Dhavan, 'Legal Research in India: The Role of the Indian Law Institute', 34(3) *The American Journal of Comparative Law* 527-549 (1986); Jayanth K. Krishnan, 'From the ALI to the ILI: The efforts to export an American Legal Institution', 38 *Vanderbilt Journal of Transnational Law* 1255-1291 (2005).

<sup>7</sup> He had cogently described these efforts in his own words. See: P.K. Tripathi, 'In the Quest for Better Legal Education', 10(2) *Journal of Indian Law Institute* 469-491 (1968). The transition to the three year LL.B. programme is also described with enthusiasm by others, such as: Jaipal Singh, 'Legal Education: Towards New Horizons', (1971) 1 *Supreme Court Cases (Journal)* 42. Readers may also want to see: Upendra Baxi, 'Professor Pradyumna Kumar Tripathi: A Tribute', (2001) 5 *Supreme Court Cases (Journal)* 1-10.

Gajendragadkar.<sup>8</sup> This committee had been set-up by the Delhi University in order to review the content and delivery of legal education in that institution. Apart from making pointed recommendations for curricular revisions, this Committee alluded to the need for a model institution which could serve as a laboratory for academic experimentation. This idea gained ground in bits and pieces over the next two decades. The need for 3-4 model institutions of this kind was articulated during an International Seminar on Indian Legal Education that was held in Pune in 1972.<sup>9</sup> Further concretization of this proposal came in a 1979 Report submitted to the University Grants Commission (UGC). This report which was shepherded by Professor Upendra Baxi had synthesized the deliberations of numerous seminars and workshops which had examined teaching practices, curricular content and the administration of institutions (Baxi 1975, 1979).<sup>10</sup>

The need for a ‘model institution’ bearing a national character was also voiced on account of concerns about the increasing ‘provincialisation’ of State Universities where the faculty and student composition was increasingly drawn from the respective regions. These background conditions made it difficult for teachers, researchers and students to reflect on legal controversies from a national as well as international perspective, both of which are undoubtedly important for a postcolonial context. There was also considerable dissatisfaction with the existing encumbrances on faculty hiring and curriculum design which existed within larger university systems. For example, individual instructors would require approvals from multiple authorities within a University system for making incremental changes to the syllabus in a given subject. This structural limitation made it difficult for the course content to keep pace with newly published scholarship, developments in the fields of practice as well as those from a comparative and international perspective. Evaluation of student performance was largely conducted through annual examinations organized by larger State Universities, many of whom had dozens of law colleges affiliated to them. Many educators observed that this was not a prudent method since students did not face the requisite pressure for regular and

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<sup>8</sup> *Report of the Committee for Reorganisation of Legal Education at the University of Delhi* (1964).

<sup>9</sup> This development is noted in the literature published soon thereafter. For example: Rahmatullah Khan, ‘National School of Law—A Proposal’, 14 *Journal of Indian Law Institute* 590-594 (1972); for a counterpoint, See: S.P. Sathe, ‘Is a National Law School Necessary?’ 9(39) *Economic and Political Weekly* 1643-1645 (1974). Among other objections, Sathe prophetically argued that a ‘National Law School’ was more likely to cater to the interests of upwardly mobile sections of society and that it would fail to equip students with the localized socio-cultural understanding that is necessary for the meaningful practice of law.

<sup>10</sup> See: Upendra Baxi, ‘Notes Towards a Socially Relevant Legal Education: A Working Paper for the UGC Regional Workshops in Law 1975-77’, 51 *Journal of the Bar Council of India* (1975-76); Also refer: *Towards a Socially Relevant Legal Education: A Consolidated Report of the University Grants Commission’s Workshop on Modernization of Legal Education* (1979).



meaningful study throughout the academic year. Furthermore, this form of assessment did not forge a direct channel of accountability between the teachers and students.

At this juncture, the Bar Council of India (BCI) took several steps to prepare the ground for the creation of a 'National Law School'. By the early 1980s, most Indian Universities were offering the three year LL.B. programme for delivering formal legal education (Menon 1982).<sup>11</sup> Applicants can join this programme after having completed an undergraduate programme in any discipline. Those interested in gaining specialized knowledge or pursuing careers in teaching and research can proceed to advanced programmes such as the LL.M., M. Phil. and Ph.D. Like observations made in earlier decades, it was widely perceived that many individuals enrolled in the LL.B. programmes as a secondary activity. Some applicants ended up pursuing this programme owing to their inability to enter other streams of higher education. Others took up legal studies in order to acquire background knowledge and networks that might help in running existing businesses or to run new ones. A visible chunk of law students devote most of their time to prepare for civil service examinations or to gain credentials which would enable career advancement in existing government jobs.<sup>12</sup> Coupled with the continued reliance on part-time teachers, this led to a casual approach to the formal study of law. The influence of student associations affiliated to mainstream political parties was especially felt in law departments at larger universities where student leaders often disrupted routine academic processes.

Keeping these in mind, the proposed 'National Law School' was to have some distinctive characteristics. It would aim to develop a national character in its composition. In order to enable meaningful and effective teaching, it would have the status of a University thereby giving it considerable autonomy in matters such as the recruitment of teachers and staff as well as the framing and frequent revision of the curriculum. The objective was to recruit full-time teachers who would devote adequate time and attention to classroom teaching as well as their own scholarly activities. Instead of admitting students to a three-year LL.B. degree after undergraduate studies, students would be admitted after school in

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<sup>11</sup> A separate trust was created for this purpose and Prof. N.R. Madhava Menon (who had earlier taught at Aligarh Muslim University and Delhi University apart from having served as the founder principal of the Government Law College in Pondicherry) was engaged on a full-time basis for the same, initially as a nominated member of the Bar Council of India (BCI) and later as the Member-Secretary of the BCI Trust. Also see: N.R. Madhava Menon, 'Structure and Distribution of Law Colleges in India', 10 *Indian Bar Review* 327 (1983).

<sup>12</sup> For a good discussion on the patterns of career ambivalence among a sample of law students who were surveyed at three law colleges in Bangalore during the early 1970s, see: Robert L. Kidder, 'Formal Litigation and Professional Insecurity: Legal Entrepreneurship in South India', 9(1) *Law and Society Review* 11-38 (1974).

order to pursue a five-year integrated B.A, LL.B. programme (Cottrell 1986).<sup>13</sup> The intention was to admit students by means of a competitive national-level entrance examination so as to attract those who would consciously choose the formal study of law. To ensure an intensive academic experience, the institution would have a residential character. The performance of students would be assessed through frequent examinations and written assignments held over the course of an academic year (Menon 1986).<sup>14</sup>

These characteristics found their way into the establishment of the National Law School of India University (NLSIU) at Bangalore, which was done by way of an Act passed by the Karnataka State Legislature in January 1986. While the Chief Justice of India (CJI) was designated as the Visitor to the institution, its governing bodies had representation from the Judiciary, Bar, State Government and Academia. Prof. N.R. Madhava Menon was appointed as the Director and he started the processes of faculty hiring and curriculum development.<sup>15</sup> Classes for the undergraduate programme commenced at a temporary campus in July 1988 with a small number of faculty members. In 1992, the institution started operations from its permanent campus that is located on the outskirts of Bangalore. Its construction was made possible through monetary support from the Government of Karnataka, the Bar Council of India (BCI) and the Ford Foundation among other sources. Subsequent additions to the academic and residential facilities have been made possible by grants from the University Grants Commission (UGC). The construction of a separate library building (completed in 2005) was supported by Infosys and a sports enclave (completed in 2013) was made possible by donations from alumni (Class of 1996).

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<sup>13</sup> While the five-year integrated B.A., LL.B. programme was introduced at seven institutions in 1983 there was also considerable resistance to this model. For a description of the contemporaneous debate, see: Jill Cottrell, '10+2+5: A Change in the Structure of Indian Legal Education', 36(3) *Journal of Legal Education* 331-357 (1986).

<sup>14</sup> For an embedded account of the proposed model, see: N.R. Madhava Menon, 'Legal Education for Professional Responsibility: An Appraisal of the New Pattern', 13 *Indian Bar Review* 295-306 (1986).

<sup>15</sup> S. Surya Prakash (ed.), *Turning Point: The Story of a Law Teacher- Memoirs of Padmashree Prof. N.R. Madhava Menon* (Universal Law Publishing, 2012). This biography indicates that Prof. Menon had made some efforts to persuade his colleagues at the Delhi University to incubate the 'National Law School' since its law faculty was considered to be the best in the country at that time. However, the proposal did not gain much traction there. In fact, Prof. P.K. Tripathi had openly disagreed with the proposed shift to the five-year integrated programme, invoking the benefits of retaining law as a second degree which students would pursue in an informed manner after having completed their first degree. See: P.K. Tripathi, 'Five-Year Law Course', *The Hindustan Times* (December 24, 1983); N.R. Madhava Menon, 'Letter in response to Prof. P.K. Tripathi', *The Hindustan Times* (December 31, 1983).

Since then, NLSIU Bangalore has emerged as a successful academic institution in some respects. It has consistently attracted motivated students who are expected to undergo an intensive programme of undergraduate study. Graduates are able to directly seek many professional opportunities and alumni have earned a good reputation for competence in several sectors such as courtroom advocacy, transactional practice, higher education, civil services and international organizations (Menon 2012).<sup>16</sup> Within a few years of its establishment, NLSIU began to be described as a prestigious institution and several institutions with a similar structure have been established over the last two decades. A majority of these institutions admit students to their undergraduate and postgraduate programmes through the highly competitive Common Law Admission Test (CLAT) which was initiated in 2008, following a judicial intervention.<sup>17</sup> The main purpose behind its introduction was to reduce the transaction costs that would be incurred by applicants in writing multiple entrance examinations at different locations for gaining admission to the various National Law Universities (NLUs) which had been established by that point of time.<sup>18</sup> At the time of writing this report (July 2017), we are aware of proposals for setting up similar institutions in Jammu and Kashmir, Sikkim, Madhya Pradesh and Uttarakhand. The following table lists the NLUs that have been created so far along with the year in which they have commenced with their respective taught programmes.

**Table I: List of National Law Universities functioning during AY 2017-2018**

No.	Name of Institution (Abbreviated name) and location	Year of initiation of teaching
1.	National Law School of India University (NLSIU), Bangalore, Karnataka.	1988
2.	National Academy of Legal Studies and Research (NALSAR), Hyderabad, Telangana.	1998
3.	National Law Institute University (NLIU), Bhopal, Madhya Pradesh.	1998
4.	West Bengal National University of Juridical Sciences	2000

<sup>16</sup> N.R. Madhava Menon, 'The Transformation of Indian Legal Education – A Blue Paper' (Harvard Law School Programme on the Indian Legal Profession, 2012).

<sup>17</sup> See order of the Supreme Court of India in *Varun Bhagat v. Union of India & Ors.*, Writ Petition (Civil) 68 of 2006.

<sup>18</sup> Since then the CLAT has been conducted ten times, with different NLUs taking on organizational responsibilities on a rotational basis. The revenues generated from the application process are distributed among the participating NLUs with the coordinating institution for a particular year receiving the lion's share of the amount. However, two of these institutions, namely the National Law University Delhi (NLUD) and the Himachal Pradesh National Law University (HPNLU) Shimla are not using this test at present.

	(WBNUJS), Kolkata, West Bengal.	
5.	National Law University (NLU), Jodhpur, Rajasthan.	2001
6.	Hidayatullah National Law University (HNLU), Raipur, Chhattisgarh.	2003
7.	Gujarat National Law University (GNLU), Gandhinagar, Gujarat.	2003
8.	Ram Manohar Lohia National Law University (RMLNLU), Lucknow, Uttar Pradesh.	2006
9.	Rajiv Gandhi National University of Law (RGNUL), Patiala, Punjab.	2006
10.	Chanakya National Law University (CNLU), Patna, Bihar.	2006
11.	National University of Advanced Legal Studies (NUALS), Kochi, Kerala.	2007
12.	Damodaram Sanjivayya National Law University (DSNLU), Vishakhapatnam, Andhra Pradesh.	2008
13.	National Law University Delhi (NLUD), New Delhi.	2008
14.	National Law University Odisha (NLUO), Cuttack, Orissa.	2009
15.	National University for Study and Research in Law (NUSRL), Ranchi, Jharkhand.	2010
16.	National Law University and Judicial Academy Assam (NLUJAA), Guwahati, Assam.	2011
17.	Tamil Nadu National Law School (TNNLS), Trichy, Tamil Nadu.	2013
18.	Maharashtra National Law University (MNLU), Mumbai, Maharashtra.	2015
19.	Maharashtra National Law University (MNLU), Nagpur, Maharashtra.	2016
20.	Himachal Pradesh National Law University (HPNLU), Shimla, Himachal Pradesh.	2016
21.	Maharashtra National Law University (MNLU), Aurangabad, Maharashtra.	2017

## 1.2 Survey of Literature

While there is considerable scholarly writing on the state of legal education in post-independence India,<sup>19</sup> the field becomes much narrower when we turn towards the functioning of the NLUs. In order to understand the evolution of their curriculum, we can look at the reports generated by the Curriculum Development Committees (CDCs) for Law under the aegis of the University Grants Commission (UGC) which were published in 1990 and 2001 respectively.<sup>20</sup> A precursor to these can be found in the consolidated report produced after several UGC sponsored seminars in the 1970s which attempted to develop a curriculum that would be rooted in the Indian context and emphasized strong linkages with the humanities and the social sciences (Baxi 1975).<sup>21</sup>

Since these curriculum development reports have largely offered their suggestions in a recommendatory manner, it cannot be presumed that their prescriptions have been closely followed by the respective NLUs. At best, they have established a demarcation between compulsory and optional subjects that are being taught in undergraduate and postgraduate programmes. The administrative autonomy conferred on the NLUs has enabled some experimentation in course content which is comparatively harder inside law departments and colleges that are affiliated to large State Universities. The Bar Council of India (BCI) had also instituted a Curriculum Development Committee (CDC) of its own which published a draft report in 2010.<sup>22</sup> This effort from the professional body came soon after

<sup>19</sup> For some books in this area, see generally: J.K. Bhavnani, *Reform of Legal Education in India* (Government Law College Bombay, 1960); S.K. Agrawala (ed.), *Legal Education in India: Problems and Perspectives* (N.M. Tripathi, 1973); N.R. Madhava Menon (ed.), *Legal Education in India: Status and Problems* (Bar Council of India Trust, 1983); Amita Dhanda & Archana Parashar (eds.), *Engendering Law: Essays in Honour of Lotika Sarkar* (Eastern Book Company, 1999); A.K. Koul & V.B. Ahuja (eds.), *Legal Education in India in the 21<sup>st</sup> Century: Problems and Prospects* (All India Law Teachers Congress, 1999); P.L. Mehta & Sushma Gupta, *Legal Education and Profession in India* (Deep & Deep Publications, 2000); Sushma Gupta, *History of Legal Education* (Deep & Deep Publications, 2006); Matthew John & Sitharamam Kakarala (eds.), *Enculturing Law: New Agendas for Legal Pedagogy* (Tulika Books, 2007); G. Mohan Gopal (ed.), *Prof. N.R. Madhava Menon's Reflections on Legal and Judicial Education* (Universal Law Publishing, 2009); Lokendra Malik & Manish Arora (eds.), *Legal Education in India: Essays in Honour of Ranbir Singh* (Universal Law Publishing, 2015).

<sup>20</sup> *Report of the University Grants Commission (UGC) Curriculum Development Centre (CDC) for Law* (1990); *Report of the University Grants Commission (UGC) Curriculum Development Committee (CDC) for Law* (2001).

<sup>21</sup> *Towards a Socially Relevant Legal Education: A Consolidated Report of the University Grants Commission's Workshop on Modernization of Legal Education* (1979).

<sup>22</sup> *Draft Report of the Curriculum Development Committee (CDC) of the Bar Council of India* (2010). Also see: Gopal Subramaniam, M.N. Krishnamani & S.N.P. Sinha, *Report of the 3 Member Committee on Reform of Legal Education* (2009) [Submitted pursuant to orders of the Supreme Court of India in *Bar Council of India (BCI) v. Bonnie FOI Law College & Ors.*, Special Leave Petition 22337 of 2008].

the reframing of the BCI Rules on Legal Education in 2008 which currently occupy the field.<sup>23</sup>

The ambit of the present study is much narrower than those of the curriculum development efforts outlined above. Since the NLUs were given a greater degree of institutional autonomy, our line of inquiry is to examine how the same has been used so far. The objective is not to suggest reforms in terms of what should be taught as part of specific courses but more in the nature of appraising academic and administrative practices that are shaping the environment of these institutions. While some of the NLUs have emerged as highly sought after destinations for obtaining a first degree in law, it would be a mistake to presume that they have succeeded on all fronts. Given that these are educational institutions of a public character, we must examine their performance on several parameters. Apart from the quality of teaching imparted to their students, these institutions are expected to generate independent research that adds to existing knowledge. They are also expected to organize extension activities such as conferences, workshops and legal literacy programmes which entail an element of public education.<sup>24</sup> We can also reasonably expect them to contribute to advocacy and legislative reforms.

There is an emerging body of scholarship which addresses the administrative and curricular practices at these institutions. A biographical work (Surya Prakash 2012) has described Professor N.R. Madhava Menon's institution-building experiences, first at NLSIU Bangalore and later at WBNUJS Kolkata.<sup>25</sup> In 2005, NLSIU hosted a conference titled '*Enculturing Law: New Agendas for Legal Pedagogy*' which led to a edited volume of essays (John & Kakarala 2007) that explore how the teaching of law can be made more meaningful by recognizing its interface with cultural studies. The introductory essay by Upendra Baxi provides an overview of Indian legal education in the post-Independence period and sets out some methodological challenges for interdisciplinary teaching. The volume has some essays that document experiences with designing curricula that is rooted in the socio-economic realities of postcolonial India.<sup>26</sup>

There are some writings where teachers have described their own pedagogic decisions and experiments. For example, Amita Dhanda has offered some reflections based on her

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<sup>23</sup> Bar Council of India Rules, Part IV – Rules of Legal Education, 2008.

<sup>24</sup> For a statement of their objectives, see Section 4(1) of the National Law School of India University Act, 1986. There are comparable provisions in the statutes that have established the counterpart institutions.

<sup>25</sup> S. Surya Prakash (ed.), *Turning Point: The Story of a Law Teacher- Memoirs of Padmashree Prof. N.R. Madhava Menon* (Universal Law Publishing, 2012).

<sup>26</sup> Matthew John & Sitharamam Kakarala (eds.), *Enculturing Law: New Agendas for Legal Pedagogy* (Tulika Books, 2007). In particular, see the following essays: Upendra Baxi, 'Enculturing Law? Some Unphilosophic Remarks'; Dattathreya Subbanarasimha, 'Retrieving Indian Law: Colonial Erasures, Postcolonial Pedagogies'; Sitharamam Kakarala, 'Of Pedagogy and Suffering: Civil Rights Movements and Teaching of Human Rights in India'.

teaching experience at NALSAR Hyderabad (Dhanda & Parashar 2009).<sup>27</sup> Rukmini Sen has discussed the evolution of the courses in ‘Sociology’ and ‘Sociology of Law’ at WBNUJS Kolkata.<sup>28</sup> Another instructor at the same institution has outlined the different pathways that are available for instructors at law schools to integrate their research-based pursuits into their classroom teaching (Dasgupta 2010).<sup>29</sup> The efforts at building clinical legal education programmes at some of the NLUs have been documented by insiders (e.g. Menon & Nagaraj 1998, Sarker 2013)<sup>30</sup> and referenced by observers (Bloch & Prasad 2005, Kalantry 2015).<sup>31</sup> Danish Sheikh has described how he designed a course on ‘Law and Popular Culture’ which was taught at four NLUs.<sup>32</sup> Apart from these contributions, we can turn to some recent articles that broadly reflect on legal education reform in India and touch on the specific challenges faced by the NLUs (Routh 2009, Schukoske 2009, Basheer & Mukherjee 2010).<sup>33</sup>

There are several apprehensions and criticisms that come to mind when we look at the functioning of the existing NLUs. There is a genuine concern about the rapid rise in their number. As many as 21 NLUs are currently operating and nearly half of them are less than a decade old. While such an expansion of capacity might be necessary for a developing country, it should not come at the cost of processes that are essential for building a durable educational institution.<sup>34</sup> For instance, it is not optimal to admit students and launch taught programmes before having done the groundwork of

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<sup>27</sup> Amita Dhanda, ‘The Power of One: The Law Teacher in the Academy’, in Amita Dhanda & Archana Parashar (eds.), *Decolonization of Legal Knowledge* (Routledge Publishers, 2009), pp. 261-281.

<sup>28</sup> Rukmini Sen, ‘Teaching Sociology in a Law School: Predicaments, Negotiations and Innovations’, 1 *Journal of Indian Law and Society* 37-57 (2009).

<sup>29</sup> Lovely Dasgupta, ‘Reforming Indian Legal Education: Linking Research and Teaching’, 59(3) *Journal of Legal Education* 432-449 (2010).

<sup>30</sup> N. R. Madhava Menon & V. Nagaraj (eds.), *A Handbook on Clinical Legal Education* (Eastern Book Company, 1998); Shuvro Prosun Sarker, ‘Empowering the Underprivileged: The Social Justice Mission for Clinical Legal Education in India’, 19 *International Journal of Clinical Legal Education* 321-339 (2013).

<sup>31</sup> Frank S. Bloch & M.R.K. Prasad, ‘Institutionalizing A Social Justice Mission for Clinical Legal Education: Cross-National Currents from India and The United States’, 13 *Clinical Law Review* 165 (2005); Sital Kalantry, ‘Promoting Clinical Legal Education and Democracy in India’, 8 *NUJS Law Review* 1-12 (2015).

<sup>32</sup> Danish Sheikh, ‘Taking Popular Culture Seriously: Towards Alternative Legal Pedagogy’, 9(1) *Socio-Legal Review* 146-161 (2013).

<sup>33</sup> Supriya Routh, ‘Legal Education at the Crossroads’, 1 *Indian Journal of Law and Society* 58-85 (2009); Jane E. Schukoske, ‘Legal Education Reform in India: Dialogue Among Indian Law Teachers’, 1(1) *Jindal Global Law Review* 251-279 (2009); Shamnad Basheer & Sroyon Mukherjee, ‘Regulating Indian Legal Education: Some Thoughts for Reform’ [Available through *Social Science Research Network (SSRN)*, January 2010].

<sup>34</sup> Similar concerns have been raised following the rapid expansion of elite educational institutions such as the Indian Institutes of Technology (IITs) and the Indian Institutes of Management (IIMs).

substantial faculty recruitment, curriculum development and preparation of physical infrastructure such as classrooms, hostels and library facilities. Several newer NLUs are facing teething difficulties owing to the shortage of faculty members, under-developed infrastructure and lack of deliberations on syllabus design and academic practices. In several instances, there have been reports of student unrest citing the lack of necessary infrastructure, deficiency in teaching personnel, self-dealing behaviour by officials and lack of assistance for securing employment.<sup>35</sup> There is an evident mismatch between the quantum of the demand for entering these highly selective institutions and the availability of teaching talent needed to nurture them. Some would argue that there is also a qualitative gap between the academic potential of the incoming students and the abilities of the serving teachers.

Concerns have also been raised in respect of the content and administration of the Common Law Admission Test (CLAT) which is being used for admissions since 2008. The criticisms on the content often dwell on the priority given to the English language in a country where a majority of school-leaving students are not exposed to the same during their formative years. Some sections in this test require the applicants to possess specialized knowledge of fields such as the Law of Contracts, Law of Torts, Criminal Law and Indian Constitutional Law among others. If the intention is to deliver meaningful instruction in these areas during the course of undergraduate studies, it is not clear as to why applicants should be expected to have prior knowledge of the same. Defects in the administration of the CLAT have received more attention.<sup>36</sup> For example, CLAT 2009 had to be re-scheduled owing to the leak of a question paper at one of the test centres. Errors have been regularly identified in the framing of questions as well as in the answer-keys given for multiple choice questions.<sup>37</sup> Applicants have also voiced

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<sup>35</sup> For some examples, see these news-items: Neha Chauhan, 'HNLU four-year battle winds down, students return to new campus', *Legally India* (September 1, 2009); 'CNLU Patna students hunger strike, protest few job prospects', *Legally India* (April 19, 2011); 'Police at the gates, as NLU Assam students on indefinite hunger strike: Lack of VC, faculty and more', *Bar and Bench* (September 23, 2014); Aditya A.K., 'NLU Assam on Lockdown: Police forces deployed amid student protests', *Bar and Bench* (May 16, 2016); 'NUJS legal saga ends: HC clears termination of Registrar for financial mismanagement', *Legally India* (July 30, 2016); Prachi Shrivastava, 'Day 3 of NUSRL Ranchi Lockdown – Protests enter discussion phase, HC judges visit campus', *Legally India* (April 12, 2017); Ramendra Singh, 'NLIU to get new Chief, strike ends', *The Times of India* (Bhopal City edition - November 16, 2017).

<sup>36</sup> Shamnad Basheer, an alumnus of NLSIU Bangalore (1994-1999) and a former faculty member at WBNUJS Kolkata (2007-2013) has initiated a Public Interest Litigation in the Supreme Court of India, seeking orders for instituting a permanent body to conduct the CLAT exam in order to ensure efficiency and transparency in its administration. The matter is presently pending for further hearings. *Shamnad Basheer v. Union of India*, Writ Petition (Civil) 600 of 2015.

<sup>37</sup> 'CLAT is an example of everything that is wrong with education in India', *The Wire* (May 21, 2017).



disgruntlement with the lack of transparency in procedures used for seat allocation by some of the participating NLUs. The transition to a fully computer-based test has also been criticized since it creates an additional barrier for applicants from economically disadvantaged backgrounds who may have little or no previous experience of using computers.

**Table II: Number of applicants for the Common Law Aptitude Test (2008-2017)**

(Note: The numbers mentioned in the following table do not include the applicants for the seats earmarked for ‘Foreign Nationals’ and ‘Non-Resident Indians (NRIs)’. Applicants for those categories are not required to appear for the CLAT.)

Year	Organising Institution	Number of applicants for undergraduate programmes	Number of applicants for LL.M. programmes	Total number of applicants
2008	NLSIU Bangalore	10,773	531	11,304
2009	NALSAR Hyderabad	13,595	677	14,272
2010	NLIU Bhopal	17,300	1,075	18,375
2011	WBNUJS Kolkata	21,353	1,269	22,622
2012	NLU Jodhpur	25,769	1,050	26,819
2013	HNLU Raipur	29,530	1,385	30,915
2014	GNLU Gandhinagar	31,231	2,260	33,491
2015	RMLNLU Lucknow	34,172	5,514	39,686
2016	RGNUL Patiala	39,468	5,572	45,040
2017	CNLU Patna	44,565	6,111	50,676

Being State Universities in the formal sense, the NLUs are dependent on the respective State governments for financial assistance. They need substantial financial support, especially in their nascent years for constructing the physical infrastructure needed for residential campuses and hiring a sufficient number of well-qualified teachers and staff. They also need recurring annual support to pay salaries and meet the costs associated with the maintenance of a residential campus. While a few NLUs have maintained good fiscal health owing to generous state support, most of them appear to have limited means at their disposal. This has led to a situation where they are substantially dependent on fees collected from students enrolled in full-time programmes in order to meet the recurring expenditure.<sup>38</sup> The fee-structures at the NLUs are considerably higher when compared to

<sup>38</sup> See: Kian Ganz, ‘Funding Crunch looms over Indian Law Schools’, *LiveMint* (April 26, 2012). This issue is discussed further in Section 2.2 of this Report.

those of law departments and colleges that are affiliated to large State Universities. The consequent financial implications exert pressure on graduating students to straightaway seek lucrative employment options as opposed to career options which better reflect their motivations and interests but may not offer the same monetary rewards.<sup>39</sup> This visible trend feeds the perception that despite bearing a public character, the NLUs have emerged as institutions that are only accessible to the elite sections of society. Some commentators have pointed out how the admissions process and fee structures favour applicants from wealthy, urban and English-speaking backgrounds (Basheer, Krishnaprasad, Mitra & Mohapatra 2014).<sup>40</sup> A recent survey conducted at NLSIU Bangalore showed an unmistakable pattern of under-representation when it comes to students who belong to religious minorities, rural areas and schools that predominantly teach in Indian languages (Jain, Jayaraj, Muraleedharan, Singh & Galanter 2016).<sup>41</sup> In this sense, these institutions are probably reinforcing and amplifying existing forms of social and cultural capital instead of disseminating the benefits of higher education among a more diverse social base.

An overarching criticism is that graduates of the established NLUs tend to pursue lucrative employment opportunities in corporate legal practice instead of choosing careers in litigation, the judicial services, teaching and advocacy of social causes.<sup>42</sup> Professor Upendra Baxi has repeatedly stated that these institutions appear to be producing ‘servants of global capital’ instead of ‘soldiers of social justice’ (Baxi 2007).<sup>43</sup> Swethaa Ballakrishnen has expressed concerns about how the alumni networks evolving around the established NLUs might be replacing family or kinship ties as enablers of professional mobility, especially in corporate legal practice. However, she has pointed

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<sup>39</sup> For some student-written opinion pieces on this problem, see Andrew Fernandes, ‘What Ails the National Law Schools in India?’ *The Hindu* (September 20, 2009); Abhijeet S. Rawaley, ‘National Law Universities: A Systemic Failure awaiting Rectification’, *The Wire* (May 24, 2016).

<sup>40</sup> For a well-substantiated article on this issue, See: Shamnad Basheer, K.V. Krishnaprasad, Sree Mitra & Prajna Mohapatra, ‘The Making of Legal Elites and the IDIA of Justice’ at pp. 578-605 in David B. Wilkins, Vikramaditya S. Khanna & David M. Trubek (eds.), *The Indian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and its Impact on Lawyers and Society* (Cambridge University Press, 2017).

<sup>41</sup> Chirayu Jain, Spadika Jayaraj, Sanjana Muraleedharan, Harjas Singh & Marc Galanter, *The Elusive Island of Excellence – A Study on Student Demographics, Accessibility and Inclusivity at National Law School 2015-16* (NLSIU: 2016).

