A STUDY TO CREATE EVIDENCE-BASED PROPOSALS FOR REFORM OF LEGAL EDUCATION IN INDIA – PHASE II

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TABLE OF CONTENTS

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This report is the culmination of the second part of a project titled '*A Study to Create Evidence-Based Proposals for Reform of Legal Education in India'.* It was sponsored by the Department of Justice, Ministry of Law and Justice, Government of India. In the first part of this project, we had examined the structure and functioning of the National Law Universities (NLUs) which are often described as model institutions in the legal education sector. In the second part, we have tried to present a deeper analysis of some of the contemporary problems faced within the legal education sector in India. This report encapsulates multiple surveys conducted among faculty members and students affiliated to a broader range of institutions involved in the delivery of formal legal studies.

As we approach the end of this project, we would like to reiterate our gratitude to Hon'ble Justice T.S. Thakur, Former Chief Justice of India, for his personal support and encouragement to proceed with this ambitious project. We are immensely grateful to the Department of Justice, Ministry of Law and Justice, Government of India for giving us the requisite resources to conduct this study. We must especially thank Shri Alok Srivastava, IAS and Shri Barun Mitra, IAS, for understanding the constraints that we have faced in preparing these reports.

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CHAPTER 1: INTRODUCTION TO THE STUDY

1.1 Overview

Our first report as part of this project that is focussed on the evolution of legal education in India, was based on surveys conducted at 16 National Law Universities, which yielded a total of 882 responses (849 students, 33 faculty members). It had closely examined questions related to admission policies, internal academic practices and the working of support structures for law students. In the second part of our study, our sampling of respondents has been drawn from a broader range of higher educational institutions. These include (i) law departments and faculties that are part of larger public universities (Central and State), (ii) affiliated colleges that are under public control as well as those that are privately owned, and (iii) more recently established law schools that are part of a new wave of private universities created under the authority of the respective State Legislatures.

Scope of the Study:

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. As far as possible, we have tried to structure our report around a discussion of the issues thrown up by our respondents, instead of pursuing a predetermined path. In that sense, the second part of this study engages with student experiences in a more elaborate manner in comparison to what we had managed in the first part.

Objectives and Structure of Report:

This introductory chapter consists of a brief survey of the existing literature that directly deals with the evolution of formal legal education in India, especially during the post-

independence period (Section 1.2). In Chapter 2, we begin the discussion by examining the need for an authoritative public ranking system of the various law schools in India (Section 2.1). This has become significant in a context where there is a growing base of applicants for the respective undergraduate, postgraduate and research programmes centred on law. While the Central Government has tried to address this need by including law schools in the National Institutional Ranking Framework (NIRF) from the year 2018 onwards, there are several questions related to the suitability of the criteria that are presently being used for the same. It is also worth considering how Indian law schools can better prepare themselves for the inevitable competition with institutions across the world. Next, we take a closer look at the long-term implications of the admissions policies that are presently in vogue among the better-known Indian Law Schools (Section 2.2). In particular, there is a growing preference for standardised entrance examinations, especially for admissions to the various integrated undergraduate law programmes and to a limited extent for postgraduate programmes as well. While such a shift is understandable in a country where there is considerable diversity among the scoring systems associated with the respective school-leaving examination systems, we found it prudent to examine a few social and pedagogic concerns arising out of the growing reliance on standardised entrance examinations (Section 2.3).

Chapter 3 forms the substance of this report as it examines the surveys that were focussed on the students' responses to significant changes in curriculum design that have taken place over the last decade. In particular, we tried to gauge responses to the incremental implementation of the Choice Based Credit System (CBCS) at many law schools (Section 3.1). The discussion builds upon the results of our previous surveys that were limited to the context of the National Law Universities (NLUs). Since our present study was based on responses gathered from a broader range of