<sup>42</sup> For an early articulation of this criticism, see: A.S. Anand, ‘H.L. Sarin Memorial Lecture: Legal Education in India – Past, Present and Future’, (1998) 3 *Supreme Court Cases (Journal)* 1. For a recent iteration of the same, see: N.N. Mathur, ‘National Law Universities – Original Intent and Real Founders’, *Live Law* (July 24, 2017).

<sup>43</sup> For a representative example of his position, refer: Upendra Baxi, ‘Enculturing Law? Some Unphilosophic Remarks’, at pp. 2-21 in Mathew John & Sitharamam Kakarala (eds.), *Enculturing Law: New Agendas for Legal Pedagogy* (Tulika Books, 2007).

out that NLU graduates seem to be in a position to capitalize more from the pursuit of higher education and work experience in first world nations after returning to India. She has also documented how the rise of corporate law firms in India has made it tractable for women lawyers to pursue professional success in this field in comparison to the deeply gendered nature of obstacles faced by those engaged in courtroom advocacy (Ballakrishnen 2009, 2012 & 2013).<sup>44</sup> In a chapter that is part of an edited volume on the rise of the Indian corporate legal sector, two American scholars have examined how some of the leading Indian law schools are being affected by the expansion of corporate law firms in the country. These changes range from the motivations of incoming students to revisions made to curricular structures and expectations about career opportunities at the time of graduation (Gingerich & Robinson 2017). Another chapter in the same volume examines how some NLU graduates have secured employment in commercial law firms located in other parts of the world, including those in leading centres of international finance (Gingerich, Khanna & Singh 2017).<sup>45</sup> This development has undoubtedly created a feedback loop that has fundamentally reshaped the institutional environment inside some of the NLUs.

These developments have led to ambivalence about the broader social role of these institutions. Should they be seen as sites for enabling higher learning or simply as training for the workplace? What is the right balance between the inculcation of liberal values and imparting of skills needed for professional success? In other words, this leads to a constant tension between the ‘civilizational’ and ‘vocational’ role of higher education. This dilemma often plays out in the pedagogic choices made by teachers as well as the motivations of students who are paying considerably high fees to acquire what is presumptively a professional education. For example, students might be becoming more risk-averse in the choice of optional courses and thereby not opting for courses which entail intensive engagement with theoretical frameworks and more rigorous evaluation. There is likely to be higher enrolment for courses which tangibly demonstrate their utility for professional prospects in the short run as opposed to those which are

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<sup>44</sup> Swethaa Ballakrishnen, ‘Where do we come from? Where do we go? An Inquiry into the Students and Systems of Legal Education in India’, 7(2) *Journal of Commonwealth Law and Legal Education* 133-154 (2009). Also see: Swethaa Ballakrishnen, ‘Homeward Bound: What does a Global Legal Education offer the Indian Returnees?’ 80(6) *Fordham Law Review* 2441-2480 (2012); Swethaa Ballakrishnen, ‘Why is Gender a form of Diversity? Rising Advantages for Women in Global Indian Law Firms’, 20(2) *Indiana Journal of Global Legal Studies* 1261-1289 (2013).

<sup>45</sup> Jonathan Gingerich & Nicholas Robinson, ‘Responding to the Market: The Impact of the Rise of Corporate Law Firms on Elite Legal Education in India’ at pp. 519-547 in David B. Wilkins, Vikramaditya S. Khanna & David M. Trubek (eds.), *The Indian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and its Impact on Lawyers and Society* (Cambridge University Press, 2017). Also see Jonathan Gingerich, Vikramaditya Khanna & Aditya Singh, ‘The Anatomy of Legal Recruitment in India: Tracing the Tracks of Globalisation’ at pp. 548-577 in the same volume.

oriented around theory-building and may enable deeper intellectual growth on part of the students in the long run. A recent dissertation submitted at the University of Oxford has interrogated these tensions through interviews conducted with a selected sample of faculty members and students at NLSIU Bangalore and NALSAR Hyderabad (Sood 2017).<sup>46</sup>

Another apparent weakness of the NLUs is that while they seem to be heavily invested in the administration of the five-year integrated undergraduate programmes, there has been considerable neglect towards advanced programmes such as the master's in law (LL.M.) among others. A presumptive reason for this disparity is that admissions to the undergraduate programmes tend to be more competitive in comparison to those for postgraduate ones. This appears to be directly linked to expectations about employment opportunities. While the five-year integrated undergraduate programmes are seen as vehicles for obtaining well-paid jobs, postgraduate programmes are primarily aimed at those who may be interested in pursuing careers in teaching and research. Enrolling for a LL.M. programme also entails opportunity costs in terms of lost earnings and may hence not attract the best pool of law graduates. There also appears to be a mismatch between the institutional goals behind offering LL.M. programmes and the immediate motivations of applicants. For example, the institutions might be looking at these programmes as feeders for academia while the students might be viewing them as just another set of credentials to enhance prospects for employment in other sectors. A recent paper has tried to outline some strategies for revitalizing the delivery of LL.M. programmes in Indian universities, especially keeping in mind the UGC mandated transition towards one-year LL.M. programmes from the academic year 2013-2014 (Krishnaswamy & Chatur 2013).<sup>47</sup> This transition has posed questions such as whether a one-year master's programme is suitable for law graduates in the Indian context who come from very diverse backgrounds and disparate levels of previous academic exposure.

There is also some dissatisfaction in relation with the quality of research degrees such as the M.Phil. and Ph.D. programmes at the NLUs. Most applicants for research degrees tend to be working professionals who enroll for these programmes on a part-time basis, often with the limited objective of acquiring formal credentials for the purpose of advancement in their existing career paths. There is an evident lack of financial and infrastructural support for applicants interested in pursuing research degrees on a full-time basis.<sup>48</sup> When it comes to legal studies, the opportunity costs of pursuing full-time

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<sup>46</sup> Mansi Sood, 'Legal Education and Its Outcomes: Digging Deeper into the Successes and Failures of India's National Law Schools' [Available through *Social Science Research Network (SSRN)*, November 2017].

<sup>47</sup> Sudhir Krishnaswamy & Dharmendra Chatur, 'Recasting the LL.M.: Course Design and Pedagogy', 9(1) *Socio-Legal Review* 101-120 (2013).

<sup>48</sup> The existing channels for governmental support such as the Junior Research Fellowship (JRF) administered by the University Grants Commission (UGC) and doctoral fellowships awarded by

research degrees appear to be too high to attract competent candidates. This contributes to an overall climate of laxity in the process of conducting and supervising research activities. The time and attention devoted to training in research methodology tends to be quite minimal and most of the NLUs have not developed the library resources or institutional networks needed for meaningful exposure to the same. As a result, the NLUs have produced very few dissertations that have gained recognition for their quality of scholarship.

Furthermore, the small size and monodisciplinary character of these institutions makes it difficult to incubate longitudinal research and extension activities. The entrenched assumption is that research produced by Indian law teachers is largely a regurgitation of legislative and judicial developments with very few of them producing work that reflects descriptive rigor and analytical depth.<sup>49</sup> The teaching of the required courses in the humanities and social sciences as part of the undergraduate programmes is often viewed as marginal and not given due importance by law teachers and students alike. Participation in conferences, seminars and workshops is often narrowly viewed as serving the self-interest of faculty members for accumulating credentials for their own career advancement. Efforts directed at public education appear to be few and far between with considerable lethargy and indifference shown towards legal literacy and legal aid programmes.

It is pertinent to note that some of the NLUs have started full-time masters' programmes in disciplines such as public policy and business administration.<sup>50</sup> These can be seen as efforts to diversify the course offerings at the respective institutions. However, the jury is out on whether it is feasible for NLUs to develop and sustain more programmes of this kind. Such diversification may be relatively easier when it comes to job-oriented courses that attract fee-paying students. However, it may prove to be much harder when it comes to incubating interdisciplinary research projects that are not directly linked to professional prospects for those who enroll them.

The NLUs are expected to deliver an intensive experience for the students as they engage with their coursework. Most of them follow a semester-pattern with modes of continuous assessment such as mid-term examinations, written assignments and end-term examinations. The course design places high expectations on students when it comes to

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the Indian Council for Social Science Research (ICSSR) are also quite constrained, both in terms of the number of scholarships given each year and the extent of funding.

<sup>49</sup> See generally: Rajeev Dhavan, 'Means, Motives and Opportunities: Reflecting on Legal Research in India', 50(6) *Modern Law Review* 725-749 (1986).

<sup>50</sup> For instance, NALSAR Hyderabad started a two-year Master's in Business Administration (M.B.A) programme in 2013 while NLSIU Bangalore started a two year M.A. programme in Public Policy in 2014. GNLU Gandhinagar has also started a two-year M.B.A. programme in 2016.

self-study and preparation for their classes. However, there are numerous gaps and deficiencies in the actual administration of such coursework. Some commentators have raised concerns about rampant plagiarism among Indian law students, especially when it comes to research-based assignments such as term papers (Gingerich & Singh 2010).<sup>51</sup> Others go further and point out inadequacies such as the lack of preparedness on part of teachers, both for the purpose of classroom teaching and research supervision. The reasons behind these deficiencies in the performance of teachers can range from unduly heavy teaching loads to the absence of meaningful administrative supervision and even the lack of importance accorded to the quality of classroom teaching when it comes to the criterion for the career-advancement of full-time teachers (Surendranath & Arun 2012, Pai and Ranjan 2013, Chauhan 2013).<sup>52</sup> Another concern that is common to most sectors of professional education (such as medicine, accounting and architecture to name a few) is that the best talent chooses to stay away from academic careers in public institutions owing to better remuneration in other lines of work.

It would also be appropriate to outline the previous efforts made to review the functioning of the National Law Universities (NLUs). An initial reference point is the Expert Committee Report that reviewed the functioning of NLSIU Bangalore between 1986 and 1996.<sup>53</sup> This report expressed a certain degree of satisfaction with the evolution of the taught undergraduate programme at that stage since it was attempting to blend the formal study of law with exposure to several other disciplines. However, the central emphasis of this report was on the need to incubate research and extension activities that would produce knowledge which would be useful for society at large. This report also contained a note of caution about how the institution could become a ‘victim of its own success’ if the immediate stakeholders confined their expectations to the vocational role of higher education in law. In many ways, this report has proved to be prophetic if one reviews the situation two decades later.

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<sup>51</sup> Jonathan Gingerich & Aditya Singh, ‘Writing Requirements, Student Assessment and Plagiarism in Indian Law Schools’, *India Law News* 12-15 (Fall 2010); Also see: Jonathan Gingerich & Aditya Singh, ‘Envisioning Legal Education Reform’, *Critical Twenties* (November 10, 2010).

<sup>52</sup> Anup Surendranath & Chinmayi Arun, ‘Elite Law Varsities: The Crisis Within’, *LiveMint* (April 26, 2012); Yogesh Pai & Prabhash Ranjan, ‘Legal Education at Crossroads’, *The Hindu Business Line* (May 15, 2013); Sidharth Chauhan, ‘Assessing Teacher Performance in the National Law Universities: Problems and Prospects’, *Bar and Bench* (August 20, 2013).

<sup>53</sup> Marc Galanter, William Twining & Savitri Goonesekre, *Report of the Expert Committee to Review the functioning of the National Law School of India University, Bangalore* (1996).

In 2001, NLSIU had produced a brief document outlining a ‘New Vision’ for the institution’s future.<sup>54</sup> It detailed a roadmap for curricular changes such as more flexibility in coursework and the possibility of students opting for thematic clusters of specialized study during the 4<sup>th</sup> and 5<sup>th</sup> year of the integrated undergraduate programme. The document also stated plans for expanding the scale of teaching programmes and the student intake at the institution. However, the steps mentioned in this document were not acted upon at the time since the Director who had proposed them had prematurely left the institution in early 2003. It might be pertinent to note that NLSIU has moved towards more flexibility in its undergraduate curriculum during the academic year 2017-2018. Many of the other NLUs have already transitioned towards a Choice-Based Credit System (CBCS) over the last decade. Among this network of institutions, WBNUJS Kolkata was an early mover in the academic year 2008-2009 while NALSAR Hyderabad began a similar move towards a more diversified curriculum during the academic year 2012-2013.

In 2006, the National Knowledge Commission (NKC) had published a note prepared by its working group on legal education.<sup>55</sup> Its recommendations touched on the regulation of legal education in general and were not confined to the NLUs. The key suggestion was to replace the conjoint regulatory role of the Bar Council of India (BCI) and the University Grants Commission (UGC) as laid down under Section 7(1)(h) of The Advocates Act, 1961 with a sector-specific panel as part of a common regulatory body for higher education. The substance of the proposal to create sector-specific panels as part of a National Commission for Higher Education and Research (NCHER) is similar to the present deliberations on the possibility of creating a Higher Education Empowerment Regulation Agency (HEERA). However, this proposal has faced a considerable pushback from professional bodies who have argued that matters connected to the regulation of a profession cannot be neatly separated from the delivery of education in the respective field. Some commentators have suggested that the BCI can adopt an accommodative approach by nominating a higher proportion of serving law teachers to its Legal Education Committee (LEC) which is currently dominated by practitioners.<sup>56</sup> The question of who is better suited to regulate legal education in India was also discussed in a report prepared by a three member committee of the BCI in 2009 which was submitted

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<sup>54</sup> G. Mohan Gopal (ed.), *New Vision for Legal Education in the Emerging Global Scenario* (NLSIU Bangalore: 2001).

<sup>55</sup> National Knowledge Commission, *Recommendations of the Working Group on Legal Education* (2006).

<sup>56</sup> For a good summary of this debate, see: Madhav Khosla, ‘Lawyers and Legal Education’, *India in Transition* (July 16, 2012). Also see: Shamnad Basheer, ‘Set the Bar Higher’, *The Indian Express* (May 10, 2012).

to the Supreme Court of India in relation to a case that dealt with the questionable recognition of a private law college.<sup>57</sup>

We can also turn to a report prepared by a Review Commission for NLSIU Bangalore in 2009.<sup>58</sup> This Commission had been established under a statutory provision which contemplated periodic review of the academic and administrative functions of the institution. Interestingly while Section 14 of the NLSIU Act contemplates such an exercise every five years, it has only been conducted once in the last three decades. The report submitted in 2009 largely addressed concerns and grievances voiced by faculty, staff members and students during visits by the members of the Review Commission. It expressed concerns about student apathy and indiscipline. Unfortunately, this Report did not seriously engage with pedagogical questions related to the quality of teaching and possible reforms in the curriculum. In many ways, it was a missed opportunity.

In 2011, an Inspection Committee consisting of representatives from the Judiciary inquired into allegations of academic and administrative irregularities at NALSAR Hyderabad.<sup>59</sup> In its report, the Committee recorded specific findings made in respect of these allegations and also offered some suggestions to address the concerns of the relevant stakeholders. In 2013, the functioning of GNLU Gandhinagar was examined by a Review Commission set-up under the applicable statute. There was a sharp difference of opinion among the members of the Review Commission. The majority report signed by N.R. Madhava Menon and H.C. Dholakia was quite critical of administrative decision-making at this institution while the minority report authored by Bakul Dholakia offered a considerably more charitable view of internal affairs at the same institution.<sup>60</sup> A similar Review Commission was recently instituted for WBNUJS Kolkata and its' report has been submitted to the office of the Chief Justice of India (CJI) towards the end of 2017 but it has not been published at the time of finalizing the present report.

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<sup>57</sup> Gopal Subramaniam, M.N. Krishnamani & S.N.P. Sinha, *Report of the 3 Member Committee on Reform of Legal Education* (2009) [Submitted pursuant to orders of the Hon'ble Supreme Court of India in the matter of *Bar Council of India (BCI) v. Bonnie FOI Law College & Ors.*, SLP 22337/2008]

<sup>58</sup> K.T. Thomas, Virender Kumar & M.P. Singh, *Report of the NLSIU Review Commission* (2009).

<sup>59</sup> S.S.M. Quadri, V.V.S. Rao, Ramesh Ranganathan & S. Ravi Kumar, *Report of the NALSAR Inspection Committee* (September 2011).

<sup>60</sup> See: N.R. Madhava Menon & H.C. Dholakia, *Report of the GNLU Review Commission* (majority report) (January 2013); Bakul Dholakia, *Report of the GNLU Review Commission* (minority report) (November 2013).



The debate surrounding the regulation of legal education has also been discussed by the Law Commission of India in recent years. Those interested in tracing the evolution of different positions on this subject can refer to the 184<sup>th</sup> Report published by this body in 2002 as well as some sections in the 266<sup>th</sup> Report published in 2017.<sup>61</sup> However, it must be noted that these reports do not specifically address the structure and functioning of the NLUs. While on this subject, one can also peruse a report published by the Parliamentary Committee on Personnel, Public Grievances, Law and Justice in 2016.<sup>62</sup>

Over the last decade or so, several websites have regularly covered developments in the legal education sector, with a pronounced emphasis on the internal workings of the NLUs. Some of the more popular among them are ‘Legally India’, ‘Bar and Bench’, ‘LiveLaw’, ‘Mylaw’, ‘Lawctopus’ and ‘SuperLawyer’. Their content has been especially effective in drawing attention to institution-specific concerns on part of students such as the quality of teaching, adequacy of infrastructure, availability of opportunities for recruitment and performances in moot court competitions among other activities. The discussion forums on these websites have been significant in shaping the discourse within these residential campuses as well as the external perceptions about them. While the relative ease of online communication often encourages the airing of frivolous criticisms, it would be unwise for those in positions of authority to turn a blind eye towards the discussions conducted through the digital medium.

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<sup>61</sup> Law Commission of India, *184th Report on The Legal Education and Professional Training and Proposal for Amendments to the Advocates Act 1961 and the University Grants Commission Act 1956* (2002); Law Commission of India, *266th Report on the Advocates Act, 1961 (Regulation of the Legal Profession)* (2017).

<sup>62</sup> *86th Report of the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice – Promotion of Legal Education and Research under the Advocates Act, 1961* (Rajya Sabha Secretariat, Parliament of India: 2016).

### **1.3 Methodology**

This report is substantially based on the analysis of responses to questionnaires administered during visits to 15 National Law Universities (NLUs). These visits were organised in August-September 2016. While a total of 21 National Law Universities are in existence at the time of finalizing this report (December 2017), we had confined our data-collection exercises to 15 of these institutions, the filter being that at least one batch of students should have completed the five-year integrated undergraduate programme at the respective institution by the end of the 2015-2016 academic year. Furthermore, we have disregarded the data collected from our own institution (NALSAR Hyderabad) in order to avoid a presumptive conflict of interest. We had also conducted a pilot exercise at ICFAI Law School, Hyderabad on August 4, 2016 to test our survey techniques. Apart from synthesizing the responses to the questionnaires we have also relied on experiences shared during personal interviews and group discussions with faculty members and students.

During the course of our visits to the respective institutions, we met with groups of students who were asked to answer a customized questionnaire within specified time-periods. They were given password-protected links which would lead them to the questionnaire. Their completed responses were simultaneously uploaded to a database managed by staff members at NALSAR. This method of recording responses protected the anonymity of the student-respondents while also ensuring the credibility of the data that was generated. We were able to record responses from a total of 849 students across the institutions that were covered. Incomplete or unverifiable responses were excluded for the purpose of preparing this report. The sample size utilised for this report is roughly 12% of the aggregate number of full-time students at the participating institutions. At each institution, we had aimed for easily ascertainable markers of internal diversity (e.g. gender, year of study) among the student groups who answered our survey.

We held one-on-one meetings as well as interactive sessions with a large cross-section of teachers during our visits to the participating institutions. As per our notes, we interacted with approximately 160 faculty members across the 15 NLUs. We sought the consent of the respective teachers to answer a customized questionnaire through e-mail correspondence. While we promised anonymity to the prospective teacher-respondents, there could have been genuine apprehensions about our ability to ensure the same since the responses had to be directly sent to us through e-mails. On account of these legitimate apprehensions, we have received only 33 completed responses to the questionnaire that was directed at the faculty members in the NLUs. This is approximately 8% of the aggregate number of full-time faculty members engaged at the participating institutions during the academic year 2016-2017. We had also sought responses to a questionnaire that was specifically directed at the administration of the participating institutions.

Unfortunately, only three (HNLU Raipur, NUALS Kochi and NLU Odisha) out of the 15 participating institutions completed this questionnaire.

**Table III: Dates of visits to the participating institutions**

S.No.	Name of Institution	Year in which teaching was started	Dates of visits
1.	NLSIU, Bangalore, Karnataka.	1988	September 1-2, 2016.
2.	NLIU, Bhopal, Madhya Pradesh.	1998	August 21-22, 2016.
3.	WBNUJS, Kolkata, West Bengal.	2000	August 29, 2016.
4.	NLU, Jodhpur, Rajasthan.	2001	August 24-25, 2016.
5.	HNLU, Raipur, Chhattisgarh.	2003	August 19-20, 2016.
6.	GNLU, Gandhinagar, Gujarat.	2003	September 9, 2016.
7.	RMLNLU, Lucknow, Uttar Pradesh.	2006	August 23, 2016.
8.	RGNUL, Patiala, Punjab.	2006	August 19, 2016.
9.	CNLU, Patna, Bihar.	2006	August 24, 2016.
10.	NUALS, Kochi, Kerala.	2007	August 30-31, 2016.
11.	DSNLU, Vishakhapatnam, Andhra Pradesh.	2008	September 27, 2016.
12.	NLUD, New Delhi.	2008	August 22, 2016.
13.	NLUO, Cuttack, Orissa.	2009	August 26-27, 2016.
14.	NUSRL, Ranchi, Jharkhand.	2010	August 26, 2016.
15.	NLUJAA, Guwahati, Assam.	2011	August 30-31, 2016.

At this stage, it may be apt to reflect on the scope and limitations of this study. While framing our questionnaires, we had intentionally confined them to themes that directly relate to the administration of the participating institutions. This is reflected in the subsequent chapters of this report where we sequentially address considerations about access to the NLUs (Chapter 2) and the academic and administrative processes being followed by them (Chapter 3). It would have been a far more complex task to conduct a study on this scale to address specific questions about teaching techniques and the content of specific courses. Those questions are better suited for a fresh curriculum development exercise that meaningfully accounts for the interests and experiences of the immediate stakeholders in these institutions.

We are also deeply conscious of the fact that the NLUs only represent a small fragment of the legal education sector in India. At present, there are more than 1,300 institutions

that are recognized by the Bar Council of India (BCI) to deliver formal legal education. It should be self-evident to the reader that the discussion and recommendations in this report cannot be generalized for the entire sector. We must also give due emphasis to other pathways for providing legal education such as legal literacy programmes (supported by the state or private actors) and specialized training programmes for those with formal credentials in other disciplines.

We were only able to devote limited time for the physical visits to the participating institutions, which were concentrated in August-September 2016. A thorough review of teaching techniques and curriculum design at each institution would have required longer visits and more extensive data-collection over a sustained period of time. Furthermore, the aggregation of responses to the questionnaires cannot accurately capture individualized experiences. A certain degree of abstraction and generalization is inherent in using a survey method.

We can also anticipate criticisms of our sampling techniques, especially in respect of the student-respondents. We largely relied on cooperation from faculty members at the participating institutions to assemble the students for our briefing sessions. We attempted to broaden our sampling by informally speaking to students afterwards. Despite these efforts, there is an asymmetry in the number of student-respondents across the participating institutions. Furthermore, the sample is not tightly controlled for significant markers of diversity such as region, caste and language backgrounds. Unlike easily ascertainable markers such as gender or year of study, these markers of entrenched social differences cannot be easily ascertained without prompt self-identification by the respondents. Another criticism can be that in respect of the questions about access to these highly selective institutions, the more relevant sample would be one drawn from the larger pool of applicants rather than the comparatively smaller group of admitted students. However, we found considerable awareness about the nature of the barriers to entry among the admitted students. In any case, the pool of admitted students is better suited for addressing questions related to academic inputs and institutional support structures.

As mentioned earlier, there was a disappointing response to the questionnaires directed at faculty members. One reason for this could be concerns about the protection of their anonymity. The relatively closed environment of residential institutions can make employees wary of the possibility of retaliation in case they make critical remarks about their administrative superiors or colleagues. Some respondents who did complete our survey told us that the length of our questionnaire might have dissuaded many others from doing the same. The lesson for us is that the survey for faculty members should

have also been conducted through a method that would have guaranteed their anonymity in a manner comparable to the student-respondents.

We have already spelt out the extremely poor response to the questionnaires directed at the administration of each participating institution. This is in spite of the fact that all the institutions had readily given us access to their institutional spaces for the interactions with faculty members and students. Hence, we can only offer conjectures about the reasons for the same. We did send several communications in the hope of receiving the completed questionnaires but only three out of the fifteen institutions eventually cooperated in this regard. This is the principal reason for the protracted delay in finalizing our report. We had originally intended to corroborate the trends reported by the student-respondents and teacher-respondents with the answers received from official channels. However, we have had to write this report by predominantly relying upon the responses generated from teachers and students. Wherever possible, we have corroborated the responses with publicly available data found in sources such as the Annual Reports prepared by the participating institutions and in some cases we have looked at their self-assessment reports submitted to the National Assessment and Accreditation Council (NAAC).

The bibliography included in this report is confined to scholarly, official and journalistic sources that directly discuss issues pertaining to legal education in the Indian context. There is of course a much larger trove of literature dealing with legal education in other parts of the world which has not been cited in this report in order to avoid digressions and excessive length. This report also lacks references to scholarly literature in fields such as educational administration and organisational behaviour, both of which are connected to some of the questions included in our questionnaires. We do intend to develop this report further into a scholarly publication that engages with insights from these disciplines among others.

## **CHAPTER 2: HOW CAN WE IMPROVE ACCESS TO THE NATIONAL LAW UNIVERSITIES?**

The architecture of formal legal education in India is multi-layered, since it is presently being delivered through the following categories of institutions:

- (i) Faculties/Departments that are constituents of Central or State Universities,
- (ii) Law colleges that are affiliated to State Universities and may be under public or private ownership
- (iii) National Law Universities (NLUs) established by State-Level legislations
- (iv) Schools/Faculties/Departments that are constituents of Private Universities.

The ambit of the present study is limited to the third of these categories. Even among the NLUs which bear a similar character in the formal sense, differences abound in terms of their physical location, extent of public funding and most significantly in the composition of their teaching staff and student bodies. While the relatively older NLUs have partially succeeded in attracting students and faculty members from all over the country, the newer ones have faced serious difficulties in this regard. Hence it is important to think of steps that can be taken to increase their visibility and reach all over the country and beyond, so as to incrementally develop a national character in the substantive sense. At the same time, the constitutional mandate for affirmative action in favour of historically disadvantaged groups needs to be implemented, both in letter and spirit. Even as we seek to improve the standards of legal education through more financial commitments and credible processes for selection, the goal of broadening access to the same cannot be lost sight of. It is of utmost importance to recognize that simply reserving seats at the time of admission is not enough to pursue the social justice goals envisioned by the framers of the Indian Constitution. Exposure to social, economic, linguistic and regional diversity is an essential aspect of higher learning, be it in any discipline.

Some recent studies have drawn attention to the relatively homogenous character of the student bodies at the well-known NLUs. For example, a study conducted at NLSIU Bangalore (2016)<sup>63</sup> showed that a majority of the undergraduate students tend to come from Urban, Hindu Upper-Caste and relatively affluent families who have provided them with early exposure to instruction in the English language. In comparison the representation of students from rural backgrounds, religious minorities and those who have completed schooling in languages other than English is quite minimal. Estimations

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<sup>63</sup> Chirayu Jain, Spadika Jayaraj, Sanjana Muraleedharan, Harjas Singh & Marc Galanter, *The Elusive Island of Excellence – A Study on Student Demographics, Accessibility and Inclusivity at National Law School 2015-16* (NLSIU: 2016).

from other NLUs exhibit a similar pattern.<sup>64</sup> A certain degree of representation from historically disadvantaged groups such as the Scheduled Castes (SCs) and Scheduled Tribes (STs) has been enabled by the constitutional provisions that prescribe quotas favouring these groups in higher educational institutions. However, there are serious concerns about how students from these historically disadvantaged groups face an additional layer of difficulties once they are inside highly selective institutions such as the NLUs.

Very often, the biggest challenge for incoming SC and ST students comes in the form of disapproval from upper-caste peers who often ridicule them for gaining admission through reserved seats. Their sense of alienation can be further amplified if the teachers are not attentive to such discriminatory behaviour, especially when it is directed against students who are 'first-generation' learners from their respective communities. In some cases, teachers from upper-caste backgrounds may themselves be quite insensitive to the individual circumstances of the students. Such insensitivity may not necessarily stem from explicit invocations of caste-based prejudices. It is more likely to manifest itself in the form of censures directed at those students who initially struggle with the coursework that is delivered entirely in the English medium. This also has an effect on evaluation of academic performance. This layer of the problem extends to students who may come from relatively wealthy backgrounds but have not had access to meaningful English language instruction during their schooling years. The silver lining in this regard is that the residential character of the NLUs coupled with the considerable length of the undergraduate programmes often provides the impetus for dissolving pre-existing prejudices and forging meaningful friendships that cut across the markers of difference in our society. It might be worthwhile to remember that Dr. B.R. Ambedkar had stressed upon the role played by common hostel facilities for students to mitigate entrenched patterns of social discrimination.

While the objective of creating an inclusive educational environment merits far more discussion, this chapter is limited to a few factors pertaining to it. Section 2.1 addresses the Admissions Process. Our questions sought responses on the factors that shape students' preferences while choosing a particular institution. They also dealt with concerns arising from the design and administration of the Common Law Aptitude Test (CLAT). The questions in Section 2.2 elicited the student's opinions about the existing fee structures and the provisions for financial aid to support those in need. Section 2.3 deals with a question about the policies regarding allocation of seats.

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<sup>64</sup> For instance, see the survey results documented in: Shamnad Basheer, K.V. Krishnaprasad, Sree Mitra & Prajna Mohapatra, 'The Making of Legal Elites and the IDIA of Justice' (Harvard Law School Program on the Legal Profession, 2014).

## **2.1 Admission Process**

### **Q.1 What factors are important in choosing a law school?**

We asked student-respondents to indicate the relative importance of factors such as (a) Fee Structure, (b) Faculty Composition, (c) Physical Infrastructure, (d) Setting/Location, (e) Placement Track Record, (f) Financial Assistance and (g) Law School Ranking. These factors were picked owing to their ubiquity in discussions where higher education institutions are compared to each other. Our choice of factors can possibly attract some preliminary objections. Relatively newer institutions cannot be readily compared to older institutions, especially when the former are in the early stages of infrastructure development and a cohort of students has not completed their studies. Furthermore, parameters such as ‘Law School Ranking’ are largely driven by external perceptions and are hence quite subjective when compared to the other chosen factors. Similarly, those who criticize the established NLUs for largely catering to the corporate legal sector will question the inclusion of ‘Placement Track Record’ for presumptively endorsing the diversion from their original objective.<sup>65</sup>

#### **(a) Fee Structures**

<b>Scale</b>	<b>Response</b>	<b>Percentage</b>
1 (Not important)	128	15.23
2 (Important)	423	50.35
3 (Very important)	226	26.90
4 (Most important)	063	7.50
- (Blank)	009	

#### **(b) Faculty (Composition, Strength & Availability)**

<b>Scale</b>	<b>Response</b>	<b>Percentage</b>
1 (Not important)	012	1.42
2 (Important)	130	15.47
3 (Very important)	343	40.83
4 (Most important)	355	42.26
- (Blank)	009	

<sup>65</sup> See: N.N. Mathur, ‘National Law Universities – Original Intent and Real Founders’, *Live Law* (July 24, 2017).



**(c) Physical Infrastructure (General, Student Housing, Library etc.)**

Scale	Response	Percentage
1 (Not important)	028	3.33
2 (Important)	258	30.75
3 (Very important)	419	49.94
4 (Most important)	134	15.97
- (Blank)	010	

**(d) Setting (Geographical location and neighbourhood)**

Scale	Response	Percentage
1 (Not important)	137	16.30
2 (Important)	382	45.47
3 (Very important)	251	29.88
4 (Most important)	070	8.33
- (Blank)	009	

**(e) Placement Track Record**

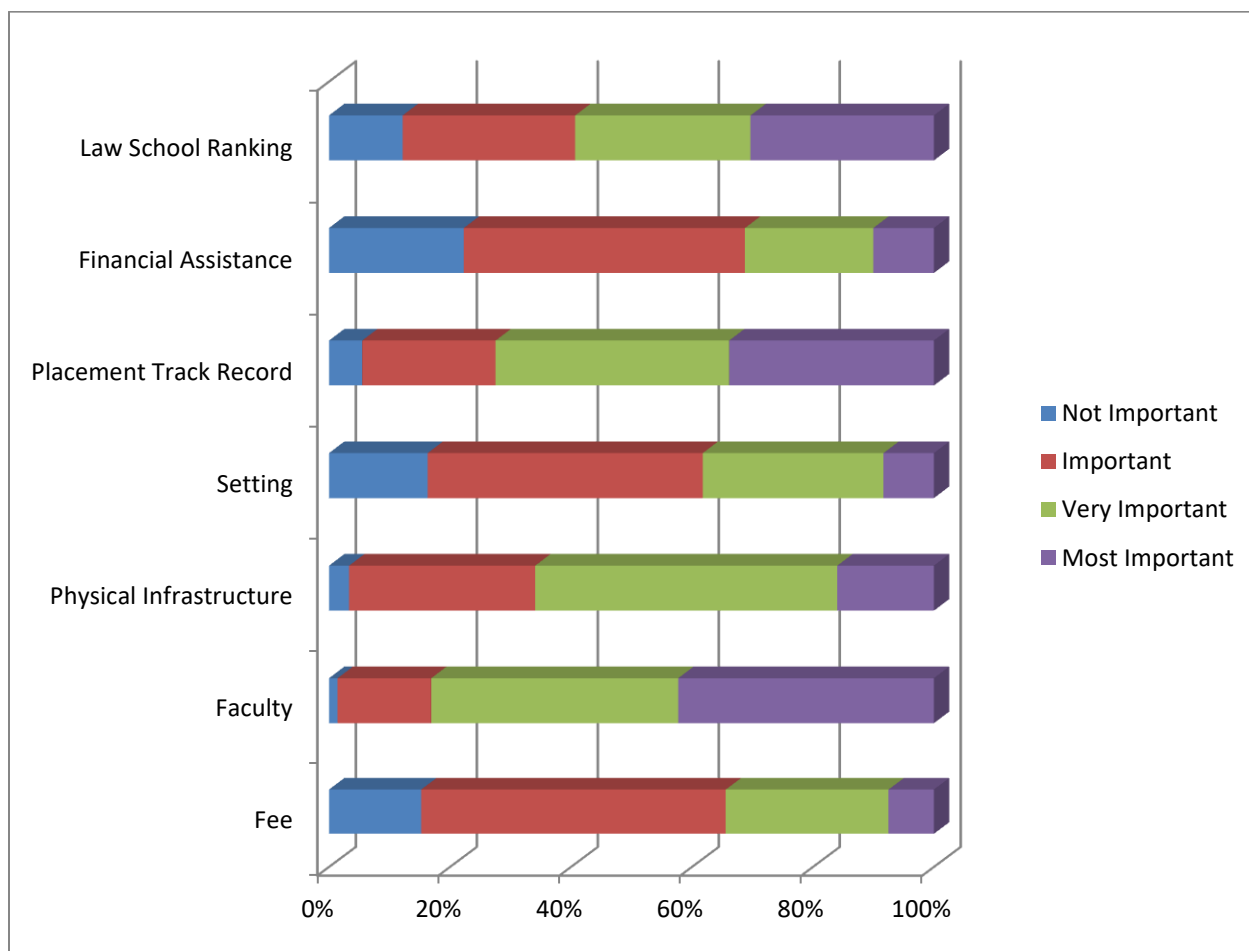
Scale	Response	Percentage
1 (Not important)	046	5.48
2 (Important)	185	22.05
3 (Very important)	324	38.61
4 (Most important)	284	33.84
- (Blank)	010	

**(f) Financial Assistance**

Scale	Response	Percentage
1 (Not important)	187	22.28
2 (Important)	390	46.48
3 (Very important)	178	21.21
4 (Most important)	084	10.01
- (Blank)	010	

**(g) Law School Ranking**

Scale	Response	Percentage
1 (Not important)	102	12.17
2 (Important)	239	28.52
3 (Very important)	243	28.99
4 (Most important)	254	30.31
- (Blank)	011	

**Table IV: Relative importance of factors for choosing a Law School**

The above chart aggregates the responses on the relative importance of the seven chosen factors. If we examine the factors marked as ‘Most Important’, the highest proportion of responses relates to the quality of faculty members at an institution (42.26%). A sizeable chunk of the respondents has marked this factor as ‘Very Important’ (40.83%). It is heartening to note that an overwhelming majority of the student-respondents value the quality of teaching as the most important criteria for choosing a particular institution. This is a welcome change when compared to the long-entrenched stereotype about law students enrolled in India’s larger public universities being indifferent to the quality of classroom instruction. It indicates that the NLUs have succeeded to some extent in attracting students with healthy levels of motivation to pursue higher studies. This places an obligation on the NLUs to constantly enhance their teaching resources, whether it is in terms of the number of personnel available, the range of expertise available, the quality of instruction delivered and the extent of student satisfaction. These aspects are discussed with more depth in Chapter 3 which examines academic inputs. However, it must be remembered that these responses were generated from a sample of admitted students who

will ordinarily be in a much better position than incoming students when it comes to gauging the importance of teaching.

The 'Placement Track Record' comes across as the next most significant factor. 33.84% of the student-respondents have marked it as 'Most Important' while 38.61% have indicated that it is 'Very Important' and another 22.05% consider it to be 'Important'. This confirms the presumption that most of the admitted students are primarily viewing the pursuit of formal legal education as a means of securing lucrative employment. The expectation of securing high-paying jobs in the corporate legal sector appears to be the driving force behind the increase in the pool of applicants with each passing year. Undoubtedly, this trend is at odds with the original intention to produce law graduates who will pursue careers in courtroom advocacy, judicial offices, teaching and socio-legal research. However, it would also be quite unrealistic to deny these predilections especially on account of the high fee-structures at the NLUs which are pushing current students to prioritize careers that promise financial security in the short-run over those that entail an element of public service.<sup>66</sup> This would be especially true for students whose families have taken loans or parted with a significant chunk of their savings to pay the applicable fees. There is also a concern that not all of the existing NLUs are succeeding in delivering such beneficial outcomes for their graduates. While the more established ones (NLSIU Bangalore, NALSAR Hyderabad, WBNUJS Kolkata and NLU Jodhpur) regularly place a majority of their outgoing students in leading commercial law firms and business houses, comparable opportunities are not easily available at most of the other institutions that were surveyed. Hence, the respondents' emphasis on placements is more reflective of the students' aspirations at the time of securing admission rather than an informed comparison between the opportunities that are actually available at the respective institutions.

The next most significant factor appears to be 'Law School Ranking', with 30.31% of the respondents marking it as 'Most Important' and 28.99% describing it as 'Very Important'. The weightage given to this factor can be easily doubted since it is far more subjective than the other factors. A large number of applicants possibly turn towards popular magazines and websites to get a sense of where the various NLUs stand in the

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<sup>66</sup> See: Abhijeet S. Rawaley, 'National Law Universities: A Systemic Failure awaiting Rectification', *The Wire* (May 24, 2016). He argues that more public funding for the NLUs might help in controlling the fee-structures and mitigate the tendency among students to pursue employment opportunities in the corporate legal sector. It is not clear why this is more likely to happen with lower fee structures if well-paying employment opportunities continue to be available.

nation-wide rankings.<sup>67</sup> With the growth of private coaching services tailored to this segment, applicants might also be marking preferences on the basis of inputs gathered during the coaching process. There has been considerable debate about the credibility of the methodology used to arrive at these rankings as well as the year-to-year fluctuations in the ranks given to some of the well-known institutions.

Since the CLAT requires applicants to mark their respective preferences among the NLUs, the aggregative preferences of incoming students seem to be shaping their respective rankings when it comes to the allotment of seats. This has led to a circular situation where a representative sample of admitted students are acknowledging the importance of published rankings which are in turn derived from the preferences of aspirants, most of whom have not secured admission to the said institutions. So the rankings appear to be demand-driven, albeit with serious information gaps existing between the larger pool of applicants who indirectly shape them and the decidedly smaller number of admitted students who will eventually draw tangible reputational benefits from them. In the longer-run, this leads to a visible pattern of path-dependency which favours the institutions that have commenced operations at an earlier point of time. In the extreme case, the published rankings may not be commensurate with the quality of academic inputs available at a particular institution. For example, a newer institution that devotes considerable time and resources to faculty development and longitudinal research projects may struggle to place its graduates in the leading commercial law firms and businesses houses. This could be due to the absence of a dispersed alumni network which works to the advantage of relatively older institutions that may have otherwise become complacent when it comes to their core academic functions.

We had included the factor of ‘Physical Infrastructure’ on the premise that admitted students would be attentive to the quality of hostel accommodation, sufficiency of academic spaces such as regular classrooms and venues for programmes, access to library spaces, digital resources and facilities provided for sports among other activities. 15.97% of the respondents indicated that this was the ‘Most Important’ factor while 49.94% ranked it as ‘Very Important’ and 30.75% described it as ‘Important’. It should be kept in mind that NLU students are paying considerably higher fee-structures when compared to law departments and colleges that are part of larger public universities. So it is quite

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<sup>67</sup> Amongst the mainstream media sources in India, news magazines such as India Today, Outlook, The Week and Careers360 have been ranking law schools as part of annual exercises to rate higher education institutions. For a discussion on the credibility of these rankings, see: Kian Ganz, ‘How serious are College Rankings?’ *LiveMint* (July 27, 2012); Kian Ganz, ‘How to Choose the Best National Law Schools?’ *LiveMint* (May 26, 2015).

foreseeable that they will expect commensurate returns in terms of the quality of infrastructure made available.

Since many of the newly established NLUs require a few years to build the requisite facilities, the first few batches of incoming students do face difficulties. For instance, we have witnessed student-led protests at some of these institutions over issues such as delays in building hostels, poor quality of food provided and deficiencies in library resources. At some campuses, female students are required to follow different curfew times for returning to their hostels when compared with their male counterparts. Such administrative practices are discriminatory towards female students since they curtail access to library resources and the time that can be devoted for co-curricular activities in the after-class hours. Another major area of concern was the provision of facilities for sports and cultural activities. Since the coursework at the NLUs places considerable demands on the time and energy of full-time students, it is also important to provide them with some avenues for maintaining their health and participating in cultural activities such as music, dance and theatre to name a few.

We had also sought responses on the importance of the ‘Setting’ or Location of an institution. The proximity of a residential campus to relatively larger cities is often considered to be vital for gaining internship and employment opportunities. Furthermore, opportunities for regular interactions with other educational and cultural institutions can be beneficial since the NLUs are by and large monodisciplinary institutions. These interactions could be in the form of participation in seminars, college festivals and social service activities. Proximity to an urban centre also ensures better access to commercial and medical facilities. We consciously included this factor since many of the NLU campuses are located in peri-urban or semi-rural areas. Presumably, it would have been easier for the respective State Governments to allocate less valuable land in these areas as opposed to high-value areas that are closer to urban centres. On the flip side, choosing a relatively isolated location for a residential campus can pre-empt the ‘network effects’ that flow from being located close to a large urban centre.

However, the evidence from the NLUs is mixed in this regard. Some of the older NLUs such as NALSAR Hyderabad and NLU Jodhpur have consistently managed to secure good employment opportunities for their graduates despite being located in peri-urban areas. In these cases, it could be that the reputational capital earned by these institutions has helped them to overcome the locational disadvantages. More significantly, the nature of recruitment for commercial law firms is not substantially dependent on local familiarity as is the case with securing positions under leading advocates. Even in the case of the latter, the students interested in the same are able to build the requisite familiarity through internships at the offices where they are likely to gain employment. In

comparison, faculty members at the many of the newer NLUs (especially those which are less than a decade old at the time of writing) agreed that the location of their campuses has a strong correlation with the kind of employment opportunities that become available to their students. There was common agreement that an isolated location does reduce the scope for interactions with other educational institutions, which is in sharp contrast to the location of law departments inside larger Universities that enables informal exposure to several other academic disciplines and activities.<sup>68</sup> If we turn to the aggregated responses, this issue has not been accorded as much weightage as we had presumed. 8.33% of the respondents marked it as ‘Most Important’ while 29.88% of them considered it as ‘Very Important’. It was also quite clear that most of the admitted students were prepared to pursue higher education at locations that are distant from their hometowns. This observation is consistent with the trend in other disciplines as well where students routinely apply to higher educational institutions in other States, probably due to the higher reputational capital of those institutions.

The responses on factors such as ‘Fees’ and ‘Financial Assistance’ have not accorded as much importance to them as the other factors included in our question. On ‘Fees’, only 7.9% of the respondents have marked it as ‘Most Important’ while another 26.50% have considered it to be ‘Very Important’. In respect of ‘Financial Assistance’, 10.01% of the respondents have indicated it to be ‘Most Important’ while 21.21% have described it as ‘Very Important’. These numbers confirm our apprehension that a sample drawn from admitted students cannot give a representative view of how higher fee-structures and the absence of effective Financial Aid programmes might be undermining the objective of ensuring socio-economic diversity in these institutions. It goes without saying that a majority of the admitted students (and our student-respondents) are probably those who can afford the aggregate fees being charged by the respective institutions. Hence, it would be our suggestion to others interested in this aspect to conduct surveys among a broader sample of law school aspirants as opposed to students who are already enrolled in the NLUs. Section 2.2 in this chapter examines the impact of fee-structures and the forms of financial aid that can be made available to students who are in need.

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<sup>68</sup> In our informal interactions, some faculty members shared the view that residential campuses located in semi-rural areas are beneficial in the long-run due to relatively lower air-pollution levels and fewer ‘distractions’ for the younger students. On the other hand, students recounted problems such as difficulties in getting local transport, responding to medical emergencies and access to recreational facilities.

**Q.2. Is the current format of the Common Law Aptitude Test (CLAT) an optimal method for judging an applicant's aptitude?**

Scale	Response	Percentage
1 (Very Bad)	097	11.57
2 (Bad)	283	33.77
3 (No Input/ <i>Neutral</i> )	107	12.76
4 (Good)	320	38.18
5 (Very Good)	031	3.69
- (Blank)	011	

**Q.3 Is coaching essential to be successful in the CLAT?**

Scale	Response	Percentage
1 (Not Essential)	140	16.70
2 (Makes Little Difference)	246	29.35
3 (No Input/ <i>Neutral</i> )	033	3.93
4 (Makes Significant Difference)	298	35.56
5 (Essential)	121	14.43
- (Blank)	011	

**Q.4. Would you recommend the inclusion of 'Personal Interviews' or 'Group Discussions' as part of the admission process for the NLUs?**

Scale	Response	Percentage
1 (Very Bad Idea)	139	16.56
2 (Bad Idea)	157	18.71
3 (No Input/ <i>Neutral</i> )	101	12.03
4 (Good Idea)	266	31.70
5 (Very Good Idea)	176	20.97
- (Blank)	010	

In this section, Question 2 sought feedback on the suitability of the existing format of the Common Law Aptitude Test (CLAT) for judging an applicant's aptitude to pursue formal legal education. The aggregated responses to this question reflect a sharp division of views among the sample of admitted students. While only 3.69% of the respondents described the current format as 'Very Good', a substantial number (38.18%) considered it to be 'Good'. On the other hand, 33.77% of the respondents described it as 'Bad' and another 11.57% deemed it to be 'Very Bad'. The presumptive reason for such polarization of opinion is that while many admitted students may be reluctant to discredit their own performance in this entrance examination, others may have reflected on its limitations or may have themselves negotiated several difficulties arising from it.

Since its introduction in 2008, the CLAT has been conducted as a two-hour examination where applicants have to answer a set of 200 multiple-choice questions. The questions touch on areas such as logical reasoning, comprehension skills, basic mathematics, general knowledge and legal aptitude. Prior to the initiation of the CLAT, the older NLUs had conducted their own entrance examinations which included multiple-choice questions as well as those which required substantive answers such as short notes and essays. The commencement of the CLAT led to a significant expansion in the number of applicants. Evaluating substantive answers for an enlarged pool of applicants entails a much larger commitment of personnel, time and financial resources. It must be kept in mind that the exam is conducted by a different NLU each year on a rotational basis. The organizing institution has limited resources and personnel who can be tasked with organizing the admissions process in a given year. Hence, the present format of only including multiple-choice questions appears to be a pragmatic choice, given the growing number of applicants with each passing year.<sup>69</sup> Tests with multiple-choice questions can be evaluated faster and with lesser personnel owing to technology that enables ‘Optical Mark Recognition’ (OMR). This method also pre-empts criticisms about undue subjectivity in the entrance examination since the correct answers can be publicly announced and easily verified by the applicants.

However, this move towards standardization can also be criticized. Multiple-choice questions might entail effort-saving for those who organize admissions, but do not capture an applicant’s aptitude for theory-building and analytical writing, both of which are vital for meaningfully pursuing legal education. Making admission decisions solely on the basis of a two-hour exam appears to be unfair to school-leaving applicants who might better demonstrate their abilities through scrutiny of several factors taken together such as performance in school-leaving examinations, writing samples, letters of recommendation and achievements in co-curricular activities. However, such a holistic form of assessment may be hard to implement in the context of the NLUs. For starters, the scoring ranges in school-leaving examinations vary considerably across different school boards in India. Prioritizing performance in the same may lead to serious anomalies in the selection process. Giving weightage for components such as writing samples, recommendation letters and co-curricular achievements would heavily tilt the process in favour of students from affluent backgrounds.

Another concern has arisen from the transition to a fully computer-based test since 2015. Prior to that year, applicants appeared for this entrance examination in the conventional

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<sup>69</sup> See Table II in the introductory chapter which shows that CLAT 2008 had 10,773 applicants for the integrated five-year undergraduate programmes at the NLUs while CLAT 2018 saw this number growing to 44,565. That is more than a quadruple increase over a period of ten years.



‘pencil and paper’ mode. A computer-based test creates another barrier for students from underprivileged backgrounds who may not have much familiarity with the digital medium. Even otherwise, several applicants have reported difficulties with slow internet speeds at the designated test centres. Coming to the content of the CLAT, the inclusion of questions on legal aptitude has been questioned by some commentators since it expects school-leaving applicants to possess knowledge of fields such as the Law of Contracts, Law of Torts, Criminal Law and Indian Constitutional Law, all of which are subjects that are taught as part of a bachelor’s degree in law. It is argued that the entrance examination should judge a school-leaving student’s aptitude to study law (skills such as comprehension, writing and logical analysis) and not presume existing familiarity with the field.

This test has also attracted trenchant criticism for being conducted exclusively in the English language. This is quite unlike entrance examinations for courses in the humanities and social sciences at larger public universities which regularly conduct their entrance examinations in Indian languages alongside English. Limiting the entrance examination to the English language makes it extremely difficult for those who have completed their schooling in another medium of instruction. The primacy of English has fuelled concerns about the lack of socio-economic diversity in the composition of the student bodies. As mentioned earlier, the premium placed on English language proficiency creates a campus environment that favours those who have had early access to schooling in the said medium. In many cases, the lack of comfort with the English language is strongly correlated with disadvantages arising from caste, class and regional backgrounds. On the other hand, many would reason that the emphasis on English language skills is necessary given that it is the language used during proceedings in the higher courts as well as in other areas of practice such as transactional lawyering, legislative drafting and negotiations at international institutions. At this stage, it would be pertinent to mention that many of our faculty respondents at the older NLUs opined that since the introduction of the CLAT, a visibly higher number of students who struggle with communication in the English language are entering these institutions. This is in stark contrast to the pre-CLAT years when an overwhelming majority of incoming students would be from metropolitan backgrounds and display comfort with speaking and writing in English.

As noted in the introductory chapter, the actual administration of the CLAT has also invited controversy. Over the last decade, several co-ordination problems have been documented. In 2009, the exam had to be re-scheduled owing to the leakage of the question paper at one of the test centres. In 2011, the question paper had the correct answers underlined for 5 multiple-choice questions. In subsequent years, applicants and observers have frequently pointed out errors in the answer-keys published by the

respective organizing institutions. There have been a few instances where more than one option is marked as correct for multiple-choice questions that are supposed to have a definitive answer. Grievances have also arisen in respect of the allocation of seats, especially when it comes to the allotment of vacant seats after the completion of the regular rounds of counseling for shortlisted students. It is argued that the respective institutions do not adequately publicize the fact that they might have vacant seats, thereby enabling deviations from the norm of allocating seats on the basis of ‘merit-cum-preference’.

One shade of opinion is that these co-ordination problems are primarily caused due to the rotation of organisational responsibilities among the participating NLUs. This implies that in every academic year, the designated organizing institution plans and delivers the CLAT without prior experience of handling a public examination of this magnitude. Many of the newly established institutions lack experienced personnel who can effectively handle processes such as registration of applicants, framing of appropriate questions, publication of accurate answer-keys and the transparent allocation of seats to the shortlisted applicants. Hence, a constructive alternative could be that of establishing a permanent body to organize the CLAT.<sup>70</sup> This body could consist of representatives from all the participating NLUs with some staff members devoted to the organisational process. This would avoid the replication of administrative errors made by organizing institutions in the past. However, several faculty respondents in our study presented a counter-point to this proposal. They explained that organizing this examination has substantial monetary implications owing to the application fees charged from applicants.<sup>71</sup> So far, the practice has been that the organizing institution retains a substantial share of the collections from each year’s application fees while the remaining amount is equally distributed among the other NLUs. The proposed alternative of establishing a permanent body to organise the CLAT would presumptively entail an equitable distribution of the collections among all the participating NLUs in a given year, with no additional advantage for any one institution. Since several older institutions have already gained from the present arrangement, the relatively newer institutions would be reluctant to forego the revenue that can be earned through the continuation of the rotational policy in the foreseeable future.

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<sup>70</sup> See the following news-item: ‘Prof. Shamnad Basheer’s PIL for Permanent CLAT Body will be heard by Justice Thakur Bench on Friday’, *Live Law* (August 31, 2015).

<sup>71</sup> As an illustration, consider the numbers for CLAT 2017. Since each applicant pays Rs. 4,000 as application fees, the pool of 50,676 applicants would have generated collections in the proximity of Rs. 20 crores. This is a substantial source of income for most of the NLUs which receive limited grants from the respective State Governments for meeting their annual recurring expenses.

Another persistent criticism heard from test-takers is that of the nature of questions being too unpredictable from year to year. On the other hand, there have been successive years where the pattern of questions has been quite predictable. This raises apprehensions that too much predictability (which may extend to repetition of questions and sourcing of questions from well-known preparatory books) might be conferring undue advantages on applicants who can afford private coaching. Over the last two decades, there has undoubtedly been a proliferation of private coaching services that cater to those who are interested in pursuing formal legal education. Our intention was to examine whether the sample of admitted students demonstrates some awareness about the long-term implications of this trend, especially when it comes to effects on student diversity inside the NLUs. It is self-evident that applicants from disadvantaged backgrounds will find it difficult to pay for expensive private coaching services. In response to Question 3 in this section, 14.43% of the respondents were of the opinion that coaching is 'Essential' for success in the CLAT while 35.56% believed that it makes a 'Significant Difference'. In contrast, 29.35% of the respondents stated that it makes 'Little Difference' and 16.70% of the same sample considered it to be 'Not Essential'. Like the preceding question about the format of the CLAT, this set of responses also exhibits a sharp polarization of views among the respondents. We can only speculate that the respective positions might be reflective of the respondents' own experiences.

As explained earlier, the present format of the CLAT (which exclusively consists of multiple-choice questions) appears to be persisting due to pragmatic reasons such as those of certainty and efficiency. At the same time, it is also clear that this format is not a reliable predictor for the applicant's capacity to engage in theory-building and substantive argumentation. Verbal communication skills are also extremely important for law students. Therefore, we could examine a putative case for including 'Personal Interviews' or 'Group Discussions' as part of the admissions process. This is a common practice in the context of admissions to business schools. Some privately-run law schools in India have also incorporated these methods into their respective admissions processes. It is conceivable that the admissions process can be broken into two stages, with the computer-based test being the first filter and the candidates who cross the same being shortlisted for 'Personal Interviews' or 'Group Discussions' that can serve as a subsequent filter. We posed Question 4 in this section with this possibility in mind. While 20.97% of the respondents thought that the inclusion of these components was a 'Very Good Idea', another 31.70% accepted that it was a 'Good Idea'. On the other hand, 18.71% of the respondents described it as a 'Bad Idea' and 16.56% went further in opining that it was a 'Very Bad Idea'. Irrespective of this mixed response, it would be difficult to conduct 'Personal Interviews' or 'Group Discussions' for all applicants in a public examination like the CLAT. Apart from considerations of scale and the consequent transaction costs, there is an inherent risk of subjectivity in including an

assessment of verbal communication skills. It is likely to work against the interests of students who have not had access to English language instruction during their schooling. This would clearly amplify some of the other criticisms of the present format of the CLAT instead of mitigating them.

Another noteworthy development is the steady rise in the number of CLAT applicants for gaining admissions to postgraduate programmes at the various NLUs.<sup>72</sup> One reason for this is the introduction of the one-year LL.M. programme during the academic year 2013-2014. The shortening of the duration of the masters' programme was intended to reduce the opportunity costs for law graduates who opt for this route. A second reason for this notable increase is that the scores obtained in the CLAT for admissions to postgraduate programmes are also being used for recruitments to legal positions by several Public Sector Undertakings (PSUs) that offer good service conditions. However, many of our faculty respondents who teach courses for postgraduate students believe that the steady increase in the pool of applicants has not been accompanied by qualitative improvements in the preparedness of incoming LL.M. students for advanced study (discussed further in Section 3.3). One reason for the same is an evident mismatch between the expectations of incoming postgraduate students and the overarching institutional objectives behind offering a LL.M. programme. Most of the incoming LL.M. students appear to be under the belief that these programmes will enhance their prospects for recruitment in the corporate legal sector. On the other hand, the faculty members view the LL.M. programme as a forum for incubating careers in teaching and research. The coursework designed by them requires incoming students with a very different set of interests and motivations.

Before closing this section on the admissions process, we must take note of the other prominent entrance examinations that are being used to organize law school admissions in India. As mentioned in the introductory chapter, NLU Delhi has been conducting its own entrance exam called the All India Law Entrance Test (AILET) since its inception in 2008. HPNLU Shimla, which commenced operations in 2016, has also been organizing its own admissions process. It is not clear why these two institutions are not being compelled to join the CLAT process. Several privately-run law schools are relying on an exam called 'LSAT India' which is modeled on the Law School Admission Test (LSAT), the latter being a long-established test used for admitting law students in the United States of America. Unlike the CLAT that is organised on a rotational basis by the NLUs, 'LSAT India' is organised by Pearson, a publishing company that is well known for producing educational content. States such as Maharashtra and Andhra Pradesh have

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<sup>72</sup> See Table 1.2 in Chapter 1. In the last five years, the number of applicants for the LL.M. programmes at the NLUs has increased by more than four times, i.e. from 1,385 applicants in CLAT 2013 to 6,111 applicants for CLAT 2017.

introduced a ‘Common Entrance Test’ to streamline admissions for law departments and colleges that are affiliated to the State Universities located inside their respective territories. Some private educational institutions like Amity University and Symbiosis Law School organize their own admissions process to jointly decide on admissions for their multiple branch campuses.

## **2.2 Fee Structures and Financial Aid Programmes**

The fee-structures at the NLUs are considerably high by Indian standards, especially when compared with other public institutions that offer legal education.<sup>73</sup> To note an illustrative comparison for the academic year 2017-2018, the annual tuition fee for Indian nationals gaining admission to the five-year integrated B.A., LL.B. (Hons.) programme at NLSIU Bangalore was Rs. 80,000 while at the Campus Law Centre in Delhi University the incoming students for the three year LL.B. programme were required to pay Rs. 7,500 per annum. If we look at the aggregate fees charged by the various NLUs, the pursuit of a five-year undergraduate programme entails an investment ranging between Rs. 10-12 Lakhs. The amounts mentioned in the following table are inclusive of annual tuition fees, hostel rents, charges for other services and one-time refundable deposits collected at the time of admission. They do not include monthly food bills. For the sake of symmetrical comparison, we have quoted the numbers that are applicable to Indian nationals admitted to general category seats in the five-year integrated undergraduate programmes. The fees charged for ‘Foreign Nationals’ and ‘Non-Resident Indians’ are much higher, usually by a factor of 3-4 times. In comparison, the fees charged for LL.M. students tend to be 20-30% lower than the numbers quoted below.

**Table V: Fee structures for incoming students at the NLUs (AY 2017-2018)**

<b>S. No.</b>	<b>Institution</b>	<b>Annual fees for incoming students in undergraduate programmes (AY 2017-2018)</b>
1.	NLSIU Bangalore	Rs. 1,98,700 -/-
2.	NALSAR Hyderabad	Rs. 2,32,000 -/-
3.	NLIU Bhopal	Rs. 2,30,250 -/-
4.	WBNUJS Kolkata	Rs. 2,06,000 -/-
5.	NLU Jodhpur	Rs. 2,04,500 -/-

<sup>73</sup> It would be improper to make comparisons with private universities that are offering legal education in residential campuses. Some of the well-known ones such as Symbiosis Law School (Pune, Noida and Hyderabad), Jindal Global Law School (Sonapat), KIIT Law School (Bhubaneswar) and Institute of Law Nirma University (Ahmedabad) have much higher annual tuition fees.

6.	HNLU Raipur	Rs. 1,75,000 -/-
7.	GNLU Gandhinagar	Rs. 2,36,000 -/-
8.	RMLNLU Lucknow	Rs. 1,19,000 -/-
9.	RGNUL Patiala	Rs. 1,93,000 -/-
10.	CNLU Patna	Rs. 2,01,500 -/-
11.	NUALS Kochi	Rs. 1,90,000 -/-
12.	NLU Delhi	Rs. 1,66,000 -/-
13.	DSNLU Vishakhapatnam	Rs. 1,95,000 -/-
14.	NLU Odisha	Rs. 1,81,000 -/-
15.	NUSRL Ranchi	Rs. 2,12,000 -/-
16.	NLUJA Assam	Rs. 1,84,000 -/-
17.	TNNLS Trichy	Rs. 1,93,000 -/-
18.	MNLU Mumbai	Rs. 3,32,500 -/- (Maharashtra Domicile) Rs. 3,70,000 -/- (Other States)
19.	MNLU Nagpur	Rs. 1,88,750 -/- (Maharashtra Domicile) Rs. 2,15,000 -/- (Other States)
20.	HPNLU Shimla	Rs. 2,00,500 -/-
21.	MNLU Aurangabad	Rs. 1,88,750 -/- (Maharashtra Domicile) Rs. 2,15,000 -/- (Other States)

**Q.5. How would you rate the annual fees charged by your institution?**

Scale	Response	Percentage
1 (Very Low)	013	1.55
2 (Low)	080	9.54
3 (No Input/Neutral)	110	13.12
4 (High)	400	47.73
5 (Very High)	235	28.04
- (Blank)	011	

Quite predictably, 28.04% of our respondents opined that the fee-structures at the NLUs are ‘Very High’ while 47.73% considered them to be ‘High’. Apart from seeking quantifiable responses, this question also invited comments. More than one-fourth of our sample of admitted students expressed their views. At least, 88 comments converged on the belief that the fees charged were not commensurate with the quality of services provided, be it the physical infrastructure, quality of teaching or facilitation of internship and employment opportunities. 44 respondents emphasized that the prevalent fee structure was the primary obstacle for ensuring socio-economic diversity inside the NLUs. It is abundantly clear that the high fee structures would have a significant impact on the socio-economic profile of students who choose to enroll in these institutions. The

option of applying to the NLUs would not be seriously considered by families who cannot ordinarily set aside such amounts for their children's higher education.

At least 35 respondents stressed upon comparisons with fee-structures for other professional courses such as Engineering or Medicine. It was pointed out that highly selective institutions of a public character such as the Indian Institutes of Technology (IITs), the National Institutes of Technology (NITs), and the All India Institute of Medical Sciences (AIIMS) charge comparatively lower fees for these courses. However, the fee structures of these institutions have also been consistently rising in the recent past. There was also a pointed reference to the need for transparency in financial matters. A few respondents also desired uniformity in the fee-structures of the various NLUs since substantial variations in the same may be pushing applicants with limited means to make suboptimal decisions when it comes to choosing between institutions. Another shade of opinion was that the present fee-structures could be justified if they were accompanied by robust provisions for financial assistance to those students who are in need. Even among students from middle-class backgrounds who do get admitted to the NLUs, the high fees are generating expectations that they will work towards securing lucrative employment opportunities (discussed further in Section 3.4). Such expectations tend to have an impact on how students view the academic experience, especially in terms of choosing among elective courses and prioritizing some activities over others (Gingerich & Robinson 2014, Sood 2017).<sup>74</sup>

From the standpoint of those administering the NLUs, the most commonly cited justification for the relatively higher fee-structures was that of limited financial support from the respective State Governments to meet their recurring expenses.<sup>75</sup> Residential campuses require considerable spending on estate maintenance, service-delivery, payments for essential utilities and wage-payments for non-teaching staff. This is over and above the recurring expenditure for academic purposes such as teachers' salaries,

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<sup>74</sup> For a recent evidence-based discussion of this issue, See: Jonathan Gingerich & Nicholas Robinson, 'Responding to the Market: The Impact of the Rise of Corporate Law Firms on Elite Legal Education in India' at pp. 519-547 in David B. Wilkins, Vikramaditya S. Khanna & David M. Trubek (eds.), *The Indian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and its Impact on Lawyers and Society* (Cambridge University Press, 2017). Also see: Mansi Sood, 'Legal Education and Its Outcomes: Digging Deeper into the successes and failures of India's National Law Schools' [Working Paper available through *Social Science Research Network (SSRN)*, November 2017].

<sup>75</sup> For illustrative discussions of this problem, see: Kian Ganz, 'Funding Crunch looms over Indian Law Schools', *LiveMint* (April 26, 2012); Aditya A.K., 'Interview with B.C. Nirmal, Vice-Chancellor, NUSRL Ranchi', *Bar and Bench* (January 2, 2015).

library procurement, subscriptions for digital resources and material support for research and extension activities. This leads to excessive dependence on fees paid by full-time students in order to maintain fiscal health. Apart from public funds and fees paid by full-time students, other sources of funding can include fees collected from distance education programmes, provision of specialized consultancy services and externally sponsored research-projects, training programmes, conferences and workshops. However, the income generated from these sources is unlikely to be sufficient for capital expenditure such as expansion of physical infrastructure.

During the course of our visits, officials at NLU Delhi, RMLNLU Lucknow, HNLU Raipur and GNLU Gandhinagar conveyed the impression that their respective institutions are in good financial health. Representatives at most of the other NLUs portrayed a situation where there are serious difficulties on this front. Unfortunately, none of the participating institutions provided us with their most recent annual financial statements which would have enabled a more thorough analysis of this problem. Only NLSIU Bangalore has adopted the practice of regularly uploading annual financial statements on its official website. One suggestion in this regard is that all the NLUs should mandatorily upload their annual financial statements on the respective websites after they have been duly audited and approved. This would pre-empt unsubstantiated allegations of misallocation or misappropriation of funds, while also enabling a more informed debate about their financial position.

#### **Q.6. How would you rate the application fee charged for the CLAT?**

<b>Scale</b>	<b>Response</b>	<b>Percentage</b>
1 (Very Low)	009	1.09
2 (Low)	078	9.45
3 (No Input/Neutral)	132	16.00
4 (High)	342	41.45
5 (Very High)	264	32.00
- (Blank)	024	

In the admission cycle for the 2017-2018 academic year, the application fee for the CLAT was Rs. 4,000 per student. In comparison, the AILET (used by NLU Delhi) had an application fee of Rs. 3,000 per student while the privately-administered 'LSAT India' examination required each applicant to pay Rs. 3,800. We sought feedback on the quantum of the CLAT application fee, since a high amount charged at this stage can deter applicants from underprivileged backgrounds. 32% of the respondents considered it to be 'Very High' while another 41.45% agreed that it was 'High'. It should be noted that this response came from admitted students, a majority of whom presumably have the means to pay the annual fees at their respective institutions. Since this question also elicited



comments, at least 34 respondents drew comparisons with the application fees charged by public educational institutions for entering professional courses in other fields. 24 respondents opined that the present application fees was unreasonable for the Indian context, while as many as 64 respondents converged on the observation that unduly high application fees effectively price out a large pool of prospective applicants from economically weaker backgrounds. Only 17 respondents described the quantum of the application fee as justifiable.

We had earlier mentioned that the collections from the CLAT applications are distributed among the participating NLUs with the largest share retained by the organizing institution for a particular year. Under this arrangement, with each passing year the gradually increasing organisational costs year would reduce the collections for each institution, assuming that the application fee remains unchanged. The same consequences would also flow from the frequent addition of newer participating institutions in the absence of a proportionate rise in the total number of applicants. Keeping these possibilities in mind, the official stance of the CLAT Co-ordination Committee has been that of rejecting demands for reduction of the application fees.

**Q.7. How would you rate the CLAT admission process as a whole?**

Scale	Response	Percentage
1 (Very Complex)	086	10.48
2 (Somewhat Complex)	329	40.12
3 (No Input/ <i>Neutral</i> )	071	8.65
4 (Simple)	309	37.68
5 (Very Simple)	025	3.04
- (Blank)	029	

The inclusion of this question requires a brief background. The CLAT admission process consists of several stages such as (i) the initial registration process where candidates have to mark preferences among the participating institutions, (ii) the administration of a computer-based test that consists of 200 multiple-choice questions, (iii) on being shortlisted, payment of deposits to the organising institution and (iv) ultimately securing admission to one of the participating institutions based on the relative performance in the test. While this sequence may also be found in other public examinations, the actual experience of going through the same can be viewed in a qualitative manner. The publication of the examination dates through notifications on a website and English-language newspapers may not be effective in a large multi-lingual country like ours. It also needs to be done through publications in several Indian languages in order to expand the pool of applicants. Applicants may not have credible information to mark their respective preferences among the participating institutions. Anecdotal evidence suggests

that most admitted students had marked their institutional preferences based on feedback from private coaching services and rankings published in popular media sources. In Section 2.1 of this report, we had surveyed the criticisms directed against the present format of the CLAT which consists of multiple-choice questions that have to be answered through a computer-based test. There are also concerns about transparency when it comes to the final allocation of seats, especially where candidates are upgraded based on their preferences or where vacant seats are filled up without them being adequately publicized by the concerned institution. In response to our question about the overall process, 10.48% of the respondents described it as ‘Very Complex’ while another 40.12% described it as ‘Somewhat Complex’. The fact that more than half of our sample of admitted students considered the CLAT admission process to be a complex one should provide some food for thought for the organizers.

**Q.8. Do you think that the financial assistance schemes provided are sufficient?**

Scale	Response	Percentage
1 (Very Low)	241	29.71
2 (Low)	318	39.21
3 (No Input/ <i>Neutral</i> )	194	23.92
4 (High)	051	6.28
5 (Very High)	007	0.86
- (Blank)	038	

**Q.9. Does your institution provide assistance to students for obtaining educational loans from banks and other financial institutions?**

Scale	Response	Percentage
Yes	304	37.16
No	164	20.04
Can't say/Don't know	350	42.78
- (Blank)	031	

It is imperative to seriously scrutinize the financial aid programmes that are available at each of the NLUs. They could entail different forms of support for students who ordinarily cannot afford to study in these institutions. One route is through facilitation of government-administered scholarships. For example, the Ministry of Social Justice and Empowerment awards annual scholarships to students from Scheduled Castes (SC) and Scheduled Tribes (ST) to pursue higher studies. A second route is that the institution itself can constitute faculty-led committees to consider the case of individual students who need fee waivers. Instead of going by recent academic performance, it is important to holistically assess the socio-economic disadvantages faced by an applicant while considering their eligibility for fee waivers. A third route is that of facilitating the

provision of education loans from banks with relatively easier terms of repayment after completion of studies. A fourth institutional route is that of scholarships created through contributions made by private donors. Among the NLUs, private donors typically include prominent legal practitioners, law firms, business houses and charitable trusts. In this context, Increasing Diversity by Increasing Access (IDIA), a voluntary sector organisation, has already done some excellent work in gathering contributions from donors and channeling them towards students in need. In a few instances, alumni have come together to institute scholarships for the benefit of present students from underprivileged backgrounds.<sup>76</sup> As most of the NLUs are yet to develop a substantial base of alumni, this route may become an important source of material and intellectual support with the passage of time. In the long-run, the alumni of an institution have a strong incentive to protect and enhance the reputational capital earned by their alma mater.

In response to our question about the sufficiency of the financial assistance schemes at the respective participating institutions, 29.71% of our respondents considered the level of support to be ‘Very Low’ and 39.21% described it as ‘Low’. Most worryingly, 23.92% of the respondents did not answer the question, which shows lack of awareness or indifference towards this issue. On the more specific question about the availability of institutional assistance for obtaining educational loans from banks, 37.16% of the respondents replied in the affirmative while 20.04% answered in the negative and 42.78% expressed lack of awareness. By themselves, these cumulative responses don’t demonstrate too much since we were not able to separately verify the quantum of financial assistance provided by each NLU. In that sense, our aggregative presentation of responses to these questions is not very useful since we should have first ascertained the quantum of financial assistance available at each institution and then broken down the responses gathered in relation to each of them. That would have led to a more targeted and actionable description of the problem. Despite this flaw, the high number of respondents who expressed lack of awareness about financial aid programmes shows that the institutions themselves need to do a lot more to publicize the different avenues for financial assistance that are available for students in need.

We encountered two specific problems in the administration of financial aid programmes at the participating institutions. One of them arises from the time taken for the processing

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<sup>76</sup> For example, at NLSIU Bangalore the graduates from the 1999 and 2006 batches have made financial contributions to institute scholarships for students who are in need. Graduates from the 1996 batch made a substantial contribution to upgrade the sports facilities on the campus. Several alumni regularly contribute towards student-organised activities and to support present students who represent the institution in prestigious international competitions. In 2016, the institution has also framed a progressive policy for financial assistance after inviting feedback from IDIA.

of Central Government Scholarships for SC/ST students. Some of the NLUs require incoming students to pay the annual fees in advance, while the scholarship amount is typically refunded to the student after the institution receives the amount from the Central Government. This process sometimes takes the better part of an academic year since it involves several administrative steps. It is difficult for some applicants to pay the initial round of fees at the time of admission. It can prove to be a very heavy burden for families from underprivileged backgrounds. Hence, a more beneficial approach would be to not insist on the payment of the full fees by incoming students who are eligible to receive the Central Government scholarships in due course. A second problem highlighted across the participating institutions was the situation of students from relatively impoverished backgrounds who are not from the SC/ST categories and are hence not eligible to receive the Central Government scholarships mentioned earlier. The perception seems to be that these students have a much lower chance of being considered for the fee-waivers given by the particular institutions and that the only realistic route available for them is that of obtaining educational loans. This creates a positive obligation on the NLUs to provide assistance through these routes. It is also conceivable that students coming from a comfortable financial background at the time of their admission may subsequently face difficulties in paying fees during the course of their studies, possibly due to the demise or incapacitation of the income-earning members in their respective families.

### **2.3 Student Diversity and Policy regarding Allocation of Seats**

#### **Q.10. How would you rate the diversity among students across batches in your institution?**

(The question clarified that the markers of diversity included gender, caste, religion, economic capacity, urban-rural divide and disability among others).

<b>Scale</b>	<b>Response</b>	<b>Percentage</b>
1 (Very Low)	104	12.82
2 (Low)	203	25.03
3 (No Input/ <i>Neutral</i> )	052	6.41
4 (High)	361	44.51
5 (Very High)	091	11.22
- (Blank)	038	

While the seat allocation for incoming students at each NLU is published in the CLAT brochure each year, we thought it would be instructive to gather student opinion on the policies guiding it. While the NLUs are legally obliged to reserve seats in favour of students identifying themselves with the Scheduled Castes (SC), the Scheduled Tribes (ST) and as Persons with Disabilities, there is considerable variance among them in respect of domiciliary quotas (i.e. seats reserved for applicants from the particular State

where the institution is located) and seats earmarked for ‘Foreign Nationals’ and ‘Non-Resident Indians (NRIs)’ among other categories. As indicated above, we asked our respondents a generic question about the exposure to diversity among their peers instead of probing them about a particular marker of diversity. To some extent, that was a deliberate choice since surveys with quantifiable answers cannot facilitate a serious engagement with the question of student diversity. While 12.82% of our respondents indicated that the exposure to diversity among fellow students was ‘Very Low’, another 25.03% described it as ‘Low’. On the other hand, as many as 44.51% of the respondents opined that the existing levels of student diversity were ‘High’ and another 11.22% felt that they were ‘Very High’. This sharp divergence of views can only be explained if we had generated granular data on the individual circumstances of our student-respondents. Such data could be used to test the hypothesis that students who themselves come from socially and economically disadvantaged backgrounds are more likely to be attentive to the lack of diversity inside higher educational institutions. The present study has not gone that far.

This question had also solicited comments. 31 respondents offered the view that the student body in their respective institutions was already quite diverse. However, a much larger number of respondents wrote about deficiencies in this regard. 22 respondents pointed out that the institutional environment is quite difficult for students from rural backgrounds, both in terms of approaching the coursework and social interactions outside the classroom. Another 38 respondents said that there was negligible diversity when it comes to class-based distinctions in our society. According to them, a majority of students who secure admission through the reserved seats also tend to come from economically comfortable backgrounds, thereby replicating the ‘creamy layer’ problem which has been discussed in the context of reservations in public employment. 8 students raised concerns about the skewed gender ratio on their campuses and 27 respondents brought up the lack of religious diversity, especially given the visible under-representation of Muslims inside the NLUs. There were 6 respondents who brought up the issue of apathy towards the needs of Persons with Disabilities. 5 students left specific comments on the lack of structural support for students from the Scheduled Castes (SC) and the Scheduled Tribes (ST) especially when they face explicit forms of caste-based prejudice (discussed further in Section 3.2).

In comparison to the concerns outlined above, the subject of domiciliary quotas received a lot more attention. A majority of the NLUs (with the exception of NLSIU Bangalore, NLU Jodhpur, NLU Delhi and NLU Odisha) have specified thresholds for admitting students who are residents of the respective States where they are located. The extent of these domiciliary quotas ranges from 20% to 50% of the seats available at an institution in a given year. Given this fact, at least 72 respondents in our survey expressed the view

that large domiciliary allocations undermined the cause of building an educational institution with a national character apart from limiting the student's exposure to cultural diversity.<sup>77</sup> On the other hand, such domiciliary quotas can be defended as a necessary implication of receiving regular financial support from the respective State Governments. It must also be remembered that all the NLUs presently bear the legal character of State Universities and have benefited from allocation of land and financial grants for building their campuses. Many State Governments may view domiciliary quotas as a form of tangible returns on the public investment made in these institutions. So the NLUs need to demonstrate their distinctive character in order to pursue the objective of ensuring a national profile in the composition of their student body.

Several respondents also raised concerns about the earmarking of seats for 'Foreign Nationals' and 'Non-Resident Indians (NRIs)'. This practice is presumptively followed to facilitate cross-cultural exposure and to provide avenues for legal education to students who come from the Indian diaspora. The applicants for seats in these categories are not required to appear for the CLAT and are assessed separately by each institution, largely on the basis of academic performance in their school-leaving examinations. However, the tuition fees charged from these applicants are much higher than those charged from Indian nationals, usually by a factor of 3-4 times. The prescription of higher fee-structures for these categories appears to be based on the premise of attracting students from developed countries, whereas most applicants for these seats come from developing economies like ours, especially the SAARC countries. If a particular institution announces an inter-se preference for applicants from SAARC countries in admitting foreign nationals, perhaps there is a case for a reduction in the tuition fees charged from them. While some of the NLUs earmark a few seats for 'Non-Resident Indians (NRIs)', a few of them also have allocations for 'NRI-Sponsored' candidates. There are good arguments for discontinuing the latter category (i.e. seats for 'NRI-Sponsored' candidates) since they create a perception that undeserving candidates can secure admission by virtue of having relatives living abroad and paying higher fees.<sup>78</sup>

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<sup>77</sup> It can also be argued that there is no strict correlation between the implementation of 'domiciliary quotas' and the criterion of 'social and educational backwardness' as contemplated in Article 15(4) of the Constitution of India which enables reservation of seats in public universities. However, there are numerous decisions of the Supreme Court of India which have expanded the protective ambit of Article 15(4) to include domicile reservations made under the authority of State-Level legislations.

<sup>78</sup> For a recent comment on this issue, see: Chirayu Jain, 'Constitutionality and Legality of Foreign National/NRI/NRI-Sponsored Reservation Quotas', 53(5) *Economic and Political Weekly* (February 3, 2018).

### **CHAPTER 3: HOW CAN WE REFORM ACADEMIC AND ADMINISTRATIVE PROCESSES?**

Ensuring high standards of instruction by teachers and effective learning on part of students is a challenging task which calls for attention towards several factors. Investments in human resources need to be supplemented with deep thinking about course design, adequate investments in physical infrastructure and measures designed to ensure meaningful social support among residential campus communities. While the National Law Universities (NLUs) appear to have succeeded to some extent in attracting talented and motivated students, the same cannot be confidently stated in respect of the quality of teachers. Especially with the rapid growth in the number and size of these institutions, there are genuine difficulties in developing teaching capacity, both in terms of the number of personnel needed and the dissemination of effective teaching techniques. In such a scenario, it is absolutely vital to think of strategies for continuously improving the performance of faculty members while also ensuring that those with the relevant professional expertise are closely involved in moulding the next generation of law graduates. We often make the mistake of framing discussions about academic practices by invoking the tangible interests of teachers, the latter being readily identified with matters such as the accumulation of personal credentials and career advancement. In comparison to these interests, it is far more important to foreground the interests of the students who enrol in these institutions with high expectations.

In this chapter, Section 3.1 examines the responses to our questions about curricular structures and practices. Our queries dealt with the desirability and extent of flexibility made available within the coursework, the prescriptions for research-based project assignments, the use of tutorials in addition to regular class hours and the methods used to assess the performance of faculty members. Section 3.2 proceeds towards questions about the support structures made available for students. While some of these questions are closely related to academic processes such as examinations, there are others which touch on broader issues such as the prevention and mitigation of discriminatory behaviour within an institution. These are becoming increasingly significant in the context of residential campuses that offer an intensive educational experience. Section 3.3 outlines some pathways for reforms in academic and administrative processes. These include the meaningful appraisal of teaching performance, improvements in service-conditions for faculty members, the sharing of academic resources between institutions, the consolidation of postgraduate and research programmes, the promotion of interdisciplinary learning, support for longitudinal research projects and the expansion of extension activities (such as Clinical Programmes, Distance Education Programmes and Continuing Legal Education). There are also some changes that could be considered in respect of the governance structures of the NLUs. Most of these areas need attention

within each institution while a few of them require meaningful inter-institutional collaborations. Section 3.4 returns to the concerns about the career trajectories of NLU graduates. While it is widely believed that most of the graduates are orienting themselves for careers in the corporate legal sector, there is an overarching obligation on part of the institutions to create an enabling environment for the pursuit of career opportunities in other socially productive avenues. While some of the questions discussed in this chapter elicited quantifiable responses, there were several queries which exclusively sought opinions from the respondents. Hence the discussion alternates between inferences drawn from the aggregation of student responses and a representative coverage of issues raised in the faculty and student responses.

### **3.1 Curricular Structures and Practices**

**Q.11. How would you rate the sufficiency of compulsory courses prescribed by the Bar Council of India (BCI)?**

Scale	Response	Percentage
1 (Very Inadequate)	046	5.92
2 (Inadequate)	209	26.89
3 (No Input/ <i>Neutral</i> )	097	12.48
4 (Adequate)	400	51.48
5 (Very Adequate)	025	3.21
- (Blank)	072	

**Q.12. How would you rate the sufficiency of compulsory courses at your institution and the stage at which they are introduced?**

Scale	Response	Percentage
1 (Very Low)	077	9.83
2 (Low)	259	33.07
3 (No Input/ <i>Neutral</i> )	105	13.40
4 (High)	316	40.35
5 (Very High)	026	3.32
- (Blank)	066	

**Q.13. Is there a Choice-Based Credit System (CBCS) available to the students?**

Scale	Response	Percentage
Yes	383	49.80
No	224	29.12
Can't say/Don't know	162	21.06
- (Blank)	080	



**Q.14. How satisfied are you with the breadth of optional courses offered at your institution?**

Scale	Response	Percentage
1 (Very Bad)	164	21.07
2 (Bad)	237	30.46
3 (No Input/ <i>Neutral</i> )	098	12.59
4 (Good)	238	30.59
5 (Very Good)	041	5.26
- (Blank)	071	

The discussion on the quality of teaching is intertwined with debates about the curricular structure that is followed at different institutions. A moot point is whether it makes sense to prescribe a uniform curricular structure in a country as vast and diverse as India. While the Bar Council of India's Rules on Legal Education (2008) stipulate a demarcation between 'compulsory' and 'optional' courses, more nuanced deliberations are needed to work out a pragmatic balance for each institution while bearing in mind local specificities and availability of teachers. Given that the NLUs enjoy a certain degree of academic autonomy that is not available to departments and colleges that are part of larger public universities, it is worthwhile to briefly sketch how this autonomy has been used in relation to curriculum design.

If we take the five-year integrated B.A., LL.B. programme as a representative example, there are two models prevailing at the moment. NLSIU Bangalore and NLIU Bhopal are following a 'trimester' model, wherein each academic year is broken into three equivalent terms of nearly 13 weeks each. During each term, students ordinarily complete 4 courses, implying that the programme as a whole requires the completion of 60 courses over a duration of five years. All the other NLUs are following the 'semester' model, wherein each academic year is broken into two equivalent terms of 17-18 weeks each. Students ordinarily complete 5 courses in each semester, implying that the programme as a whole requires the completion of 50 courses over a duration of five years. The courses delivered to the students are usually divided into:-

- (i) 'Compulsory' subjects as prescribed under the BCI Rules on Legal Education, 2008. Most of these are taught courses which are assessed through written examinations, project assignments and presentations made by students. This list also includes 'Clinical' courses which are practice-oriented and entail students honing their skills through simulated activities.
- (ii) 'Optional' subjects that can be further sub-classified as:-

- (a) 'Elective' courses (taught courses substantially assessed through written examinations);
- (b) 'Seminar' courses (discussion-based courses assessed through research papers);

**Table VI: List of compulsory subjects prescribed for completing a bachelor's degree in law (LL.B.) under BCI Rules on Legal Education, 2008 (Schedule II)**

1. Jurisprudence (Legal Methods, Indian Legal System and Basic Theories of Law)	14. Administrative Law
2. Law of Contracts I - General Principles	15. Company Law
3. Law of Contracts II - Special Contracts	16. Public International Law
4. Law of Torts (including Motor Vehicles Act and Consumer Protection Act)	17. Principles of Taxation Law
5. Family Law I – Marriage and Divorce	18. Environmental Law
6. Family Law II – Inheritance and Succession	19. Labour Law I
7. Criminal Law I – Indian Penal Code and Offences under other Legislations	20. Labour Law II
8. Criminal Law II – Criminal Procedure Code	<b>Clinical Courses</b>
9. Constitutional Law I – Structures of Governance (Federalism, Separation of Powers)	21. Drafting of Pleadings and Conveyancing
10. Constitutional Law II – Adjudication and Enforcement of Fundamental Rights	22. Professional Ethics and Professional Accounting Systems
11. Property Law	23. Alternative Dispute Resolution (ADR)
12. Law of Evidence	24. Moot Court Exercises & Internships
13. Civil Procedure Code and Limitation Act	

Among the other subjects that are prescribed for the five-year integrated B.A., LL.B. programme, students are required to complete foundational courses in disciplines such as History, Economics, Political Science, Sociology and English. The usual pattern is that the first course in each of these disciplines introduces the architecture of knowledge in the respective field while the second course emphasizes the linkages between that discipline and the formal study of law. At most of the NLUs, the subjects that introduce these disciplines are interspersed with law subjects during the first two years of undergraduate studies. Some of them also offer integrated programmes such as B.B.A., LL.B., B.Com., LL.B. and B.Sc., LL.B. that include courses devoted to business administration, commerce and science subjects respectively. While the inclusion of these courses was intended to create an interdisciplinary orientation among faculty members and students, there are some pointed concerns about the actualisation of this objective. They range from the marginalisation of teachers engaged for these disciplines (especially

when it comes to academic decision-making and career advancement) to the relative indifference of students who often fail to grasp the importance of interdisciplinary learning (discussed further in Section 3.3).

The BCI Rules on Legal Education, 2008 also contain a suggestive list of optional subjects that can be taught to construct thematic specializations in ‘Constitutional Law’, ‘Business Law’, ‘International Trade Law’, ‘Criminal Law’, ‘International Law’, ‘Law and Agriculture’ and ‘Intellectual Property Law’ among other sub-fields, with institutions retaining the autonomy to initiate specializations in areas that have not been enumerated. The actual breadth of optional courses offered and delivered at each institution depends on the availability of teachers and requisite resources. The prevailing wisdom is that giving students more flexibility in coursework will enable them to better align academic pursuits with their interests and subsequent career objectives. By providing for such flexibility during the later years of the undergraduate programme, we may be able to curtail the problem of student apathy which seems to kick in by that stage.<sup>79</sup> Another argument for such a diversification of the curriculum is that it enables faculty members to design and deliver courses that better reflect their distinctive research interests. This would ensure that students can directly benefit from the research expertise of the faculty members.

However, there is also a countervailing concern that too much flexibility in these undergraduate programmes will limit the students’ exposure to the various sub-fields within legal studies. Furthermore in the immediate context of the NLUs, the worry is that students who are paying substantial fees will gravitate towards optional courses that are closely tied to the needs of the corporate legal sector while ignoring other areas of academic inquiry. Yet another localized criticism is that if students are free to choose among optional courses, most of them will opt for those taught by teachers who are known to be lenient in evaluation and make lesser demands in respect of reading assignments and class participation requirements. This may lead to oversubscription in optional courses which do not substantially enhance the student’s knowledge or skill levels while at the same time the instructors who enforce more rigorous standards are likely to be left with smaller class sizes.<sup>80</sup>

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<sup>79</sup> For a description of the causes of this problem, See: Divya Venugopal, ‘The Elephant in the Room: Dealing with Final Year Disengagement’, 7(1) *NALSAR Student Law Review* 62-75 (2008).

<sup>80</sup> In many ways, this kind of strategic behaviour mirrors that of practicing advocates who resort to ‘bench-hunting’ or ‘forum-shopping’ in order to seek favourable outcomes. It is worthwhile to reflect on whether the provision of a Choice-Based Credit System (CBCS) at autonomous educational institutions (where the teachers who deliver classes also evaluate their own students) provides an early impetus for students to internalise such an approach to their work.

Irrespective of the factors outlined above, all of the institutions covered in our study have introduced a certain extent of flexibility in their curricular practices. In most cases, students in the final year of the five-year integrated programmes can opt for some elective courses. However, only a few NLUs have implemented a Choice-Based Credit System (CBCS) in the substantive sense by introducing optional subjects during the earlier years of study. In its original curricular structure that was followed for nearly three decades, NLSIU Bangalore provided for 8 optional subjects in the 5<sup>th</sup> year, which accounted for approximately 13% of the aggregate coursework. However, the same institution has moved towards more flexibility in the academic year 2017-2018, with optional subjects commencing during the 3<sup>rd</sup> year of undergraduate studies. In this respect, WBNUJS Kolkata had been the first mover among the NLUs with a Choice-Based Credit System (CBCS) introduced in 2008-2009 wherein optional subjects commence in the 3<sup>rd</sup> year. NALSAR Hyderabad started a comparable transition in 2012-2013, with the coursework during 4<sup>th</sup> and 5<sup>th</sup> year largely consisting of optional subjects with a clear demarcation between Elective, Seminar and Clinical courses. Now that this transition is complete, the optional subjects account for 36% of the aggregate coursework in the five-year integrated undergraduate programme. Institutions such as RGNUL Patiala and NLU Odisha allow their undergraduate students to obtain a thematic specialization by picking a designated cluster of subjects during the 4<sup>th</sup> and 5<sup>th</sup> year of studies. In such cases, the student can be awarded a first degree in law with honors in the respective area of specialization.

If we turn towards the LL.M. programme (Masters' in Law), the University Grants Commission (UGC) has laid down some prescriptions for its curricular structure from time to time.<sup>81</sup> The most recent set of prescriptions appear in a document that directed the transition towards a one-year LL.M. programme beginning in the academic year 2013-2014. Accordingly, this programme now requires enrolled students to complete three compulsory subjects, six optional subjects and a master's level dissertation within an academic year. The three compulsory subjects are as follows:-

- (i) 'Law and Justice in a Globalizing World';
- (ii) 'Comparative Public Law and Systems of Governance';
- (iii) 'Research Methods and Legal Writing'.

The six optional subjects can be spread across semesters or trimesters, depending on the model chosen by each institution. LL.M. students are required to opt for at least four

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<sup>81</sup> Since the LL.M. degree is not a prerequisite for entering legal practice, the BCI Rules on Legal Education, 2008 do not deal with its' curricular structure. In the past, this aspect has been addressed by the UGC Curriculum Development Committee (CDC) Reports for Law published in 1990 and 2001 respectively.

optional subjects that form part of a thematic cluster in order to obtain a specialization. While some NLUs ask their postgraduate students to opt for an area of specialization (with a specified basket of optional courses) at the beginning of the academic year, others allow them to build their specialisations over the course of the programme. Those who do not take the required number of courses to build a particular specialization can receive a 'General' LL.M. The writing of a master's level dissertation is undoubtedly an intensive exercise. The written output can be further developed for publication in scholarly journals or serve as the basis for pursuing M.Phil. and Ph.D. programmes in due course. In the long-run, offering a broader range of optional courses requires sustained investments in faculty development, both in terms of holding regular recruitment cycles and the enhancement of expertise for teaching and research. This is even more important for the purpose of running postgraduate and research offerings such as the LL.M., M.Phil. and Ph.D. programmes. Many of the NLUs are struggling in this regard since they do not have sufficient depth in their teaching capacity to offer such advanced programmes of study. While a pool of recently recruited Assistant Professors may be capable of teaching the compulsory subjects at the undergraduate level, the delivery of courses at the level of offering thematic specializations, postgraduate courses and research supervision requires faculty members who possess significantly more teaching experience and scholarly credentials (discussed further in Section 3.3).

The optional courses offered by the faculty members at each institution can be supplemented with shorter optional courses taught by practitioners and visiting scholars. Courses taught by judges, advocates and those working in commercial law firms as well as business houses can forge meaningful relationships in the long-run. These can directly benefit the institution in terms of the knowledge disseminated while also improving the employment opportunities for students upon graduation. Inviting scholars who are affiliated with other Universities, Research Institutes and Civil Society organisations is also a useful way to compensate for inadequacies in teaching capacity, especially during the early years of an institution's journey. Furthermore, the NLUs have been included in the Global Initiative for Academic Networks (GIAN) since 2016. Under this programme, the Ministry of Human Resource Development (MHRD), Government of India gives financial assistance for inviting academicians from foreign universities to teach short courses, carrying 1 credit (12-16 class hours) or 2 credits (20-24 class hours). While some NLUs have begun utilizing this route, all of them could conceivably benefit from it.

If the requisite financial resources are available, invitations can be issued to foreign academics to be engaged as 'Visiting Professors' or 'Research Fellows' for a semester or an entire academic year. This route can potentially be better utilized if the Ministry of Home Affairs (MHA), Government of India exempts teachers from the requirement of receiving a minimum annual salary of US\$ 25,000 in order to obtain an employment visa

to work in India. Given the relatively lower pay-scales in India's public universities, it is ordinarily quite difficult to earmark funds for paying significantly higher salaries to foreign nationals. On this count, some of the private universities which have much higher fee-structures and stronger financial backing are finding it easier to engage the services of foreign faculty members for longer durations, often by paying them much higher salaries than their Indian counterparts.

**Q.15. What are the teaching methodologies used for the undergraduate, postgraduate and research programmes respectively?**

We had included this question to ascertain the nature of teaching methods that are being used in the participating institutions. In hindsight, there was not much value in posing this question, since the answers from faculty-respondents were along expected lines. The most commonly practiced form at the undergraduate level is the 'Lecture Method' wherein the course instructor extensively describes the subject-matter and occasionally invites clarifications from the students. This is akin to performing a 'bucket-filling' function which presumes that the teacher is an expert in a given subject and that the students need her active support to engage in coherent theory-building and informed analysis of examples. As the students navigate their way through the coursework, they are expected to gain in confidence and start framing their own distinctive positions and questions. However, some teachers reported that they have consciously chosen to depart from the 'Lecture Method' by consistently trying to prompt or provoke their students into active classroom participation. In this sense, the teacher is not positioning herself as an expert but a facilitator who begins by encouraging students to express their pre-existing knowledge and impressions about the chosen issue and then uses their interventions to work towards a more profound insight into the subject-matter. Such an emphasis on dialogue and reciprocity presumes that the teacher and the student are beginning their respective inquiry from the same pedestal.<sup>82</sup>

Another well-known teaching technique which generally seems to have few takers in the Indian context is the 'Socratic Method'. This entails the strategic and sustained questioning of individual students based on the reading materials that have been circulated in advance. The expectation is that the students will carefully read the assigned texts before they come to class and hence be able to confidently answer the teacher's questions, irrespective of whether the latter are seeking precise answers or opinions in the abstract sense. This method can be used quite effectively to draw students into substantive discussions of judicial opinions and critical analysis of scholarly papers. It's meaningful use requires elaborate preparation by the teacher, be it in composing a

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<sup>82</sup> See generally: Upendra Baxi, 'Teaching as Provocation' in Amrik Singh (ed.), *On Being a Teacher* (Konark Publishers, 1990), pp. 150-158.

detailed course plan (with a clear enumeration of course objectives and a list of readings assigned for each class), in keeping abreast with the latest scholarship and in examining the interpretive possibilities of the reading assignments much before entering the classroom.

While a few among our faculty-respondents indicated that they frequently use the 'Socratic Method', many of them explained the difficulties faced while practicing it. The chief concern was that this method presumes a certain capacity for thorough reading and verbal articulation on part of students. Given that a majority of school-leaving students in India are attuned to passively receiving information from textbooks which is recounted by the teachers inside the classroom, they struggle in settings where they are expected to frame their own positions through a critical analysis of the texts and ideas presented before them. Furthermore, the disparity in the levels of prior exposure to the English language leads to situations where students from disadvantaged backgrounds feel demotivated if they are unable to effectively answer the teacher's questions in class. Apart from reprimands from instructors, the disapproval of immediate peers can prove to be counterproductive for the learning process. The common thread in the responses was that this method was better suited for interactions with relatively mature students who have already acquired the capacity for comprehending difficult texts and expressing themselves effectively during a discussion. A specific suggestion was that the 'Socratic Method' works best in research-based seminar courses offered during the later years of undergraduate programmes or in postgraduate and research programmes. These have small class sizes and some weightage is usually assigned for the quality of class participation which can be assessed through in-class presentations based on specific readings or the interventions made.

The use of 'Focus Group Discussions' was another method that appeared in the responses from faculty members. In this, the teacher frames a problem based on a real or hypothetical fact-situation and then divides the classes into smaller groups who have to discuss the problem from different points of view. This could include the construction of arguments from the standpoint of interested parties or seemingly dispassionate analysis which should inform legislative or judicial interventions in the given fact-situation. Clinical Courses go much further in this direction since they consist of simulated activities such as Moot Court Competitions or Alternative Dispute Resolution Methods such as Client Counseling, Mediation and Negotiations among others. These entail a more engaged form of learning where students are assigned to play the different roles. Clinical Courses can also evolve to include experiential forms of learning such as organising legal literacy programmes and providing legal aid to persons who are in need. This could be in the form of student-run groups facilitating legal representation for indigent clients or even appearing before quasi-judicial bodies and administrative forums.

**Q. 16. Is there a tutorial system in place?**

Scale	Response	Percentage
Yes	443	57.23
No	285	36.82
Can't say/Don't know	046	5.94
- (Blank)	075	

**Q.17. In your opinion, how effective is the tutorial system at your institution?**

Scale	Response	Percentage
1 (Very Bad)	124	16.10
2 (Bad)	118	15.32
3 (No Input/Neutral)	274	35.58
4 (Good)	205	26.62
5 (Very Good)	049	6.36
- (Blank)	079	

The provision for holding 'tutorial' hours over and above regular classes can serve several purposes. Among the NLUs, we came across two distinct models for organising them, namely where, (i) The Course Instructors themselves meet their own students in smaller groups after regular class hours, or (ii) A similar function is performed by 'Teaching Assistants' who are recruited from the available pool of final year undergraduate students, LL.M. students and Ph.D. candidates who are interested in academic careers. As the answers gathered from our student-respondents revealed, not all the NLUs covered by this study had implemented a system of holding tutorial hours as part of their academic calendar. The widespread understanding among our respondents was that they are to be used for revising and reinforcing what was covered in the class, especially by addressing gaps and doubts raised by students. Meeting with smaller groups enables the Course Instructor or the Teaching Assistant to pay closer attention to the needs of individual students, especially those who struggle to articulate their questions and ideas during regular class hours. They also provide an institutional forum to build teaching capacity for the future, especially by involving LL.M. and Ph.D. students who may be working towards careers in the academia. Engaging final year students from the integrated undergraduate programmes can also prove to be effective in a campus environment where students are often more receptive to learning from their immediate peers. It is quite possible that a meaningful experience of working as a Teaching Assistant may propel a final-year student to think about pursuing higher studies so as to work towards an academic career in due course.



Teaching Assistants can be encouraged to be imaginative in the use of this forum, possibly by exploring the given topics with further depth through interactive exercises and contemporary examples that resonate better with the younger students. In some of the NLUs, the Teaching Assistants are required to engage a specified number of regular classes under the supervision of the Course Instructor. They are also required to perform other tasks such as advising students on preparation for project assignments and contributing to the framing and assessment of examinations. The Teaching Assistants can play a very meaningful role by giving pointed feedback on students' drafts for project submissions, since doing the same for 60-80 students within a short time-frame may often prove to be too burdensome for the Course Instructors. At institutions with limited personnel, individual faculty members are often teaching a subject for 2-3 sections (120-180 students) every semester. In this context, the involvement of Teaching Assistants can enable meaningful supervision over the preparatory work done by a larger number of students. In return, Teaching Assistants drawn from the pool of final year undergraduate or postgraduate students can earn credits as part of their own designated coursework while full-time Teaching Assistants (usually recent LL.M. graduates or Ph.D. candidates working towards academic careers) can be paid monthly stipends for their services.

**Q.18. Do you have mandatory project assignments in your papers?**

This question proved to be redundant, since our faculty respondents confirmed that most of the compulsory and optional subjects include separate weightage for project assignments. These are mostly in the nature of research-based written submissions that are distinct from the mid-term and end-term examinations conducted by the respective institution. The expectation is that students will prepare them in a structured manner that includes identifying a research topic, formulating a research problem, generating a bibliography with relevant scholarly sources and presenting one's views through a careful synthesis of competing arguments related to the chosen research topic. The requirement of regularly writing project assignments ensures that students internalize the norms of producing scholarship such as writing in one's own words, developing clear causal links while framing one's argumentative positions and the proper citation of sources that are relied upon. The preparatory work includes considerable time being spent in the Library after class hours along with frequent consultations with teachers and peers who can give meaningful feedback. The project assignments need to be further defended during presentations conducted by the respective Course Instructors. These presentations can be in the nature of a 'viva-voce' examination where the Course Instructor asks pointed questions to test the student's knowledge of the chosen topic or they can be in the nature of group discussions where several students take turns to speak about the content of their project submissions with time kept aside for cross-questioning.

There are of course differences in the nature and format of the project assignments, depending on the needs of particular subjects. For instance, subjects that primarily engage with official legal materials (legislation, administrative rules and judgments) may require project assignments in the nature of legislative briefs and case comments. Those which emphasize theory-building may require project assignments in the nature of argumentative essays or position papers. In some instances, the pedagogic requirements may be better met by writing response papers, book reviews or film reviews. There are also some subjects that may require the generation of empirical data such as statistics, interviews, surveys and field-notes. Interdisciplinary research can involve a combination of the approaches outlined above. There are also some variations in clinical courses that require written submissions modeled on professional legal writing such as drafting of pleadings, memoranda and position papers. Most of the NLUs covered by our study have made provisions in their academic regulations which allow students who prepare written memoranda for external moot court competitions to seek exemptions from project assignments in lieu of evaluation based on the former. Given the sequence of coursework in the five-year integrated undergraduate programme, each student ends up writing 50-60 project assignments before they graduate. This intensive exposure to academic writing at the undergraduate level has played a big role in the subsequent professional success of the NLU graduates in different sectors. They are attuned to coping with extensive writing requirements, be it for preparing pleadings for the courtroom, documents for commercial transactions or research-based studies.

**Q.19. Do these project assignments have staggered deadlines?**

Scale	Response	Percentage
Yes	170	21.99
No	571	73.86
Can't say/Don't know	032	4.13
- (Blank)	076	

As explained earlier, the coursework at the NLUs entails the completion of 4-5 subjects during each term ('Trimester' or 'Semester' respectively). Most subjects have separate weightage earmarked for project submissions, implying that each student is required to prepare 4-5 project submissions during each term. Such intensive coursework requirements deepen the student's capacity for research and writing, thereby generating long-term benefits for subsequent professional and academic pursuits. However, these requirements can appear to be quite onerous for school-leaving students, most of whom are joining the undergraduate programmes at the age of 17 or 18 with negligible previous exposure to research-based assignments. Even the incoming LL.M. students tend to struggle with such writing requirements if they have not encountered them during their

undergraduate studies. Different levels of familiarity with the English language also accentuate the difficulties faced on this account.

In this context, the scheduling of the deadlines for turning in the project assignments becomes an important consideration for the students who are expected to comply with them. In our survey, we found that most of the NLUs (as indicated by 73.86% of our respondents) are prescribing a common deadline for submitting all the project assignments that are required during a particular term. This can prove to be counterproductive by creating undue pressure for students who are likely to struggle with submitting 4-5 project assignments at the same time. Teachers will also find it difficult to meaningfully scrutinize a large number of written submissions in one lot. This can lead to a higher incidence of malpractices such as substantial plagiarism in the assignments that are submitted for evaluation.<sup>83</sup> If the prescribed deadlines for different subjects are reasonably spaced across a term, the students can distinctively devote time towards preparing each assignment and teachers can provide meaningful feedback. For instance, NLSIU Bangalore prescribes two deadlines for project submissions during each trimester, with students required to turn in two submissions before each of these deadlines. NALSAR Hyderabad now prescribes five separate deadlines during a semester, thereby requiring students to turn in one submission before each of the designated dates. This practice enables more consistent preparatory work on part of students and leads to better standards of writing.

**Q.20. Are the topics for these projects assigned by the faculty members themselves ('Usual Method') or are they assigned after factoring in the choices of students ('Choice Method')?**

Scale	Response	Percentage
Usual Method	324	42.68
Choice Method	435	57.31
- (Blank)	090	

We included this question to ascertain whether the students have a say in choosing topics for their respective project submissions. The methods used for allocating topics vary depending on the needs of each course. In case of large class-sizes, many teachers prefer to limit the choices to a list of topics that is supplied to students at the beginning of the term. This list can either pre-assign the topics to the students or they can be assigned on a 'first-cum-first-serve' basis. Alternatively, students can be given the freedom to frame their own distinctive topics after consulting with the teachers. The latter method is more

<sup>83</sup> See: Jonathan Gingerich & Aditya Singh, 'Writing Requirements, Student Assessment and Plagiarism in Indian Law Schools', *India Law News* 12-15 (Fall 2010).

practical in the optional courses which have small class sizes. Our survey results show that many of the participating institutions do enable such leeway. It would be unwise for institutions to have a rigid policy in this respect.

**Q.21. What is the average word limit for the project assignments?**

In most NLUs, the prescribed length of project assignments in compulsory subjects is between 4,000-5,000 words (20-25 pages), following the example set at NLSIU Bangalore. Research-based seminar courses directed at students in the later years of study (i.e. 4<sup>th</sup> year, 5<sup>th</sup> year and LL.M. students) often entail longer submissions in the range of 6,000–8,000 words (30-40 pages). Group-based project submissions can be proportionately longer. Many of our faculty-respondents opined that these prescriptions can prove to be excessive for students, especially during the first two years of undergraduate studies. Just like the scheduling of deadlines for submitting project assignments, this aspect also requires careful planning. Institutions such as WBNUJS Kolkata and NALSAR Hyderabad have introduced a gradation in the formats and length of the project assignments. For example, instead of being required to prepare five research papers of comparable lengths for five distinct subjects taught during a semester, each student could be working on different kinds of submissions which are better suited to the pedagogic needs of each subject. These could include book reviews, film reviews, structured interviews, legislative analysis, comments on judicial decisions and argumentative essays among other forms. The prescribed word-limit for each assignment can then be linked to the amount of time made available to students for working on them. For instance, assignments that are due during the early parts of the term can have lower word-limits (such as 2,000-2,500 words) while those submitted at the later stages of a term could have relatively higher word-limits (such as 4,000-5,000 words).

**Q.22. How would you rate the number of project submissions prescribed during an academic year?**

Scale	Response	Percentage
1 (Very High, Very Stressful)	187	25.13
2 (High, Stressful)	246	33.06
3 (No Input/Neutral)	025	3.36
4 (Not High)	192	25.80
5 (Lawyers are supposed to do...)	094	12.63
- (Blank)	105	

As explained earlier, the full-time taught programmes at the NLUs include intensive requirements for academic writing. In the institutions that follow the ‘Trimester’ model, students write as many as 12 project submissions in an academic year while those

following the ‘Semester’ model require students to prepare at least 10 project submissions each year. Over the course of a five-year integrated programme, this implies the completion of 50-60 project assignments. The responses to our pointed question about the number of project submissions required in an academic year exhibit considerable ambivalence. 25.13% of the student-respondents thought that the requirements are ‘Very High’ and another 33.06% described them as ‘High’. In contrast, 25.80% of the respondents opined that they are ‘Not High’ and 12.63% thought that this frequency of producing written work was appropriate for students who are training to be lawyers.

**Q.23. Is there a plagiarism-checking system used at your institution? If yes, what is the acceptable limit for verbatim quotations?**

Most NLUs have instituted formal mechanisms to screen project submissions for plagiarism. The most commonly used software is ‘Turnitin’ which scans the documents for identifying extracts that match other publicly available sources. There are of course different degrees of plagiarism, the worst being ‘verbatim plagiarism’. In globally reputed Universities and Research Institutions, the acceptable limit for quotations in a research paper is stipulated at 14%-16% of the aggregate length. This is meant to account for citations (footnotes or endnotes), the use of proper nouns and the quotation of phrases which are crucial for the presentation of one’s own ideas. Since the NLUs have been conceptualized as teaching and research oriented institutions, faculty members are expected to read project submissions carefully and provide constructive feedback to students so that the relatively better project submissions can be developed further for publication in scholarly journals. A serious engagement with student-written work can also provide the impetus to streamline and improve the course content with each passing year. At the same time, it is the moral duty of teachers to give special attention to students who may be struggling to cope with the research and writing requirements. Dedicated orientation sessions on how to avoid plagiarism can help the incoming students to understand the importance of originality and creativity for academic writing.

If we go by the letter of the Academic Regulations at the various institutions covered in our study, these standards appear to be in place. However, interactions with the immediate stakeholders during the course of our visits have convinced us that there are visible gaps when it comes to the actual enforcement of rules against plagiarism. Many students complained about the inherently subjective nature of the evaluation of project assignments by individual teachers. While some teachers acquire a reputation for strictly enforcing the norms of academic integrity, there are many who appear to be indifferent to them. In a few cases, the scholastic credibility of the teachers themselves is in doubt owing to their own writings having been published in ‘predatory’ journals. ‘Predatory’ journals gain this appellation owing to the malpractice of asking potential contributors to

pay money for getting their work published. Such journals tend to have very poor standards of editing and often lack a credible process of peer-review. Teachers who resort to such malpractices themselves are unlikely to provide any meaningful supervision over their students' work. We also came across allegations that some instructors have published student-written work in their own name without obtaining the consent of the actual contributors or duly acknowledging them. These allegations need to be specifically investigated by each academic institution, since the failure to prevent such malpractices will undermine the institution's reputation in the long run.<sup>84</sup> Even teachers with otherwise credible scholarly credentials might shirk their professional responsibilities by casually skimming through project submissions for the purpose of evaluation towards the end of a term. Some of our faculty-respondents opined that thorough scrutiny of project assignments is difficult if one has heavy teaching loads and large class sizes. Their observation was that the workload norms prescribed by the University Grants Commission (UGC) do not account for the intensive requirements of research supervision inside highly selective institutions such as the NLUs. This shows us that the internalization of the global norms of academic integrity is a complex process which requires careful curricular planning for the students as well as working out a reasonable balance between the time that teachers can devote for research supervision in addition to their classroom teaching responsibilities.

**Q.24. What are the penalties prescribed for plagiarism under your institution's academic rules?**

Among the institutions surveyed, we found three kinds of responses when project assignments are found to have plagiarism. The first of these is where the instructor gives the student a chance to re-submit the assignment within a specified time-frame. This is usually done when the extent of plagiarism is marginally above the prescribed limit for verbatim quotations. In cases where the extent of plagiarism is unacceptably high, the usual response is that of giving a failing grade in the respective course. Repeated instances of excessive plagiarism during coursework can attract more serious penalties such as academic suspensions. However, most of our respondents were unaware of specific instances where students had faced the loss of an academic year on this count.

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<sup>84</sup> One explanation for the perceived rise in such malpractices is the introduction of the Academic Performance Index (API) by the University Grants Commission (UGC) in 2009 which is determinative for the purpose of recruitments and promotions for academic positions. While the intent was to create quantifiable markers for assessing research-based contributions, they seem to have created perverse incentives for teachers and researchers to inflate their publication record, especially in an ecosystem where there is inadequate enforcement of the norms of scholarship. In other words, when it comes to measuring research output, there seems to be an emphasis on quantity over quality.

The consequences of resorting to plagiarism are far more serious in the context of research programmes such as M. Phil. and Ph.D. where candidates may be asked to discontinue the pursuit of these programmes.

Some faculty respondents mentioned that they were aware of specific instances in the past when students had turned in the same project assignment for more than one subject during the course of their studies. While this is not construed as plagiarism in the strict sense, it certainly undermines the objective of prescribing intensive writing requirements. Another point of worry is that students end up recycling submissions made by older students, especially when a particular course is being taught by a new instructor. The use of software such as 'Turnitin' can help in maintaining exhaustive institutional records of previous submissions, thereby making it very easy to detect instances where written assignments submitted in the past are being recycled. Hence, it is advisable for each higher education institution to frame and announce an elaborate policy that sets out the contours of what constitutes plagiarism and the adverse consequences triggered by the same.

**Q.25. Any reform that has been introduced by your institution in the project evaluation scheme?**

Most of our faculty-respondents agreed that the quality of academic writing can be incrementally improved if the students are required to submit working drafts for research papers. The writing process should ideally begin with the preparation of a thematic introduction, compiling a survey of literature (or an annotated bibliography) and the drafting of a research methodology. This forms the nucleus for writing a research paper. The students should then develop the other parts of the paper in a logically coherent manner and provide proper substantiation of the various arguments that are being presented apart from accurate citations of source materials. This process requires multiple rounds of feedback from teachers and other peers. However, a packed academic calendar often makes it difficult to ensure such thoroughness in the writing process. It is in this respect that some of the NLUs have introduced gradations in the requirements for project submissions, both in terms of their format and length. Reasonably spaced deadlines with clear guidelines on the nature of the expected output can go a long way in improving the quality of the eventual output. Especially in seminar courses that are taught as part of specializations at the postgraduate level, evaluation criterion should ideally include weightage for regular response papers, in-class presentations and group discussions, all of whom feed into the writing of the research papers.

**Q.26. Do you think project assignments are an effective mode of evaluation?**

Scale	Response	Percentage
1 (Very Bad)	107	14.42
2 (Bad)	161	21.69
3 (No Input/ <i>Neutral</i> )	088	11.85
4 (Good)	325	43.80
5 (Very Good)	061	8.22
- (Blank)	107	

This question sought to consolidate the opinion of students on the overall efficacy of project assignments as a mode of evaluation. Like many of our other questions, it drew a highly fractured response from the sample of admitted students. This response may also be a function of how academic regulations related to project assignments are being designed and implemented. While some of the participating institutions appear to be following rigid and undifferentiated rules with respect to their format and length, a few among them have utilized their academic autonomy to introduce gradations in the same. In the long-run, the value-addition provided by such research and writing requirements depends on the commitment of the faculty members and their sensitivity to the needs of students who come from different socio-economic backgrounds.

**Q.27. What do you think should be changed in the project evaluation scheme?**

From the standpoint of students, a common thread was that of seeking clearer guidance from teachers at the stage of selecting and formulating topics for their assignments. Many of them felt that the pre-assignment of topics does not give them much of an opportunity to explore the possibilities of a topic. Sometimes, assigned topics tend to replicate classroom discussions and do not have much potential for further research. The framing of topics should be such that they enable imaginative and critical inquiry into the subject-matter. Instead of modifications to evaluation criteria, most of our faculty-respondents opined that their respective institutions need to be more attentive to the possibilities of converting assignments into publishable research papers through further substantiation. This would require constructive feedback on written work from faculty members and external experts. To facilitate this, writing workshops can be organised where practitioners and academics from other institutions are invited to provide suggestions for developing a meaningful research agenda. The relatively better research-based submissions can be publicly recognised by facilitating their presentation in national and international conferences. Each of the NLUs could plausibly maintain a ‘Working Paper Series’ on their respective websites which showcases their research output.



**Q.28. In your view, does your institution interact with Industry, Research Bodies and Civil Society Groups during the curriculum revision process?**

Scale	Response	Percentage
Yes	157	21.44
No	419	57.24
Can't say/Don't know	156	21.31
- (Blank)	117	

We corroborated the answers received from student-respondents with faculty members at the respective institutions. We were able to ascertain that only a few of the NLUs have formalized processes of curriculum revision where representatives from other institutions are invited. In most cases, the external inputs come from relatively senior academicians who have recently retired from their teaching positions and are holding research chairs or emeritus positions. The Governing Bodies of each NLU are expected to include eminent academicians from other Universities who can offer suggestions to improve the existing curriculum. However, inputs from practitioners and those working in commercial law firms, business houses, international institutions and civil society organisations tend to seep in through informal routes such as occasional guest lectures and conferences. All the NLUs need to consider the institutionalization of processes whereby the content of what is taught inside their classrooms evolves on the basis of feedback received from those with expertise and practical experience in the respective subjects. External inputs should be sought from persons who are at different stages of their careers in various sectors. A tangible step in this direction can be the organisation of an annual curriculum development workshop (before the commencement of each academic year) where all faculty members have to present their course plans in the presence of their peers and external experts.

**Q.29. Does your institution have a formal mechanism to obtain feedback from students regarding the curriculum?**

Scale	Response	Percentage
Yes	209	28.59
No	486	66.48
Can't say/Don't know	036	4.92
- (Blank)	118	

As the pattern of student-responses demonstrates, only a few NLUs have instituted formal processes for collecting student feedback on the quality of coursework. Our question could have been framed more precisely because student feedback tends to be primarily based on a particular teacher's performance rather than the syllabus prescribed for a subject. There are different methods that can be used to gather such feedback. One

of them is the holding of regular open meetings which are attended by those occupying administrative positions apart from the interested teachers and students. However, this method does not yield useful and actionable results when there are serious power imbalances between teachers and students. In institutions such as the NLUS that follow a model of autonomous evaluation, students may hesitate to criticize underperforming teachers on account of the fear of retaliation. Furthermore, public criticism of relatively inexperienced teachers at such open meetings can prove to be demotivating for them. Even with considerably experienced teachers, there may be limited tolerance when it comes to engaging with pointed criticisms voiced by much younger students owing to cultural expectations of deference towards one's elders. These may lead to considerable distrust and subsequent confrontations inside the classroom.

Hence, a more credible and effective method is that of handing out 'Course Evaluation Forms' towards the end of each term which are to be filled anonymously by the students. These can include questions which seek the student's opinions on parameters such as the preparedness of the teacher for classes, the quality of communication, responsiveness to student queries, availability for research supervision and updation of course materials to reflect recent developments in the respective subjects. The use of student feedback for the purpose of assessing teaching performance has been the subject of considerable debate in the field of educational administration. Section 3.3 of this chapter includes a discussion of this issue in the context of the NLUs. Yet another method of inviting feedback on course content is to involve alumni who have gained exposure to different areas of legal practice.

### **3.2 Support Structures for Students**

The formal processes of course design, instruction and assessment need to be complemented by several support structures that are essential in the context of residential campuses. The objective of delivering an intensive educational experience needs to be tempered with a realistic assessment of the students' capacities, needs and their vulnerabilities. Hence, any meaningful discussion on academic practices cannot be viewed in isolation from the provisions made for the students' welfare and redressal of grievances. The discussion of the questions included in this section is relatively brief since a substantive analysis of the working of these structures would have required longer visits and more extensive data-gathering at the participating institutions. We hope that others will take up the task of shedding more light on this aspect.

**Q.30. Are there grievance redressal mechanisms in place for responding to complaints by students, especially with regard to discriminatory behaviour by faculty members, staff members and fellow students?**

Scale	Response	Percentage
Yes	287	39.10
No	385	52.45
Can't say/Don't know	062	8.44
- (Blank)	115	

**Q.31. In particular, are there investigative mechanisms in place for untoward behaviour such as ragging (which can include physical or verbal abuse), sexual harassment and other forms of intimidation targeting persons with disabilities or unconventional sexual orientation?**

The intention behind asking these questions was to ascertain whether each institution had created grievance redressal mechanisms as mandated by the University Grants Commission (UGC). For instance, there is a need for instituting Disciplinary Committees to inquire into complaints of physical assault or verbal intimidation, which in some cases overlap with the problem of 'ragging' directed at incoming students. With the enactment of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act in 2013, all higher educational institutions in India are required to constitute an Internal Complaints Committee (ICC) to inquire into complaints of this nature. Similarly, caste-based insults and discriminatory behaviour comes within the purview of special cells that need to be constituted to protect the interests of students who come from the Scheduled Castes and Scheduled Tribes. In a comparable manner, discriminatory behaviour that targets persons with disabilities or those with unconventional sexual orientation also requires formal institutional interventions, though they may not be a statutory mandate for these areas as yet. It must be emphasized that institutional mechanisms need to anticipate the possibility of discriminatory behaviour on part of faculty and staff members as well.

Given these background assumptions, the responses to our first question in this section were very alarming, with as many as 52.45% of the student-respondents observing that their respective institutions had not established the mechanisms outlined above. In comparison, the qualitative responses to the second question in this section did confirm that all the NLUs had established Disciplinary Committees (usually consisting of faculty members doubling up as 'hostel wardens') in order to investigate complaints of physical abuse as well as consumption of alcohol, tobacco and narcotic substances. However, there appears to be limited awareness about the existence of institutional forums meant to tackle problems such as sexual harassment and caste-based discrimination. When we sought corroborations with those in administrative roles, we were informed that these mechanisms had been created at each of the participating institutions.

The mixed responses gathered from the students show that there is limited awareness about the existence of these institutional mechanisms. The most likely explanation is that student awareness happens to be low because very few complaints have actually been filed or taken to their logical conclusion. This could in turn be due to poor dissemination of information about the procedures for filing complaints or possibly because of inadequate action taken on previous complaints. Especially in the context of sexual harassment there is a real possibility of the complainant undergoing psychological trauma owing to the recollection of the offending acts which recording testimony before an Internal Complaints Committee (ICC). In many cases, there is explicit pressure to withdraw complaints of sexual harassment against fellow students since the latter may face serious consequences such as expulsion or even criminal charges. In complaints arising from abusive behaviour in intimate relationships, the scales are often tilted against female complainants whose credibility may be questioned even by those in positions of authority.

**Q.32. Has the hostel management been designed in order to prevent and mitigate the occurrence of discriminatory behaviour?**

Residential campuses require support structures such as cleaning and maintenance services for student hostels and the provision of essential medical facilities. Apart from these, there is also a requirement of enforcing disciplinary rules against physical violence, verbal abuse and consumption of harmful substances. As outlined earlier, the institutional mandate extends to discriminatory behaviour of different kinds. Hence, we wanted to inquire into whether the participating institutions had designed their hostel management structures in such a way that they could effectively provide redress against identity-based discrimination. In most of the NLUs, the hostel management functions are supervised by faculty members who are nominated to serve as ‘wardens’. They are usually assisted by staff members in matters such as managing stores and providing maintenance services. In a few institutions, student representatives are nominated or elected to assist in the general management functions of hostels.<sup>85</sup> However, we did not find evidence of decentralized hostel management models to prevent or mitigate instances of identity-based discriminatory behaviour.

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<sup>85</sup> For example, NLSIU Bangalore has an established practice of nominating three student-run committees during each academic year to assist in hostel management. These committees are constituted independently of the elected student body which coordinates academic and co-curricular activities in general. At NALSAR Hyderabad, the elected student body consists of two committees that assist the administration in matters related to the management of the Hostels and the Common Dining Facilities respectively.

**Q.33. Apart from punitive strategies, has there been an investment in organising orientation programmes so as to sensitize students?**

Most of the incoming students come from relatively protected environments and may not be able to immediately anticipate or understand the different kinds of social behaviour that they encounter in a residential campus. Especially during the early years of studies, students may not be able to comprehend the sensitivities of their peers who come from very different backgrounds and cultural sensibilities. For example, casual remarks that invoke regional, linguistic, religious or gender-based stereotypes might lead to hostile reactions from those who feel offended or hurt by them. In many of these cases it may not have been the intention of the speaker to cause such hurt but that ends up being the inevitable consequence. In the present discourse, such occurrences are loosely described as ‘micro-aggressions’ which are not the same as statements and actions that are intentionally aggressive. Resorting to conventional disciplinary measures such as monetary fines and academic suspensions proves to be unsuitable and counterproductive while responding to complaints of this nature. What is needed is the nurturing of an institutional culture which gradually educates the student on how to interact with others who hold sharply divergent beliefs and come from backgrounds that are very different from one’s own. However, this should not be confused with tolerance for intentionally aggressive behaviour such as physical violence, verbal abuse and sexual harassment, all of whom need to be deterred through disciplinary action.

At the initial stages, many students are not conversant with the appropriate methods for responding to specific instances of misconduct. In some of the campuses covered by us, student-led initiatives have been taken to create support groups for sensitization about different kinds of discriminatory behaviour as well as the institutional remedies available. Most of the NLUs do organise orientation sessions on matters such as ragging, substance abuse and sexual harassment, especially at the time of the admission of newer students. However, these orientation sessions do not prove to be very effective if they merely consist of a recitation of institutional rules without an explanation of the social context in which they have been created and enforced. The formal orientation sessions conducted by those in administrative positions need to be supplemented with interactive discussions and workshops that illustrate these issues in a more engaging manner. For example, institutional strategies for mitigating identity-based discrimination on campuses can be crafted with inputs from external resource persons (such as professional counselors and researchers) who may have better insights on the same. Such efforts at sensitization also need to be directed at faculty members and non-teaching staff apart from the students who are residing on campus. The intention should be to invest the resources needed for preventing discriminatory behaviour instead of resorting to disciplinary measures as a default reaction.

**Q.34. What is the mechanism for the redressal of grievances with reference to examinations?**

The autonomous character of the NLUs implies that the teacher who engages classes for a subject also evaluates the written examinations and project assignments prepared by the students. As explained in the introductory chapter, this form of academic autonomy enables individual teachers to seamlessly update their syllabus with each passing year while suitably modifying the evaluation requirements. For example, it is much easier for individual teachers in the NLUs to add contemporary scholarly literature, legislative materials and judgments to their syllabi when compared with larger public universities where curricular changes require multiple rounds of approval from administrative bodies. This model of evaluating one's own students is meant to ensure a certain degree of rigor and mutual accountability that is hard to attain in a system of external evaluation. It enables the teacher to set questions that closely reflect what was actually covered in the classes and the students can acquire a good understanding of the teachers' specific expectations owing to their prior classroom interactions.

At the same time, it must be remembered that the conferral of such a high degree of academic autonomy upon individual teachers can prove to be a double-edged sword. In the hands of hard-working and creative individuals, it can lead to progressive improvements in the course content and the standards of evaluation. On the other hand, teachers could also end up misusing this autonomy. One such possibility is where teachers compose an unsatisfactory syllabus or they do not adequately cover the relevant topics in the classroom. When it comes to evaluation, teachers could deliberately award grades that are much higher than what the students' deserve, possibly to improve the prospects of receiving positive student feedback if the latter is being factored in for decisions related to their own career advancement. Similarly, they could hand out higher grades to boost their students' academic performance in an aggregative manner, since that is often a basis for public comparisons with other educational institutions and recruitment of students by potential employers. Conversely, teachers may enforce evaluation standards that are too strict for students owing to previous instances of animosity or confrontational behaviour with them. While such anomalous behaviour can be checked to some extent by implementing procedural safeguards such as anonymous evaluation for written examinations, the underlying concern about the misuse of autonomy is a persistent one.

It was in light of these background conditions that we framed our question about the mechanisms that are available to address students' grievances arising out of the formal examination process. The intensity of the coursework in the NLUs is complemented by a

strong sense of competition among peers, since one's academic performance opens the doors for well-paid employment opportunities and the pursuit of higher studies at globally renowned institutions. This generates expectations of procedural fairness on part of teachers in matters such as evaluation of academic performance. In our own experience as instructors at one of these institutions, students habitually complain that the questions touched on issues that were not properly discussed during regular classes or that the examination was too demanding in light of the prescribed time-limits. However, there can also be serious grievances, such as teachers not explaining the rationale for their evaluation or awarding marks in a highly erratic manner. To address such grievances, most of the NLUs have constituted administrative committees consisting of experienced faculty members to oversee the undergraduate and postgraduate programmes respectively. In some of these institutions, a separate committee has been constituted to oversee the conduct of examinations. These committees act as the primary forum for examining complaints filed by students. In exceptional cases, these complaints can be escalated to the respective Vice-Chancellors who may re-examine the decisions made by the administrative committees (discussed further in Section 3.3).

**Q.35. What is the recourse provided for cases where students allege arbitrariness in the evaluation of their examinations or assignments?**

At most of the institutions covered by this study, the administrative committees that handle examinations are empowered to inquire into such complaints made by students. In case of complaints filed by individual students, the committee can direct the concerned faculty member to explain the basis for their evaluation to them. In case of unsatisfactory explanations, the committee may advise the faculty member to suitably modify the scores that have been awarded. When complaints are made by a large number of students enrolled in a particular subject, the administrative committees may go to the extent of directing a 'moderation' of scores. This may result in the scaling up or down of the scores obtained by the concerned students. Given the autonomous character of the NLUs, there have been a few instances where examination committees have gone to the extent of holding a fresh examination in a subject, citing problems such as the inclusion of irrelevant or improperly drafted questions in the original examination. Another remedy that is ordinarily made available to students is the re-evaluation of answer scripts. In this process, the aggrieved student can file a request for the answer-script to be independently examined by a panel consisting of faculty members who are not involved in the teaching of the particular subject. The average of the scores given by the other teachers then replaces the original score given by the Course Instructor. In many ways, this is akin to an appeal against the Course Instructor's exercise of professional judgment. It must be stressed that all of these remedies should be used sparingly and only resorted to in cases where there is clear evidence of oversights or mistakes made by the respective Course

Instructor. There have been situations where the administrative committees may themselves act quite overzealously and thereby compromise the foundational premise of academic autonomy accorded to the individual teachers. Such interventions may in turn encourage the filing of frivolous complaints by students and erode the functional authority of the teacher inside the classroom.

**Q.36. Is the criterion for evaluation transparently disclosed to the students?**

Scale	Response	Percentage
Yes	176	24.92
No	476	67.42
Can't say/Don't know	054	7.64
- (Blank)	143	

There are some simple steps that can be taken in order to reduce the scope for the filing of complaints against the evaluation of examinations. The course instructors can circulate 'answer-keys' to the concerned students soon after the completion of the examination cycle. This practice is appropriate for questions that require a precise identification of applicable rules and contentious issues. However, it may not be ideal for questions that require conceptual analysis and careful argumentation of a subjective nature. In such cases, the instructor should offer coherent explanations of the expected lines of argumentation, possibly through a separate interaction with the students soon after the completion of the examination cycle. This is quite easy to do in the context of residential campuses where students are usually quite willing to attend additional sessions. Subsequently when the scores are announced to the students, it is advisable to show the evaluated answer-scripts to the students within a reasonable time-frame. If students get an opportunity to scrutinize the marked answer-scripts, they can easily understand the basis of the instructor's assessment. This would undoubtedly place obligations on teachers to clearly explain the rationale for their evaluation, either through individualized comments written on the answer-scripts or through verbal explanations offered to the entire cohort of students. Such disclosures are especially useful for students when they follow the mid-term examination cycle, thereby helping them to prepare better for the end-term examination cycle.<sup>86</sup> While a few NLUs are following these norms of proactive disclosure, a majority of our student-respondents (67.72%) stated that this was not the

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<sup>86</sup> In the case of project assignments, the teachers are expected to provide substantive feedback to the students, either by commenting on their written work or during their presentations. It is self-evident that the evaluation of such assignments implicates a certain degree of subjectivity since every student is likely to be discussing a different topic. Hence, their assessment cannot be directly compared with the assessment of written examinations where the students have to answer the same questions and procedural safeguards such as anonymity can be implemented.



case at their respective institutions. Only 24.92% of this sample of admitted students stated that the criterion for evaluation was being transparently disclosed to them.

**Q.37. Is there a procedure for re-evaluation in place?**

As mentioned earlier, a provision for seeking re-evaluation of answer-scripts is one of the remedies made available to students. It ordinarily involves the examination of the answer-scripts by a panel consisting of teachers other than the Course Instructor. In such cases, the average of the scores given by this panel will replace the original score given by the Course Instructor. The net consequence of this process could be an enhancement of the original score or even its reduction. Most of the NLUs are following a re-evaluation procedure where the assessment given by an individual teacher is reviewed by a panel of relatively experienced teachers who have expertise in the concerned subject. In a few cases, the re-evaluation procedure involves persons who are teaching at other Universities, presumably to ensure a higher standard of scrutiny.

Referrals to external institutions are not suitable for the NLUs since the syllabi and evaluation requirements vary considerably across different kinds of higher education institutions. For example, it would be quite detrimental to send answer-scripts that have been evaluated very closely in autonomous institutions (which have smaller class sizes and advanced curricular content) to a larger university system where the standards of evaluation might not be comparable (owing to large class sizes and adherence to a standardized curriculum). We may end up with absurd results if students find that filing re-evaluation requests leads to an enhancement of scores because the standard of scrutiny during such re-evaluation is much lower than that of the respective Course Instructors. In the long run, this would not only reduce the incentive for students to diligently prepare for their examinations but also demoralize the Course Instructor whose professional judgment is being overturned in an unconvincing and opaque manner. Keeping these possibilities in mind, it might be better for the NLUs to limit the personnel involved in the re-evaluation procedures to their own faculty members and those persons teaching in other higher education institutions that follow a similar syllabus and examination pattern. At the same time, remedies of this nature should not be made inaccessible for students. In some cases, students mentioned that examination committees had placed barriers for filing requests for re-evaluation of answer-scripts such as high application costs and a limited time-window after the declaration of results.

**Q.38. Does the institution organise remedial classes in the English language (Reading Comprehension, Writing and Speaking) for students?**

Scale	Response	Percentage
Yes	149	21.10

No	503	71.24
Can't say/Don't know	054	7.64
- (Blank)	143	

**Q.39. Has the institution recruited full-time faculty members who are dedicated towards teaching English language skills?**

Scale	Response	Percentage
Yes	148	20.81
No	501	70.46
Can't say/Don't know	052	7.31
- (Blank)	138	

Teaching English language skills is of utmost importance for legal learning in India, given that it is the designated language for the higher judiciary. It is also required to meaningfully understand historical and comparative sources of law in the common law tradition. While familiarity with English may not be a prerequisite for practicing in the subordinate courts and advising clients on a regular basis, it is certainly a means for enabling mobility by way of earning higher incomes and acquiring social prestige. The facilitation of English language competence is absolutely vital for incoming students who have not received their schooling in the English medium as well as for those who may have attended English medium schools but have not gained exposure to speaking and writing in this language at home. The lack of familiarity with English can be a serious hindrance for formal learning in the classroom and can easily attract social disapproval in the relatively insulated context of residential campuses. The inability to frame proper sentences in English may not only attract reprimands from teachers and one's peers but may also severely dent the self-esteem of a student. This can have adverse effects on the student's overall academic performance and employment prospects.

While a lot needs to be done to develop sensitivity towards such evident differences in language competence, the institutions must ensure that effective English instruction is delivered during the early stages of studies. It is with this objective in mind that courses devoted to English ('Law and Language' and 'Law and Literature') are taught within the first two years of the five-year integrated programmes. These need to be supplemented with 'remedial' classes that are specially tailored to the needs of students who do not have prior familiarity with reading, speaking and writing in English. The organisation of these classes requires faculty members with specialized training and hence entails allocation of resources by the respective institutions. In response to our questions, it was only one-fifth of our sample of admitted students who indicated that their institutions did indeed organise 'remedial' classes for English (21.10% of the respondents) and had recruited full-time faculty members for teaching English language skills (20.81 % of the

respondents), be it through regular courses or additional classes. We found that in several institutions, English language teaching was being handled by part-time faculty members sourced from other colleges or private training institutes. Needless to say, this situation is quite disappointing and hence all the NLUs should make the investments in personnel and resources that are needed for effective language teaching. Ignoring this aspect can prove to be highly detrimental to students from socially and economically disadvantaged backgrounds who may end up losing opportunities for academic and professional success despite paying high fees and working very hard to enter these institutions in the first place.

**Q.40. Does the institution keep track of passing and failure rate of students from historically disadvantaged backgrounds?**

Scale	Response	Percentage
Yes	068	9.51
No	389	54.40
Can't say/Don't know	258	36.08
- (Blank)	134	

Records of this nature are most likely to be maintained and utilized by administrative committees that are constituted to examine applications for scholarships and other forms of financial aid. This proved to be a relatively controversial question. We often hear the adage that the first step towards solving a problem is to measure it. While some of our respondents agreed with this premise, there were several who strongly disagreed with the same. Their view was that maintaining such records would reinforce existing prejudices that operate against students who come from disadvantaged backgrounds. Students who struggle to cope with the coursework requirements often face ridicule, both from their peers and teachers. The situation of first-generation learners can become quite precarious if they do not perform well despite the high expectations of their respective communities back home. In some cases, the implicit and explicit pressures on the students can contribute to psychological stress, a visible loss of self-confidence and a sense of alienation from the institutional environment. In such a context, public disclosure of this data may end up contributing to the further marginalization of the affected student instead of contributing to her empowerment. A coherent suggestion that emerged from the faculty-respondents was that such records should be maintained and used while ensuring confidentiality.

**Q.41. What are the safeguards adopted to ensure that preconceived notions on part of a faculty member do not affect the evaluation of the academic performance of students from historically disadvantaged sections?**

Given the preponderance of autonomous evaluation methods at the NLUs, the most commonly used safeguard in such cases is that of ensuring anonymity in the evaluation of written examinations. This can be easily done through the use of codes on answer-scripts in order to ensure that the individual teacher does not know the identity of the student whose answer-script is being evaluated. However, this is a general safeguard meant for all students and not just those who happen to come from disadvantaged backgrounds. It may in fact become ineffective if the Course Instructor is able to identify the student owing to a distinctive style of writing. When it comes to the evaluation of project assignments and presentations, it is not possible to adopt such a safeguard where the Course Instructor is also the evaluator. At the level of postgraduate and research programmes (LL.M., M. Phil. and Ph.D.), the evident safeguard is the external evaluation of the thesis that has been submitted. When it comes to the assessment of the viva-voce component, the evaluation criteria can prioritize factors such as the strength of conceptual analysis and the demonstration of subject knowledge as opposed to fluency in speaking English.

**Q.42. Are there specific measures that have been taken to address the needs of Scheduled Caste (SC) and Scheduled Tribe (SC) students?**

Scale	Response	Percentage
Yes	114	16.10
No	446	62.99
Can't say/Don't know	148	20.90
- (Blank)	141	

This question was linked to the preceding one. While most faculty-respondents commented that their institutions had constituted a Cell for examining grievances raised by students from Scheduled Castes (SC) and Scheduled Tribes (SC) backgrounds, only 16.10% of our student-respondents gave an affirmative answer to our question. This once again shows that the formal composition of grievance redressal mechanisms needs to be accompanied by the building of awareness about their existence and the procedures for approaching them. Apart from the constitution of these Cells, the other measures that we came across were student groups that engaged with socio-legal issues and facilitated discussions about the importance of respecting diversity in educational spaces. In some of the NLUs, such groups are integrated into the functioning of the elected student bodies while in some others they function in an informal manner.

**Q.43. Does the institution provide specialized facilities such as professional counseling, personality development programmes and medical facilities that can help students in coping with difficulties that arise from academic stress, peer pressure and relationship-related problems?**

Scale	Response	Percentage
Yes	261	36.76
No	416	58.59
Can't say/Don't know	033	4.64
- (Blank)	139	

This was a broadly worded question meant to ascertain the availability of the specified services at the respective campuses. It is worthwhile to examine how the participating institutions are dealing with the foreseeable problem of psychological pressures that may arise in a competitive academic environment. Once admitted into highly selective institutions such as the NLUs, they find themselves in the company of highly talented and motivated classmates. It is quite possible that those who were at the top of their respective class in school examinations may get middling or relatively poor grades in their law school courses. As the student proceeds towards the higher years of study, there can be a heightening of anxieties about academic performance especially since the prospects for employment or pursuing higher education are usually linked to the same. While these could be motivating factors for some students, they can also lead to disillusionment and a serious loss of self-confidence on part of other students. If we turn to the specific methods that are being used to address these concerns, some of the NLUs have instituted an 'Academic Support Programme' wherein faculty members and older students volunteer time to help younger students in coping with their coursework. In such a scenario, it is important to create an institutional environment where students can approach their academic obligations in a level-headed manner with a long-term perspective in mind. Good grades obtained during college are not always correlated with subsequent professional success. It must be emphasized that conventional evaluation systems (written examinations and project assignments) prioritize a certain kind of skill-set which may not always be useful when one pursues a chosen line of work. Similarly, differences in the socio-economic backgrounds of students may contribute to disparities in academic performance during the early stages of undergraduate studies that may dissolve as the student progresses into higher levels of education.

We must also pay attention to the possibility of harmful behaviour by students that is shaped by peer pressure among other factors. This can include excessive consumption of alcohol, cigarettes and narcotic substances. For a majority of the incoming undergraduate students, commencing studies in a residential campus marks their first experience of staying away from their respective homes for an extended period. At this stage, they are especially impressionable and may easily imitate harmful behaviour that is portrayed as a means of gaining social acceptance among their peers. In most educational institutions, disciplinary action is the usual response to complaints about such behaviour. However, the indiscriminate use of disciplinary measures such as the imposition of monetary fines,

academic suspensions and expulsion (in extreme cases) can prove to be ineffective or counterproductive. For one, it is not possible for those involved in hostel management to closely monitor the personal habits of hundreds of students at the same time. So there is likely to be selective enforcement of rules and penalties. Even if the extent of monitoring is thorough, it is likely to create a strong sense of resentment and may even increase the incidence of such behaviour instead of deterring it. Therefore, disciplinary measures need to be used in a considerate manner along with the provision of facilities such as professional counseling services and the organisation of awareness programmes. With respect to our question, only 36.76% of our student-respondents indicated that such facilities were being made available on their respective campuses.

**Q.44. How satisfied are you with the physical infrastructure at your institution?**

Scale	Response	Percentage
1 (Not at all satisfied)	140	19.36
2 (Not satisfied)	196	27.10
3 (No Input)	022	3.04
4 (Satisfied)	258	35.68
5 (Highly Satisfied)	107	14.79
- (Blank)	126	

We concluded our questionnaire directed at students by asking them about the level of satisfaction with the physical infrastructure at their respective campus. We had clarified that the scope of our query included the provision of academic spaces (such as classrooms and venues for special programmes such as guest lectures, workshops and conferences), quality of hostel accommodation, library spaces and facilities for sports and recreation. Once again, the presentation of these responses would be meaningful if we disaggregate them for each institution. In many ways, this question is predicated on the age of the each institution and the extent of financial support made available for its' infrastructural development. One would surmise that relatively newer institutions are more likely to be in the course of building their campus while the comparatively older NLUs are likely to have better developed facilities. However, this may not necessarily be the case where established institutions continuously face pressure from the respective State Governments to expand their student intake. A hurried expansion of student strength can lead to disappointments resulting from inadequate facilities and hurt the institution's reputation in the long run. This highlights the foundational tensions between the public expectations of expanding access to highly selective educational institutions and the logic of exclusivity which appears to be the presumptive basis of their success so far.

### **3.3 Pathways for Reforms**

The preceding sections of this report have discussed the quantitative and qualitative responses to our questionnaires which were directed at faculty members and students at the participating institutions. In this section, we will proceed to examine some issues that require collective attention in order to improve the academic and administrative processes at the NLUs. We have arrived at these issues by synthesizing the responses to our survey questions with the interviews that we had conducted during our visits. As outlined earlier, we will touch on aspects such as (a) the methods used for appraising teaching performance,<sup>87</sup> (b) improvements in service-conditions of faculty members, (c) sharing of academic resources between institutions, (d) the consolidation of postgraduate and research programmes, (e) encouraging interdisciplinary learning, (f) the expansion of extension activities (such as Clinical Programmes, Distance Education Programmes and Continuing Legal Education) and (g) suggestions regarding the governance structures of the NLUs.

#### **(a) Methods used for appraising teaching performance**

As shown in Section 2.1, the quality of teaching inside the classroom is the foremost concern for students enrolled in the NLUs. As things stand, this is largely a consequence of the difficulties faced in attracting and retaining motivated teachers. Many observers as well as insiders in these institutions seem to believe that increasing teacher-pay is a ‘one-size fits all’ solution for improving the standards of instruction. The assumption is that better salaries might attract competent individuals who are otherwise opting for other career avenues and at the same time this can incentivize existing teachers to improve their delivery. However, financial incentives alone are unlikely to yield the desired changes. Firstly, the disparity between the salaries given to university teachers and the income that can be earned by experienced litigators as well as those engaged in transactional lawyering is likely to persist. Secondly, across the board pay-rises by themselves may not motivate a large pool of teachers who are already in permanent positions to make conscious efforts towards self-improvement. The missing links are appropriate methods for assessing the performance of teachers as well as the periodic review of course-content and teaching techniques.

While most Indian Universities have adopted formal measures such as curriculum development workshops and refresher courses for faculty members, it is the feedback

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<sup>87</sup> The discussion under this heading has been developed from an opinion piece written earlier by one of the Co-Investigators of the present study. See: Sidharth Chauhan, ‘Assessing Teacher Performance in the National Law Universities: Problems and Prospects’, *Bar and Bench* (August 20, 2013).

collected from students that often invites heated debates. There is considerable resistance to the idea that it should be given weightage for staffing decisions such as subject-allocation, the regularization of contract teachers and promotions for those in permanent positions. The usual method for gathering such student feedback is by way of questionnaires distributed to students at the end of the instructional period in a term. In some institutions, the same process is being conducted online with the help of software that enables individualized surveys. The students are asked to anonymously rate the performance of their course instructors under different-heads such as the quality of reading assignments, communication skills, time-management, responsiveness to questions, guidance for writing requirements and availability outside the classroom for answering doubts. The insistence on anonymity seeks to serve a dual function, namely to ensure that individual students who provide adverse feedback on their teachers do not face retaliation and conversely that those who provide positive reviews do not benefit from undue favouritism in the future.

Since the NLUs follow a model of autonomous evaluation, there is scope for the feedback forms to include questions about the levels of satisfaction or dissatisfaction with grading patterns. This often proves to be contentious since there is an understandable tendency on part of students to be more concerned about their eventual grades. The inherent risk is that grievances about stricter evaluation standards can play a predominant role in students' evaluation of their own teachers who may otherwise be quite effective inside the classroom. Likewise, teachers who are comparatively liberal when it comes to grading may often get away with deficient teaching. A precautionary step that is taken in this regard is to release the content of the feedback to teachers only after the completion of the evaluation process. Irrespective of the likelihood of such distortions, it may be useful to recount the presumptive benefits and costs of collecting feedback through this route.

The primary argument is that the instruction and evaluation process should put the needs and interests of students first. Since it is the students who interact with a teacher over the course of a term, they are best placed to gauge whether the latter's performance meets their expectations. The apprehension is that in the absence of any credible feedback mechanism, instructors may become so detached from the needs of their students that the entire process can become redundant. This can happen in different scenarios. You may have the case of an instructor who is very knowledgeable and renowned for scholarship in the respective field. However, it is quite possible that this teacher communicates in a manner that is too complex. Even the choice of reading assignments and examination requirements may be beyond the reach of students who are in their formative stages. Given the nature of power-relations inside the classroom, students may hesitate to openly point out such deficiencies. On the other hand, we can consider the possibility of an



instructor who is unable to meet the minimum standards expected in such a role. This could be evident in numerous ways such as poor communication skills, inadequate preparation for the classroom, disproportionate coverage of minor topics which crowds out the time needed for more significant ones or the inability to meaningfully engage with questions and comments from students. In some cases, this instructor may either evade incisive questions posed by students or resort to disproportionate assertions of authority when the students express their dissatisfaction. In the first scenario that involves the competent yet incomprehensible instructor, the anonymous feedback collected from students serves as a useful dialogical device which can help instructors in aligning their methods with the capacities and needs of their students. In the second scenario involving the underprepared or apathetic teacher, the feedback can highlight issues that need corrective interventions by administrators and other faculty members.

In turn, we must also examine the arguments against giving weightage to anonymous feedback gathered from students. As described above, students tend to overemphasize evaluation patterns instead of the quality of course materials and in-class teaching. This can lead to serious distortions if their ratings and comments are uncritically relied upon to make staffing decisions such as the removal of ‘ad-hoc’ teachers or the denial of promotion to those in tenured positions. Furthermore, evident differences in the socio-economic backgrounds of students and teachers may lead to an escalation of minor animosities that routinely arise in campus life. However, the strongest objection to relying on student-generated responses falls back on an ideal characterization of higher education. The assumption is that teachers are positioned as trustees who are expected to act in their students’ best interests precisely because they possess the requisite experience and expertise to do so. So it is in pursuit of this role that teachers prescribe challenging readings, engage in sophisticated classroom discussions and sternly monitor the student’s performance. They may deliberately adopt provocative and seemingly counterintuitive positions in order to compel their students to examine issues from different perspectives. The use of such methods could be perceived as excessively burdensome by students, thereby leading to a pushback of sorts which is reflected in their ratings of a teacher. Students may often be unable to appreciate the teacher’s efforts to expose them to nuanced ways of thinking, reading, writing and speaking. In fact, it is very likely that they may only understand the importance of what they were taught in hindsight, possibly several years after they finish their formal education. In institutions that offer professional degrees, there is the additional expectation of clearly demonstrating how what is discussed in the classroom bears any relevance to what students may encounter in the workplace. Especially among undergraduate students, this often creates an unhealthy impatience with discussions of theoretical materials. Owing to such possibilities within higher education, one may hold the view that staffing decisions made on the basis of student feedback can often prove to be counterproductive.

The most serious objection would be that such a process likens the teacher-taught relationship with the one that exists between buyers and sellers of commercial goods and services. There is also a worry that such measures could possibly give disruptive students the leverage to obstruct the formal processes of instruction. It must be reiterated that while most students at the NLUs come in with high expectations after securing top ranks in a highly competitive entrance examination, the market for faculty positions is underdeveloped and is the site of numerous distortions. This reality makes it difficult to fall back on the conventional wisdom about the nature of higher education. However, there is an unambiguous case to be made for its dialogic importance, principally to enable teachers to improve their methods of instruction and course-content over time.

### **(b) Improving service-conditions for faculty members**

Admittedly, the problem of unsatisfactory teaching in the NLUs cannot be tackled through reliance on student feedback alone. In many cases, the immediate cause is a mismatch between a teacher's prior training and the assignment of teaching responsibilities. As described earlier, the overarching problem is that of a limited pool of individuals with the requisite qualifications who are willing to take up full-time teaching positions. Among those who are available, there tends to be a concentration of qualifications in certain fields such as constitutional law, substantive penal laws and public international law. Inevitably, practice-oriented subjects such as the laws relating to property, taxation and procedure are frequently taught by those who don't have much exposure to the uncertainties that arise while dealing with clients and public officials in a professional setting. While there are a few who choose to teach these subjects after gaining experience in litigious or transactional settings, a majority of full-time teachers do not have such a background. While some career academicians may progressively become well versed with the statutes, precedents and principles related to these fields, students tend to feel shortchanged in the interim. The situation becomes even more unsatisfactory when efforts to involve practicing lawyers in the taught programmes attract those who may be unsuited for the latter. In some notable cases, even eminent justices and lawyers have struggled to perform in classrooms whose dynamics are fundamentally different from those inside the courtroom.

There are numerous instances where full-time instructors are initially hired to teach a given set of subjects but are subsequently asked to teach subjects in which they may have no previous experience or exposure. In conditions of scarcity, this may be a compromise that is eventually accepted by the immediate stakeholders. However, it is difficult to defend such a mismatch in highly selective institutions such as the NLUs that receive public funding and recover a considerable portion of their operating costs from tuition

fees paid by students who are enrolled in their full-time taught programmes. The substantial reliance on teachers appointed on an 'ad-hoc' or 'visiting' basis tends to aggravate this problem of misallocation. Those who are hopeful of being considered for permanent positions would be reluctant to openly disagree with directives given by their administrative superiors. Those who are in 'ad-hoc' or 'visiting' positions do not have a sense of job security since their services can be terminated without the assignment of reasons. There is the very real possibility of such checkerboard solutions becoming the norm and thereby eroding the quality of instruction inside the classroom.

Many of our respondents pointed towards disparities prevailing in the service conditions for faculty members. During the course of our visits, we gathered that most of the NLUs have on average engaged 30-40 % of their full-time teachers on an 'ad-hoc' or 'visiting' basis. Only NLU Delhi, RMLNLU Lucknow and NLUJA Assam have engaged more than 80% of their faculty members in permanent positions. On the other end of the spectrum, institutions such as NLU Jodhpur and GNLU Gandhinagar have predominantly relied upon temporary appointments of teachers since their inception. The applicable regulations notified by the University Grants Commission (UGC) state that the number of teachers in temporary positions at a particular institution should not exceed 10% of the total faculty strength and that this route is specifically meant for contingencies such as regular faculty members discontinuing services or going on leave. At most of the NLUs, the non-teaching staff members are also largely occupying temporary positions. However, the overall situation at the NLUs still appears to be better than most public universities in India, many of whom presently have very high vacancy rates owing to delays of several years in conducting recruitments for filling up permanent positions. This had led to a situation where a vast majority of teachers serving in public universities and government-run colleges are doing so in ad-hoc positions. The rapidly growing sector of private universities has a natural preference for contractual appointments that make it easier to 'hire and fire' talent as per the fluctuating needs of an employer.

If we adopt the standpoint of those in decision-making roles, there are some plausible arguments for retaining teachers in temporary positions for some time before considering them for permanent positions. Especially for new entrants to the profession, the time spent in temporary positions gives a good sense of whether they are well-suited for the role and are interested in teaching as a long-term career option. Some would argue that giving permanent jobs too easily would create an attitude of complacency at the early stages of one's career. The more pragmatic argument seems to be that the continuation of teachers in temporary positions helps the institution to control spending in a context where financial support from the State is limited. This is because teachers in temporary positions usually receive consolidated salaries that are much lower than those of

permanent teachers who receive emoluments based on the pay-scales notified by the Government

However, a heavy dependence on teachers in temporary positions is not healthy for an educational institution in the long run. Prolonged engagement in temporary positions with lower pay can prove to be quite demotivating and lead to a high rate of attrition among teachers who will understandably leave once they get better employment opportunities elsewhere. Such consequences would pre-empt the improvements in curricular content and teaching standards that tend to happen if the same person continues to teach a particular set of subjects over several years. Hence, there should be a thorough review of the existing service conditions in order to draw a fair balance between the objectives of ensuring efficiency and giving employees a certain sense of stability as well as financial security. There should be a time-bound regularization of the services of those employees who have been hired on a contractual basis, subject to their satisfactory performance. A service-period of 2-3 years in temporary positions is more than sufficient to assess an individual's suitability for a permanent position.

There should be conscious efforts to improve service conditions – both in terms of material benefits as well as opportunities for career-advancement. It is not desirable to have a wide disparity between the pay-scales offered to teachers at the various NLUs since that may encourage poaching of individuals. We are already witnessing a clear diversion of teaching talent towards private universities that offer comparatively higher salaries. Each institution should also implement measures to provide 'group medical insurance' coverage for their faculty members and administrative staff. Especially in cities where costs of accommodation are high, the provision of cheap accommodation inside residential campuses is a significant incentive. Furthermore, one can look to the example set by some of the IIT's and IIM's to grasp the importance of raising resources through contributions made by private parties. The funds gathered from such sources can be distributed as research grants among faculty members. Faculty members should be given adequate time to engage in their independent research projects which could be funded by external sources such as government agencies, private businesses or voluntary sector organisations. It is in this context that the workload policies for full-time teachers at the NLUs should account for time that needs to be spent for meaningfully supervising student assignments while also pursuing one's own research agenda. This is especially important since contributions made to scholarly literature carry substantial weightage for promotions in academic institutions.

In respect of reservation norms for recruitment to permanent teaching positions, all public educational institutions in India are obliged to preferentially consider candidates belonging to the Scheduled Castes (SC), Scheduled Tribes (ST) and those who identify

themselves as Persons with Disabilities. Some States have reservation policies that favour candidates from Other Backward Classes (OBCs). While we were not able to gather reliable data to examine this issue in the context of the NLUs, the widespread feeling among our respondents was that the overall representation of teachers from these backgrounds is quite marginal. Unlike reservation norms for students which have to be met on an annual basis, there is no impending obligation to fill up vacancies for faculty positions since institutions usually retain the discretion of not filling them up during a particular round of selections. Such practices feed the criticism that candidates who come from such disadvantaged backgrounds get a raw deal when they apply for positions at highly selective educational institutions.

### **(c) Sharing of academic resources between Institutions**

An overwhelming majority of our faculty-respondents flagged the shortage of experienced faculty members as well as those who have expertise in emerging areas of law. This problem demands immediate attention. One suggestion in this regard has been to start regular exchanges of faculty members between the various NLUs. Teachers with proven expertise in their respective fields can divide their time across 2-3 institutions in an academic year so that more students can benefit from their inputs. Based on the academic calendar, faculty members at one institution can also offer short-term courses and workshops at other institutions. Such measures will immensely benefit the relatively newer institutions. Furthermore, this will also encourage a free flow of ideas and stronger networking between the institutions in matters such as curriculum development and collaborative research projects. Practical concerns about service conditions for teachers who go to other institutions for longer periods (a semester or an academic year) can be easily solved through the 'deputation' model - which is widely prevalent in government services.

It is also important to promote an active research and publishing agenda in each institution. In this regard, Indian institutions can learn from some Western countries where law professors play an important part in policy-making and shaping public dialogue. The NLUs can create Inter-Library Loan Services which enable a researcher located at one of these institutions to access books, monographs and journals that are available at the other institutions in this network. Another concrete suggestion is to create an online repository which would consist of working papers, published materials, conference documentation and curricular materials such as course plans and question papers. Such content can be made freely available on the internet so that the general public can also benefit from the same.

#### **(d) Consolidation of Postgraduate and Research Degrees**

So far, the NLUs have largely acquired reputational capital through their undergraduate programmes. However, there is an urgent need to improve the state of postgraduate programmes such as LL.M. and Ph.D. These programmes are primarily meant to provide rigorous training for those who are interested in pursuing teaching and research-oriented careers. As discussed in the previous chapter, the transition towards the one-year LL.M. programme had commenced during the academic year 2013-2014. This has led to a visible increase in the number of applicants who are appearing for the PG CLAT. On the face of it, this increase can be attributed to the reduction of the length of the master's programme from two years to one academic year. The premise is that a shorter duration reduces the opportunity costs for law graduates who can otherwise opt for employment.

However, interactions with a large cross-section of LL.M. students indicate another reason for the substantial increase in the size of the applicant pool over the last few years. The PG CLAT scores are being used by several Public Sector Undertakings (PSUs) to shortlist candidates for their recruitment cycles. So a large number of law graduates are appearing for this entrance examination in the hope of securing public employment. This is evidenced by the fact that the PG CLAT ranks obtained by the students who are actually joining the LL.M. programmes at specific institutions appear to have dropped considerably. In comparison to the much larger Central and State Universities where gaining admission to postgraduate programmes is far more difficult than entering undergraduate programmes, the NLUs have evolved into an anomalous situation where it is comparatively much easier to secure admissions in the master's programmes.

There is also an evident mismatch between the expectations of most LL.M. applicants and the institutional objectives behind offering these programmes. Those who do gain admission to the better known NLUs assume that these programmes will enhance their chances of securing lucrative employment opportunities with commercial law firms and leading business houses. However, it is only after commencing their postgraduate studies at these institutions that they begin to comprehend the largely academic orientation of the programme. As mentioned in Section 3.1, the applicable UGC guidelines contemplate the completion of three mandatory subjects, six optional subjects and a dissertation within one academic year. A large section of incoming LL.M. students may not have previously faced the intensive research and writing requirements that are the norm in these highly selective institutions. There also tends to be inadequate exposure to the fundamentals of doctrinal legal research and the interface between law and other disciplines. This leads to difficulties in coping with the prescribed coursework requirements.

On the supply-side, many of the NLUs are struggling to attract experienced teachers at the level of Professor and Associate Professor who can provide meaningful research supervision across a range of thematic specialisations. In such a scenario, recently recruited Assistant Professors are being assigned as research supervisors for postgraduate students. This is not a desirable practice when many of the Assistant Professors themselves may not have completed substantive research work such as a doctoral thesis or a scholarly book. If we go by the explicit guidance provided by the UGC Regulations for offering the one-year LL.M. programme, each institution should devote the services of at least 10 experienced faculty members (at the level of Associate Professor and above) for the purpose of teaching and research supervision in postgraduate courses. This pool of relatively experienced teachers is supposed to form a Centre for Postgraduate Legal Education (CPGLE) at each institution that is offering the LL.M. and Ph.D. programmes.

Another layer of difficulties arises from discriminatory behaviour by students enrolled in the five-year integrated programmes who tend to dominate student affairs in these residential campuses owing to their larger numbers and longer duration of study. It is also conceivable that several teachers might be taking advantage of the lesser bargaining power of LL.M. students by not delivering the intensive teaching and evaluation standards that are expected from them. In such circumstances, competing with postgraduate programmes at well-known foreign universities is likely to remain a distant dream.

This rather sorry state of affairs can be rectified through some concrete steps. The NLUs can consider introducing separate tracks for the LL.M. programmes, namely a 'taught' track and a 'research' track. The admissions for the 'taught' programme can continue to be conducted through the PG CLAT which consists of multiple-choice questions. The coursework can largely consist of lecture-based courses that are assessed through written examinations, with minimal requirements for producing research papers. There should of course be efforts made to expand the range of optional courses being offered to the students, both in terms of disseminating specialized knowledge and improving their professional prospects. In contrast, admissions to the 'research' track should be separately conducted by the respective NLUs. This is because each institution is a better judge of how many research-oriented students it can handle, given the relative scarcity of experienced faculty members who can provide meaningful research supervision. The admissions for such a 'research' track should ideally be conducted through a written examination that tests applicants for their capacity for theory-building, careful argumentation and analytical writing. Assessing these skills is not really possible through an entrance exam such as the PG CLAT which only consists of multiple-choice questions. Weightage can also be given for writing samples and academic performance

during undergraduate programmes. While this process may appear to be subjective, it is likely to be a far better filter for identifying students who are capable of pursuing intensive research. The NLUs should not view the fees paid by LL.M. students as an importance source of revenue and they should be prepared to limit the intake for these programmes based on the existing faculty strength. The global practice is that the aggregate intake for a postgraduate programme should ideally not exceed one-third of the intake prescribed for undergraduate programmes in the same field of study.

If we turn our attention towards research-based degrees, most of our faculty-respondents lamented that a vast majority of Ph.D. candidates enrolled at their respective institutions had opted for the 'part-time' route. Correspondingly, there tend to be very few candidates pursuing doctoral studies on a full-time basis at the NLUs. The foremost reason for such disparity is the significant opportunity costs that would be incurred by those who opt for the full-time route after having completed professional qualifications. A prospective doctoral student in this field has to consider foregoing income-earning opportunities that are available in legal practice and other career-paths. Hence, the 'part-time' route tends to be preferred by those who are already working, especially those who are in the early years of a teaching career and see the completion of a Ph.D. as a necessary step for their career advancement.<sup>88</sup> There are of course some individuals engaged in professional pursuits such as courtroom practice, the corporate legal sector and in voluntary sector organisations to name a few, who would be pursuing doctoral studies with different objectives in mind.

For those who are inclined to pursue Ph.D. programmes on a full-time basis, there are limited avenues for funding during the course of study. The Junior Research Fellowship (JRF) awarded by the University Grants Commission is limited to a small number of eligible applicants in each academic year. While doctoral fellowships are available through the Indian Council for Social Science Research (ICSSR), applicants need to effectively compete with a larger pool of applicants from several disciplines. Even though these funding avenues are available, the extent of funding can prove to be quite inadequate when compared with the loss of potential earnings from professional pursuits. There are few Indian Universities that offer their own fellowships for pursuing a Ph.D. programme in Law.<sup>89</sup> This is in sharp contrast to the position at some foreign universities

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<sup>88</sup> With the rapid rise in the number of law schools in India and the consequent expansion of teaching positions, an overwhelming majority of the Ph.D. candidates who are presently enrolled with the NLUs are already in teaching positions.

<sup>89</sup> For instance, our own institution (NALSAR Hyderabad) has started offering an integrated LL.M.-Ph.D. programme from the academic year 2017-2018 which offers monetary support to pursue full-time research for a maximum period of four years. However, it is too early to judge whether this form of support will yield a high quality of scholarly publications.



which have acquired a reputation for a serious commitment to research by providing fellowships to their doctoral students across disciplines. Many of the NLUs are using an intermediate method for supporting their Ph.D. candidates by recruiting them as ‘Research Associates’ for faculty-led research projects or as ‘Teaching Assistants’ who help in the delivery of undergraduate teaching.

### **(e) Encouraging Interdisciplinary Learning**

Owing to the limited scope of our questionnaires, we have not been able to discuss this aspect with the depth that it deserves. The evolution of the five-year integrated law programmes in India has its own distinct history. We had outlined some parts of that history in the survey of literature which was part of the introductory chapter in this study (Section 1.2). The element of integration between law and other disciplines is supposed to be central to the academic identity of the National Law Universities (NLUs). However, the experiences recounted by our respondents indicate numerous difficulties in the meaningful pursuit of interdisciplinary learning at these institutions.

As described in Section 3.1, the five-year integrated programmes do contain introductory courses in other disciplines, especially during the first two years of study. For example, the integrated B.A., LL.B. programme consists of introductory courses in History, Economics, Political Science, Sociology and English. Some NLUs have also included introductory courses in disciplines such as Philosophy and Psychology. Likewise, other variants of integrated law programmes such as B.B.A. LL.B., B.Com. LL.B. and B.Sc. LL.B. include introductory courses in the fields of business administration, commerce and science respectively. In the later stages of programmes which enable some curricular flexibility, optional courses can engage with topics that lie at the intersection of different disciplines. So in many ways the question of interdisciplinarity in the NLUs tends to be discussed by only examining how these courses are being delivered. However, that is a narrow approach to this question.

The broader approach would be to ask how the conceptual apparatus acquired from these disciplines is adding to the instruction of the prescribed law subjects. Likewise, is the teaching of the formal law subjects emphasizing insights from the broader universe of the humanities and the social sciences? For example, the teaching of Indian Constitutional Law is predicated on some exposure to colonial legal history as well as the larger currents in political philosophy. The teaching of Corporate and Commercial Laws requires a functional understanding of macroeconomic trends. Likewise, the meaningful study of subjects such as Family Law and Criminal Law require a serious engagement with insights from Sociology and Anthropology. The knowledge of procedural laws such as Civil Procedure, Criminal Procedure and the Law of Evidence is better absorbed

alongside insights from Behavioural Psychology and Organisational Behaviour. The formal study of Environmental Laws requires engagement with ideas from the fields of Geography and Biology. These are only a few illustrations of the numerous possibilities in legal studies. The conscious cultivation of such interdisciplinary learning enables a better appreciation of the rationale behind different kinds of rule-making, their enforcement and the adjudication of disputes. They may also enable students to understand the limits of formal laws as a means of social control.

The entrenchment of these methods requires years of investment in curriculum development as well as careful coordination between teachers who are engaging different courses as part of an integrated programme. Implementing such a pedagogic approach has come up against several practical challenges. At many of the institutions covered by our study, teachers who are specifically engaged for humanities and social science courses felt that their views were not given due weightage when it came to decision-making about curriculum development and revision. Administrative positions are usually occupied by teachers who deliver formal law subjects and they are often not very receptive to suggestions for expanding the range of interdisciplinary offerings. In some cases, law teachers who have attempted to re-design their courses by bringing in perspectives from other disciplines have suffered in terms of their career advancement. This has happened where Selection Committees have preferred formalist methods of teaching based on the uncritical reading of legislative materials and judgments. Faculty members with interdisciplinary training have found it difficult to come within the textual interpretation of the applicable UGC Regulations which reward extended study in the same discipline.<sup>90</sup> A teacher's emphasis on interdisciplinary learning can also create confusion among students, especially during the early years of their studies. School-leaving students may not immediately understand the importance of integrating the elements of a liberal arts education in what is presumptively a programme that confers professional qualifications. However, these doubts can be easily dispelled through classroom instruction that patiently engages with the short-term anxieties of fee-paying students who are predisposed towards looking at their curriculum through the lens of its relevance for employment prospects.

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<sup>90</sup> For example, an individual who holds a first degree in law (LL.B.) followed by a Ph.D. in Political Science is not going to be considered for an Assistant Professor position in Law despite having a good grasp of fields such as Constitutional Law and Administrative Law. In place of this individual, the rules will favour an individual who holds a second degree in law (LL.M.) and has qualified the UGC-NET but may not have yet completed a Ph.D. in Law. Similarly, an individual with advanced training in Economics may be better suited to teach subjects such as Company Law, Taxation Law and Banking Laws but she is unlikely to be considered above a candidate who holds a LL.M. and Ph.D. in these specific areas.

Another problem that was highlighted in this regard was the high rate of attrition of teachers who are hired for teaching humanities and social sciences subjects. The general tendency is for many of them to leave when they get opportunities to work in larger university systems, since the latter offer networking benefits that arise from interacting with others in their respective fields. This is because the NLUs are largely being viewed as monodisciplinary institutions that are not enabling cross-fertilisation among different branches of knowledge. So we need to consider institutional strategies for attracting and retaining such individuals. One such strategy is the initiation of taught programmes and the facilitation of longitudinal research projects that have an interdisciplinary orientation.

In the recent past, a few NLUs have started offering full-time master's programmes in disciplines other than law. For example, NALSAR Hyderabad started offering a M.B.A. programme in the academic year 2013-2014 while NLSIU Bangalore initiated a M.A. programme in Public Policy during the academic year 2014-2015. GNLU Gandhinagar has also started a M.B.A. programme in 2016-2017. These courses can both develop and benefit from synergies in faculty expertise and course offerings. However, these are examples of job-oriented courses which are primarily trying to attract fee-paying students. Hence, their eventual success is closely tied to whether the incoming students will get good recruitment opportunities. In contrast, now might be the right time to offer M.A. programmes that emphasize the links between law and other social sciences in order to advance the goals of knowledge production. These may attract graduates from other disciplines who are more likely than the graduates of the five-year integrated programmes to pursue research activities in the long-run. The NLUs should not take the postgraduate space for granted. Over the last few years, several innovative programmes related to fields such as law and governance have been established at Universities such as the Tata Institute of Social Sciences (Mumbai and Hyderabad), Azim Premji University (Bangalore), O.P. Jindal Global University (Sonapat), Ambedkar University Delhi and the South Asian University (New Delhi). These are comparatively larger institutions with more financial resources to support research and they are consciously developing faculty expertise across several disciplines.

#### **(f) Extension Activities**

Once again, this is an area which requires substantial analysis and the present study is only touching on it in a cursory manner. Apart from offering taught programmes and facilitating research activities, the NLUs need to prioritize activities that enable them to reach out to the wider public. One such route is that of 'Clinical Programmes', which in turn have two distinct layers. The first of these layers refers to coursework requirements for students which are intended to develop skills needed for legal practice. This is done through prescribed courses such as Moot Court Exercises, Drafting of Pleadings and

Conveyancing, exposure to Alternative Dispute Resolution (ADR) methods and the pursuit of internships under practitioners. The second layer of Clinical Programmes holds possibilities for extensive public engagement, especially through the organisation of Legal Literacy Programmes and the facilitation of Legal Aid activities. In particular, the 'Legal Aid' clinics give students the opportunity to learn from direct involvement in the provision of legal advice and representation for clients who are in need of the same. It also enables a thorough understanding of social problems that give rise to disputes. Furthermore, it can also be an instrument for each institution to build goodwill in its local setting. The establishment and continuation of 'Legal Aid' programmes requires long-term commitments from institutions, both in terms of personnel and monetary resources. Many of the NLUs have struggled on this count owing to a constant turnover in the teams of students who are engaged in these activities. The semi-rural location of some of these campuses also makes it difficult to regularly work with State and District-Level Legal Services Authorities that are usually located inside urban centres. However, there are institutions such as WBNUJS Kolkata that have been running their Clinical Programmes quite effectively over the last decade. A large number of student volunteers are engaged every year to assist in providing legal advice and representation for vulnerable communities in and around Kolkata.

'Distance Education Programmes' are another sphere for broader public engagement. These programmes are usually in the nature of postgraduate diplomas that are offered to working professionals, including graduates from fields other than law. The coursework consists of frequent contact classes that are usually scheduled during weekends with the assessment being conducted through examinations and assignments towards the end of an academic year. The content of the offerings is usually geared to the specific needs of professionals across different fields. For example, NLSIU Bangalore was a first-mover among these institutions with a Master's in Business Law (M.B.L.) programme that attracts a large number of applicants in each year. Over time, the offerings have diversified into other areas such as Intellectual Property Rights, Human Rights, Environmental Protection, Consumer Disputes Redressal and the protection of Child Rights to name a few. Likewise, NALSAR Hyderabad has been regularly offering postgraduate diplomas in areas such as Patent Laws, Media Laws, Cyber laws, International Humanitarian Laws and Aviation Laws among others. WBNUJS Kolkata has been offering a successful diploma in Business Laws and Entrepreneurship with the classes being conducted by some of its alumni. In sharp contrast to Legal Aid activities, the NLUs tend to view distance education programmes primarily as a source of revenue. Given the relatively difficult financial situation of many of these institutions, such an approach is quite understandable. In addition to improving the institution's finances, these programmes can enable faculty members to supplement their incomes by engaging classes. Apart from contact classes for enrolled students, the programmes can be scaled

up through the digital medium by uploading lectures and facilitating interactions between instructors and students who are sitting in different physical locations. However, the prospects of earning profits from these programmes should be reflected in measures taken to ensure that the quality of the content being delivered is credible and frequently updated. If highly selective institutions can attract a healthy number of applicants to these programmes owing to their reputation, these numbers can also be easily lost if the overall quality of the course offerings is below par.

We must also take note of the constructive role that can be played by ‘Continuing Legal Education’ (CLE) programmes that are directed at law graduates who are engaged in different lines of work such as courtroom advocacy, teaching, commercial law and policy-design to name a few. These can be organised in collaboration with bar associations, industry bodies, other educational institutions and research institutions. The NLUs should proactively reach out to lawyers who primarily practice in the subordinate courts in order to organise training programmes for their benefit. In this regard, one can follow the model of the Menon Institute for Legal Advocacy and Training (MILAT) which frequently organises such programmes all over India. Apart from these programmes targeted at law graduates, the NLUs can easily disseminate legal knowledge by hosting public lectures and making their recordings available to the general public through the Internet. For example, institutions such as NLSIU Bangalore, WBNUJS Kolkata and NALSAR Hyderabad have been regularly uploading the content of guest lectures and conferences hosted by them on their respective ‘YouTube’ channels.

### **(g) Reforming Governance Structures**

We now turn to some of the opinions gathered in respect of the governance structures at the NLUs. While this issue would be better examined through institution-specific case studies, we have tried to briefly recount some of the concerns that appear to be common to many of the institutions covered by our study. One thread touches on worries about the excessive centralization of decision-making authority in the hands of incumbent Vice-Chancellors. The Vice-Chancellor serves as both the academic and administrative head of a higher education institution. Owing to the relatively small size of the NLUs when compared with larger public Universities, there is bound to be more scrutiny exercised by a Vice-Chancellor in matters of day-to-day administration. It would be a logical consequence of this situation that faculty members, non-teaching staff and students would be interacting with the head of the institution more often than what is the case at larger public Universities. A high degree of familiarity between the respective stakeholders may enable more responsive decision-making in the short-run but can also generate distrust in the long-run.

A certain degree of control is expected in the performance of routine co-ordination functions such as authorizing construction of physical infrastructure and procurement of essential materials (such as books for the library and groceries for dining facilities). However, that should not preclude disclosures about administrative decision-making. The lack of publicly verifiable information about spending decisions creates undue apprehensions about graft and self-dealing behaviour. So the periodic disclosure of spending decisions is an effective means of preventing or allaying such apprehensions. As mentioned earlier in this Report, this can be easily done by uploading the annual financial statements of the institution on its official website after they have been independently audited and approved by the Governing Bodies.

In comparison, there is a much higher expectation of transparency and fairness in decision-making when it comes to academic matters such as recruitment of teachers, allocation of teaching responsibilities and the handling of grievances related to teaching and evaluation. At many of the institutions covered by our study, we heard testimonies detailing instances where incumbent Vice-Chancellors had used their discretion in a very expansive manner when it comes to academic matters. A very troubling set of instances reported at NLSIU Bangalore deals with interference in the evaluation of examinations by individual teachers. The existing procedures for re-evaluation were invoked to modify marks given by the Course Instructors, with no involvement of other faculty members or subject experts. Such interference might be couched as a remedial intervention in order to protect students who are struggling to cope with the coursework, but it seriously undermines the presumption of academic autonomy which has been touted as a distinctive feature of the NLUs. Not only does such interference seriously demotivate teachers, but it also distorts the incentives for students to work hard for completing their coursework. Respondents at several institutions criticized the lack of open deliberations on academic matters. Pointed references were made to the discontinuation of regular faculty meetings and the casual overturning of decisions made by internal committees constituted to administer the undergraduate and postgraduate programmes respectively. Some Vice-Chancellors are known to prefer dealing with grievances in an individualized manner rather than attempting to resolve problems through collective deliberation. Even in dealing with individual representations, there might be a deliberate avoidance of difficult and inconvenient questions. Like in the case of public institutions at large, the concentration of powers in a few hands can severely compromise the elements of expertise, efficiency and predictability that are expected in decision-making.

Another set of respondents pointed out that many of the incumbent NLU Vice-Chancellors have been selected for these roles after acquiring their previous work experience in very different institutional settings. Hence some of them tend to be quite indifferent to problems such as teachers neglecting their professional responsibilities and

students being visibly apathetic towards their coursework. At a few institutions, no concrete action has been taken despite classes for several subjects not being held regularly and reports of irregularities in the conduct of examinations. Such indifference may also extend to the domain of faculty recruitments if the head of the institution does not see the importance of attracting talented and motivated teachers. In many cases, candidates with impressive scholarly credentials have been overlooked in favour of mediocre teachers at the stage of recruitment and promotion. Then there were more personalized criticisms such as some Vice-Chancellors demonstrating a decidedly 'feudal' style of management where benefits such as fast-track promotions are handed out to teachers and employees who display loyalty. On the other hand, those who are openly critical of administrative decisions tend to have slower career advancement or may even face retaliatory action such as termination of services without assignment of reasons (if they are in temporary positions) and trumped up disciplinary proceedings if they happen to be in permanent positions.

While some of these criticisms might have been overstated, there is no doubt that the selection of the NLU Vice-Chancellors needs to be made in a broad-based manner. At present, the Search-cum-Selection Committees are constituted by the Chancellors and consist of nominees from the Judiciary, the Bar and Academia. The academic nominee tends to play an important role in these committees and is usually an incumbent at a comparable institution. They invite applications from eligible candidates (usually individuals who have served as a Professor of Law for at least ten years) and then shortlist them based on the demonstrated academic and administrative credentials. The shortlisted candidates are then called for interviews by the Chancellor before the final selection is made. This process needs to be conducted with more transparency and it would be better if stakeholders such as faculty members, the elected student body and the alumni association of the concerned institution are at least given an opportunity to provide feedback on the list of applicants before the processes of shortlisting and final selection are completed. This will improve the chances of selecting candidates who possess the desirable balance between scholarly credentials and administrative abilities.

When it comes to the functioning of the Governing Bodies of the NLUs such as the General Council (GC), Executive Council (EC) and Academic Council (AC), there were pointed questions about the role played by existing stakeholders such as the Judiciary, the Bar, and representatives from the respective State Governments. Most of the representatives are preoccupied with their professional responsibilities and tend to view their involvement in these bodies as a nominal function. The representation of permanent faculty members is largely dependent on the personal discretion of the incumbent Vice-Chancellors. It is quite possible that the external representatives may lack the time and the proximity needed to understand the immediate concerns of the primary stakeholders,

namely the students enrolled in full-time programmes at these residential campuses. In such a scenario, there are good arguments to provide for the formal representation of the alumni associations in the Governing Bodies of the NLUs. Such an inclusion may become possible within ten years of the commencement of the taught programmes at a particular institution. Representatives chosen from the alumni are more likely to present an informed take on the day-to-day affairs of the University since they are familiar with its needs and also have a long-term interest in maintaining its reputation. They may be able to better understand and articulate issues concerning teaching standards and curriculum reform apart from facilitating support for student-initiated activities.

### **3.4 Career trajectories of NLU graduates**

It is also important to ask a broader question about the social relevance of legal education. Many lawyers played an instrumental role during India's freedom struggle and subsequently in the framing of the Indian Constitution. That historical context shaped the presupposition that lawyers would be at the forefront of socio-political change. More than six decades later, this normative role is often questioned in the public sphere. While lawyers continue to be close to the levers of political and economic power, there is often a note of distrust and ridicule directed at their ways of functioning. It is an unfortunate development of our times that a large section of Indian society views lawyers as an undifferentiated professional community which contributes to social problems rather than solving them. In this age of cynicism, it is important to resurrect an ethical vision for legal education. However, a renewed emphasis on professional ethics and social responsibility is easier to aspire for in comparison to achieving it in practice.

It is quite evident that in the case of most of the National Law Universities (NLUs), the limited state support for recurring expenditure is leading to an excessive reliance on tuition fees paid by students. The progressive increase in tuition fees is certainly an unhealthy trend since it is increasingly compelling students to opt for job-opportunities which pay well in the short-run (e.g. commercial law firms and in-house positions in business entities) as opposed to careers that are closer to the original vision of those who started these institutions, namely positions in the subordinate judiciary, litigation at the grassroots level and careers in teaching. The spiralling cost of higher education is by no means a problem that is confined to the NLUs. Many standalone law colleges as well as private institutions face similar challenges in managing their finances, even as they promise to produce law graduates with professional competence. The faculties and departments that are housed in larger public universities are able to keep the tuition fees low, but there is insufficient mobilisation of human resources and finances to improve their academic and administrative practices. There are frequently voiced concerns about the apathy shown towards legal education in a vast majority of Law Colleges and



University Departments. In such a scenario, we face a dual problem. The institutions that were meant to be the torch-bearers of systemic reform are producing graduates which are diverted towards lucrative opportunities in the private sector while the older institutions continue to be run with laxity. This has exacerbated the career ambivalence that has always existed in India's legal profession. At the top of the legal education pyramid, we have a small group of highly selective institutions that have become feeders for the leading commercial law firms and business entities while a vast majority of law departments and colleges continue to add to the pool of 'briefless barristers' and graduates who will never use their law degree to earn a living.

## **CHAPTER 4: CONCLUSION AND RECOMMENDATIONS**

This concluding chapter in our study synthesizes some actionable recommendations that can possibly address the issues discussed in the preceding chapters. Like any set of recommendations for institutional reform, they cannot be considered as full-proof solutions. We had described the limitations of our study while explaining the methodology used for conducting it (Section 1.3). The following statement of actionable recommendations is followed by a brief enumeration of some issues that require further research.

### **4.1 Actionable Recommendations for improving Access**

a) The responses to our questionnaire show that after the quality of ‘faculty’, the publicly known ‘Law School Rankings’ are the second most important factor for applicants to choose between NLUs. With respect to the Common Law Aptitude Test (CLAT), the preferences of applicants seem to be driving the rankings of the NLUs, the latter having a strong correlation with the year of their establishment. These informal ‘rankings’ are then publicized by news-magazines and online publications which in turn shape the preferences of newer applicants. This is not a desirable situation since it gives relatively older institutions an artificial advantage and has already led to complacency on their part when it comes to the actual quality of education offered by them. It would also demoralize newer institutions who may not be able to improve their perceived ‘ranking’ despite significant efforts made to improve teaching standards. Hence, there is a need for an authoritative ranking of the NLUs by a publicly reliable source. We suggest that the National Institutional Ranking Framework (NIRF) introduced by the Ministry of Human Resource Development (MHRD), Government of India should include the NLUs as one of the sub-categories in their annual exercise of ranking higher educational institutions in India. However, these monodisciplinary institutions are too small in size to be directly compared with Central Universities, State Universities and Private Universities which have a multidisciplinary character.

(b) Even though the applicant pool for the NLUs has grown by nearly five times between 2008 and 2017, it is still quite small when compared with the corresponding numbers for entrance examinations in other professional disciplines. The main reason for this is that the CLAT is conducted solely in the English language. Its reach can be expanded considerably if it is conducted in all the Scheduled languages, rather than just English. There might be practical objections to this proposal, citing the organisational costs and the high risk of errors in translation. Others might argue that the emphasis on English is important given that it is the language of record in our higher courts and is also needed to study comparative and international law. However, it must be remembered that a majority of school-leaving students in India complete their studies in a medium other than English. Among those who pursue higher education, most gain familiarity with English as they

progress through their undergraduate and postgraduate studies respectively. This is also the case for many students who attend the Three year law course (LL.B.) after completing an undergraduate programme in another discipline. The NLUs will be able to attract a far more socially diverse student body if the entrance exam is conducted in all the languages that appear in the Eighth Schedule of the Constitution of India. This will improve the prospects for students from rural and backward areas to gain admission to these institutions.

(c) Coming to the modalities of the CLAT, there are several steps that can be taken to make it less exclusionary for applicants who come from disadvantaged backgrounds. For starters, the application fee for CLAT has been pegged at the rate of Rs. 4,000 in recent years. This is much higher than the corresponding fee for entrance examinations in other professional disciplines. Therefore, there is a good argument to reduce the fee by half, especially for candidates who come from disadvantaged backgrounds. The NLUs should not be seeing the entrance examination as a source of revenue. Transitioning to a computer-based test has obvious exclusionary effects, especially for those who have not used computers earlier. Hence, an option of giving a paper-based test should be provided in the application forms.

(d) Given the increasing applicant pool for CLAT, the preferred format has been that of giving multiple-choice questions where candidates have to mark the correct option. Using OMR technology, it is possible to screen thousands of sheets in a short period of time. However, the multiple-choice questions should be framed in such a way that they do not unduly reward those who can afford access to specialized coaching. Given the skills needed for pursuing legal education, questions should test reading comprehension, logical analysis and general knowledge. However, there is no need to include questions on specialized law subjects such as Law of Contracts, Law of Torts and Criminal Law that are supposed to be taught after one gains admission. It is also not advisable to include filters such as 'Personal Interviews' or 'Group Discussions', since that would introduce more subjectivity and be discriminatory against students from rural and backward areas.

(e) There is a pressing need to improve the co-ordination mechanisms for conducting the CLAT. The present model of rotating organisational responsibilities to a fresh institution each year has undermined the quality of the exam. Relatively newer institutions sometimes lack the personnel and organisational experience to handle an exam of this scale. As outlined earlier, there have been numerous problems in recent years such as the repetition of questions from well-known coaching books, patent errors in the question papers and answer-keys as well as complaints about the lack of transparency in seat allocation by individual NLUs. Given the mounting evidence with each passing year, the NLUs should favourably consider the proposal of a setting up a 'Permanent Secretariat' to conduct this examination. It can have its own specialized staff whose work is overseen by a committee consisting of representatives from all the participating NLUs. Nominees

from the Higher Judiciary, Ministry of Law and Justice and Ministry of Human Resource Development can be included to ensure quality control measures. At the cost of repetition, the entrance exam should not be seen as a source of revenue by the participating institutions.

(f) Changes should also be considered for the format of the PG CLAT which is used to determine admissions for LL.M. programmes at the NLUs. The questions should test the candidate's capacity for conceptual analysis and coherent writing as well as existing knowledge of core legal subjects studied during the first degree in law. Multiple-choice questions are not suitable for meeting these purposes. Given the comparatively smaller number of applicants for the PG CLAT, it should be feasible to include some essay-type questions and evaluate them in a timely manner.

(g) At least two of the NLUs that are currently in existence (NLU Delhi and HPNLU Shimla) are not using the CLAT for conducting their admissions. They should be advised to join the same. By remaining outside the ambit of this process, they are undermining the objective of a common exam introduced in 2008, which was to reduce the monetary and physical burden on applicants.

(h) Once students are admitted, each institution should provide targeted financial assistance for those who are in need. This can be done in different forms such as (i) facilitation of educational loans from banks, (ii) fee waivers granted after evaluating the income-level of the student's family, (iii) targeted contributions sourced from donors on the basis of need rather than academic performance, and (iv) Pre-emptive support for SC/ST students who are eligible to receive scholarships administered by the Ministry for Social Justice and Empowerment, Government of India. This can be done by not insisting on the full-payment of the first-year fee at the time of admission. Such proactive measures are needed to prevent students from dropping out of the programme or facing hardships due to financial reasons.

(i) Several NLUs have domicile quotas of up to 50% of their total intake. This is not a desirable characteristic in the long-run, as it undermines the national character of the student body. This can also lead to undue resentment against students who gain admission with much lower ranks in entrance examinations. This is because domiciliary status is not closely correlated with social and educational backwardness as it is in the case of students coming from historically disadvantaged backgrounds. Ideally, domicile quotas should not exceed 20% of the intake in a full-time taught programme, given that the respective State Governments would expect some reciprocity from these institutions in lieu of financial grants. In the long-run, the needs of local communities can be better addressed through Extension Activities such as Legal Aid programmes for prospective litigants who otherwise cannot afford formal representation, Distance Education Programmes targeted at working professionals across disciplines, Continuing Legal

Education (CLE) targeted at lawyers in subordinate courts and through Public Education Initiatives.

(j) With regard to seats allocated for foreign nationals, a distinction should be drawn between students from developing and developed countries. At present, foreign nationals pay fees that are 3-4 times of those paid by Indian nationals. There are good arguments for fee-differentiation between students belonging to SAARC countries and those coming from economically advanced countries. Perhaps, the fees collected from SAARC nationals can be pegged at twice the amount that is prescribed for Indian Nationals. Furthermore, a few NLUs have provided for 'NRI-Sponsored' seats. This category should be discontinued since it is being misused by those who have completed their schooling in India but have relatives in developed countries who are willing to sponsor their education by paying the higher fee structure.

#### **4.2 Actionable Recommendations for improving Academic Inputs**

a) Our study clearly shows that admitted students value the quality of teaching above all other factors while choosing to gain admission to a particular institution. Hence, it is imperative that consistent efforts are made to attract and retain good teaching talent. There is an urgent need to attract graduates of the relatively established NLUs to the teaching branch so as to properly develop the comparatively newer institutions. Contrary to the popular wisdom on this issue, pay-scales are not the only factor. Competent and motivated teachers will join institutions that are known to offer permanent teaching positions within a reasonable time-frame of 2-3 years. Relying on teachers in temporary positions for several years at a stretch leads to a high rate of attrition and makes it difficult to attract fresh talent. In order to induct fresh talent, pathways can be created such as paid Teaching Assistant positions for recent LL.M. graduates and Ph.D. candidates who show an aptitude for teaching. Another prospective step that can be considered is for the NLUs to collectively organise their own Law Teachers Eligibility Test (LTET) in place of the UGC NET which is the current threshold for being considered for permanent teaching positions. This test can be designed so as to ensure a more meaningful assessment of an individual's aptitude for teaching. In the larger scheme of things, a working environment that encourages diligence, creativity and transparency will enable the accumulation of qualitatively better human resources.

b) It is important for all the NLUs to organise curriculum development workshops before the start of each academic year. This practice is vital for older and newer institutions alike. These can serve as the forum where course plans are presented, discussed and improved upon. The curricular content should also be scrutinized by external resource persons, not just from other academic institutions but also those who are involved with practice, civil society organisations and research institutions. We should also consider the possibility of collaborative exercises where teachers from all the NLUs meet their

counterparts who are teaching the same subjects. If getting all teachers together in one location is not viable, it is possible to organise thematic workshops by rotation at different institutions. This will enable the cross-fertilization of ideas and improve the standards of teaching and research-based activities.

c) While some NLUs have already transitioned towards a Choice-Based Credit System (CBCS), it is now a must for all higher educational institutions. Admittedly, creating a diverse basket of optional courses does require depth in the composition of the faculty, both in terms of previous teaching experience and research expertise in emerging fields of inquiry. This may indeed be a serious challenge for very new institutions that require a cycle of 5-6 years to build their faculty. In such cases, it may not be viable to straightaway offer thematic specialisations to the students during the advanced years of their studies. So it might be more practical to begin with an open basket of elective courses where students can customize their coursework by choosing courses across different themes. Obtaining a specialization during the five-year integrated undergraduate programme does not make a substantial difference for prospective employment or opportunities for further studies. However, offering thematic specializations becomes far more important as part of postgraduate and research degrees. That would undoubtedly require sustained efforts towards faculty development, both in the quantitative and qualitative sense.

d) When it comes to teaching methods inside the classroom, the conventional 'Lecture' method needs to evolve into more interactive forms of teaching. The 'Socratic' method in the strict sense is perhaps not viable in the context of Indian Universities but a middle-ground can be found where students gain the confidence to ask questions and make interventions in class. Teachers also need to orient themselves to an institutional environment where students can easily access information and argue with them, often pointing out errors and contradictions in what has been taught.

e) Some NLUs have introduced a system of holding 'Tutorials' hours in addition to their regular classes. As discussed earlier, there are different models for holding them. At some institutions, the faculty members themselves engage the 'tutorial' hours with smaller groups in order to give them more focused attention. At some of the NLUs, the tutorials are engaged by 'Teaching Assistants' who are selected from the available pool of final year undergraduate students, LL.M. students and Ph.D. candidates. Another model is that of developing an 'Academic Support Programme' where older students volunteer to assist younger students in an informal manner, in respect of tasks such as using library resources, conducting research for project assignments, giving feedback on written work and preparation for written examinations. Adopting these processes is much easier in the context of residential campuses.

f) Specialized classes for teaching English language skills are especially needed by students who have completed their schooling in a medium other than English. Many of these students tend to come from rural areas and small-town backgrounds. Some of them are also ‘first-generation’ learners from their respective communities. The NLUs should recruit full-time English language teachers with the necessary skills to provide support for the students, especially during the initial stages of their studies. It is not advisable to rely on part-time teachers for this purpose. Special attention has to be paid to the needs of students who may feel a strong sense of alienation and even lose their self-confidence, owing to difficulties in reading, speaking and writing in English.

(g) We had touched on several steps that can be taken to make project assignments more meaningful. While a method of pre-assigning topics to students may be more practical for the introductory subjects where class sizes are larger, in the advanced years of study (especially seminar courses with smaller class sizes) the students should be given some freedom to frame their research topics after consulting with the faculty members. The submission deadlines should be reasonably spaced throughout the term so that students can separately prepare each assignment with due care after receiving proper feedback. The prescribed lengths should be scaled down based on the time given for completing each assignment. Prescribing unduly long lengths will only encourage plagiarism by students and lack of careful evaluation by faculty members. Faculty members have a professional obligation to invest sufficient time for guiding students as they prepare the project assignments, since these intensive research and writing requirements have been the main reason for the subsequent professional success of NLU graduates. High standards of academic integrity should be enforced through strong measures against plagiarism in project submissions. Such malpractices should attract penalties such as a re-submission of the paper and even a failing grade in the course when there is an unacceptably large quantum of plagiarized content in the assignment. On the other hand, good project assignments written by students should be encouraged by facilitating their refinement for presentations in credible academic conferences and publication in prestigious scholarly journals.

(h) If the NLUs are expected to teach the norms of procedural fairness, they must also strive to demonstrate them in their own administrative affairs. Hence, there should be a robust mechanism to both prevent and address grievances related to academic affairs. Preventive measures can include provisions for anonymity in written examinations so as to protect students from personal bias in an autonomous evaluation system. There should also be a norm of disclosing the evaluated answer-scripts to the students so that they can understand the basis of evaluation. Similarly, individual instructors can provide answer-keys for objective questions and offer explanations for what is expected in response to analytical questions. In terms of reactive steps, complaints should be duly heard by administrative committees constituted for undergraduate and postgraduate programmes.

These committees should follow the principles of natural justice such as accounting for conflicts of interest in decision-making, giving a fair hearing to the interested parties and giving reasons in support of their decisions. In matters such as the moderation of marks or processing requests for re-evaluation, due regard should be given to the academic autonomy of the teacher. Those in administrative positions should not pander to the demands of students. In the long run, such populism hurts the quality of education that is being delivered.

(i) Students' feedback on the performance of teachers should be collected at all levels of coursework, be it undergraduate programmes, postgraduate programmes or doctoral studies. Some NLUs have introduced the practice of collecting feedback while protecting the anonymity of students. There are some institutions which do the same without such procedural safeguards. In the long-run, an anonymous student feedback system adds more credibility to the institution's academic reputation. However, it may not be wise to exclusively rely on this feedback given by students when Selection Committees (which also consist of External Subject Experts) make decisions related to the regularisation and promotion of teachers. This is because students can sometimes rate their teachers based on their short-term interests rather than the long-term value of the academic engagement on offer. Irrespective of these limitations, feedback collected from students serves as a useful diagnostic device for teachers to improve their course content and methods of teaching as they gain more experience.

(j) The optional courses offered by the faculty members at each institution can be supplemented with shorter optional courses taught by practitioners and visiting scholars. Courses taught by judges, advocates and those working in commercial law firms as well as business houses can forge meaningful relationships in the long-run. These can directly benefit the institution in terms of the knowledge disseminated while also improving the employment opportunities for students upon graduation. Inviting scholars who are affiliated with other Universities, Research Institutes and Civil Society organisations is also a useful way to compensate for inadequacies in teaching capacity, especially during the early years of an institution's journey.

(k) Furthermore, the NLUs have been included in the Global Initiative for Academic Networks (GIAN) since 2016. Under this programme, the Ministry of Human Resource Development (MHRD), Government of India gives financial assistance for inviting academicians from foreign universities to teach short courses, carrying 1 credit (12-16 class hours) or 2 credits (20-24 class hours). While some NLUs have begun utilizing this route, all of them could conceivably benefit from it. If the requisite financial resources are available, invitations can be issued to foreign academics to be engaged as 'Visiting Professors' or 'Research Fellows' for a semester or an entire academic year. This route can potentially be better utilized if the Ministry of Home Affairs (MHA), Government of



India exempts Tertiary-level teachers (those working in Colleges and Universities) from the requirement of receiving a minimum annual salary of US\$ 25,000 in order to obtain an employment visa to work in India. Given the relatively lower pay-scales in India's public universities, it is ordinarily quite difficult to earmark funds for paying significantly higher salaries to foreign nationals. On this count, some of the private universities which have much higher fee-structures and stronger financial backing are finding it easier to engage the services of foreign faculty members for longer durations, often by paying them much higher salaries than their Indian counterparts.

(l) There has to be a conscious effort on part of the various NLUs to share their academic resources. One way of doing this is to rotate faculty members on 'deputation', especially when they possess expertise in new and emerging areas. Through this route, the relatively older and more established institutions can lend their expertise and institutional knowledge to newer institutions. Other tangible steps that can be taken in this direction are the creation of Inter-Library Loan Services and digital databases for sharing of teaching materials and research output. All of these institutions stand to gain in the long-run if they incubate a culture of collaboration among themselves.

(m) Most of the NLUs are attracting candidates at the entry level of Assistant Professor, whereas there is an evident shortage of personnel at the level of Associate Professors and Professors. This imbalance affects the institution's ability to deliver postgraduate courses and meaningful research supervision. So the question is what can be done to attract experienced faculty members, especially those with proven expertise in teaching specialized courses and conducting research of a high standard? One incremental step could be that of offering research-based incentives and the freedom to raise resources for independent research from external agencies. Such external funding can be sought from Governmental agencies, private businesses and voluntary sector organisations. However, private sector players are more likely to support research efforts that are tailored to the needs of the market or their respective institutional agendas. Hence, there is a need for sustained public funding to support legal research in general. While the Department of Justice, Ministry of Law and Justice has taken praiseworthy initiatives to support research on judicial reforms, there is space for a long-term provision. The Ministry of Law and Justice could consider setting up an Indian Council for Legal Research (ICLR) on the lines of the Indian Council of Social Science Research (ICSSR). This proposed Council could consist of members nominated from the Higher Judiciary, Senior Advocates with scholarly interests and eminent law teachers whose work has been recognized internationally. This Council can thoroughly scrutinize research proposals sent by Ph.D. candidates, Post-Doctoral Researchers and serving faculty members for annual or multi-year grants to produce scholarly works.

(n) If we turn to the state of the LL.M. programmes at the NLUs, we are faced with a complex situation. While the number of applicants for PG CLAT seems to be steadily growing after the introduction of the one-year LL.M., there appears to be a marked decline in the quality of applicants who are actually joining these programmes. This is because most applicants for PG CLAT are aiming for jobs in Public Sector Undertakings (PSUs), presumptively because the scores obtained in this exam are being used as a shortlisting criterion by the latter. A majority of those who are joining the LL.M. programmes do not appear to be interested in pursuing careers in teaching and research. To respond to these concerns, a concrete intervention could be that of separating the LL.M. programmes into 'Teaching' and 'Research' tracks. Admissions to the 'Teaching' track can continue to be made on the basis of PG CLAT (with questions that place due weightage on conceptual analysis, writing ability and knowledge of core legal subjects). However, admissions to the 'Research' track should be left to each NLU who can better judge how many students they can handle in terms of their capacity for teaching and research supervision. In keeping with global norms, the aggregate number of LL.M. students admitted by each NLU should not exceed one-third of the aggregate intake in their five-year integrated undergraduate programme. Ideally, the number of LL.M. students admitted should be based on the availability of faculty members who can teach specialized subjects and provide intensive research supervision.

(o) Most of the Ph.D. candidates enrolled at the NLUs are pursuing the same on a 'part-time' basis. This is because professional opportunities in different sectors open up after completing a LL.B. The pursuit of doctoral studies carries significant opportunity costs, not just for law graduates but also for those who hold qualifications in other professional disciplines. Hence, there is a need to provide a stable source of financial support for Ph.D. candidates who are willing to take up full-time research activities. The existing avenues for funding doctoral studies such as UGC-JRF and ICSSR fellowships are quite limited. The NLUs must seriously consider the establishment of their own fellowships to support good doctoral candidates. This can be done by soliciting targeted donations from prominent Senior Advocates, Business Houses and Large Law Firms. Exchange Programmes with Foreign Universities can also prioritize the needs of Ph.D. candidates by giving them material support to pursue research at the partner institution for specified periods of time.

(p) NLUs can consider introducing M.A. programmes that are based on the interface between law and other disciplines such as political science, economics, history, philosophy, sociology and anthropology. The offering of such interdisciplinary courses on a full-time basis should be based on the available faculty expertise. Apart from integrating knowledge across disciplinary boundaries, they can also be an additional source of revenue for the institution. They are also likely to attract motivated students who have completed first-degrees in these disciplines at prestigious institutions. This pool

of students will be more likely to pursue interdisciplinary Ph.D. programmes in the longer-run, when compared with the existing pool of law graduates. The initiation of such programmes could also help in attracting and retaining faculty members who possess the requisite qualifications and expertise in these disciplines.

### **4.3 Actionable Recommendations for improving Administrative Processes**

(a) All the NLUs must adopt the best practice of proactively disclosing their Annual Financial Statements on their respective websites. This can be done once they have been duly audited and subsequently approved by the Governing Bodies of the Institution.

(b) Given concerns about the personality-centric nature of the NLUs, there is a need for a broad-based process for selecting their Vice-Chancellors. The Search-cum-Selection Committees (which consist of nominees from the Judiciary, Bar and Academia) should invite feedback on the applicants from the faculty members, student body and alumni association of the concerned institution. This is a practice being followed at the best known foreign Universities. More intensive scrutiny of the applicants by interested stakeholders will improve the chances of selecting individuals who possess the necessary balance between scholarly credentials and administrative abilities. Furthermore, given the relative paucity of candidates for these positions in the legal education sector, the University Grants Commission (UGC) could consider reducing the eligibility criteria to persons who have attained the rank of Professor, as opposed to the present criteria which requires applicants to have taught for at least ten years after having attained the rank of Professor. Such a change will definitely enhance the competition for these positions and bring relatively younger individuals into leadership roles.

(c) Once a particular NLU completes ten years of its taught programmes, provisions should be made for nominating representatives from its Alumni Association to participate in the Governing Bodies such as the General Council, Executive Council and Academic Council. In the long-run, alumni from the concerned institution will be heavily invested in protecting and enhancing its reputational capital. They are also more likely to be responsive to the needs of present students. Such a change can be made by way of an amendment to the statutory provisions dealing with the composition of the respective Governing Bodies. If going through the legislative route is too cumbersome, incumbent Vice-Chancellors can proactively nominate representatives from the alumni association of the concerned institution.

(d) There is a serious need for sustained investments in the establishment and working of institutional mechanisms to combat discriminatory behaviour in residential institutions. These mechanisms have to perform both a preventive and investigative role. Most educational institutions tend to conflate several issues under the broader rubric of disciplinary matters. However, specialized institutional mechanisms have to be created

for addressing complaints of sexual harassment (Internal Complaints Committee) and various other forms of identity-based discrimination. Each institution should also retain the services of professional counselors who can advise students on matters related to academic stress, peer pressure and relationship-related problems. We also need to think of strategies other than punishments to discourage consumption of tobacco, alcohol and recreational drugs. The mechanical use of punitive strategies often proves to be counterproductive and might in fact provoke a higher incidence of harmful behaviour.

(e) Elected student bodies need to be nurtured and encouraged rather than being discouraged or even prohibited. For small campuses such as the NLUs, direct elections can be held for office-bearers and activity-based committees can be selected on the basis of previous performance in the respective activities. Having said that, there are good arguments for continuing with the prohibition on mainstream political parties from mobilizing on these campuses. However, we should not go to the other extreme of not allowing elected student bodies at all. In some NLUs, the student office-bearers are being nominated by faculty members or being selected on the basis of their academic performance. Those models are not desirable either.

#### **4.4 Scope for further research**

There are some systemic issues that we were not able to directly examine through our questionnaires. It would be worthwhile to direct future research in the legal education sector in these directions.

(a) Given that the NLUs have been formally constituted as State Universities, there are persistent concerns about their prospects as ‘National’ institutions in the substantive sense. While some of them have earned a good reputation nationally and even outside India, there are anxieties that the respective State Governments may not be too invested in them. Many of our respondents who occupy administrative positions in these institutions narrated the difficulties in generating adequate financial support from the respective State Governments for the purpose of meeting recurring expenditure. Limited financial support from the State Government leads to escalating fee-structures which in turn place undue burdens on students and push them towards careers in the corporate legal sector as the default option. At the same time, many of the NLUs have a high proportion of domiciliary quotas since that is often seen as a precondition for continued financial support from the respective State Governments. In this context, some voices have offered the suggestion that the NLUs should seek the ‘Institute of National Importance’ (INI) status from the Ministry of Human Resource Development, Government of India, in the hope that it would entail stable financial assistance from the Central Government. Such a transition could possibly follow a model similar to those of the National Institutes of Technology (NITs) which earlier bore the status of Regional Engineering Colleges (RECs) affiliated to State Universities. The hope is that this may be

a better legal characterization in order to build and preserve the national character of these institutions, especially when it comes to the composition of their faculty and students. Analogies can also be drawn with other categories of higher educational institutions which have been given the status of 'Institutes of National Importance', such as the Indian Institutes of Technology (IITs), Indian Institutes of Management (IIMs), Indian Institutes for Science Education and Research (IISER) and the All India Institute of Medical Sciences (AIIMS) among others.

(b) It is worthwhile to conclude our study by returning to a persistent question in the legal education sector. Who is better suited to regulate legal education in the long-run? Is it the professional body or the Universities themselves? At present, the Advocates Act, 1961 empowers the Bar Council of India (BCI) to play the primary regulatory role, though its rule-making powers in this area are meant to be exercised in consultation with the Universities. This function is performed through a Legal Education Committee (LEC) which has powers of inspection and affiliation over law colleges. Some commentators have pointed out that the composition of the LEC is dominated by practitioners, many of whom may not have the time to acquire sufficient familiarity with the inner working of autonomous educational institutions. In comparison, the representation of academics in the LEC has tended to be limited to a small proportion. Hence, a concrete suggestion that has been made is that the LEC should have a higher proportion of representatives from Academia, perhaps even to the extent of parity with the practitioners serving on the same. On paper, this can be done because the BCI can nominate additional members under the applicable rules. This may create a spirit of cooperation and mutual engagement rather than conflict and misunderstanding. However, a presumptive objection to this proposal is that a higher number of academics nominated to the LEC may lead to a situation where some of them use their regulatory power in a self-dealing manner (such as protecting their own institutions from regulatory scrutiny or unduly targeting competitors). We do intend to explore this issue with more depth in a companion study which looks at how legal education is being delivered at a broader sample of Central Universities, State Universities and Private Universities.

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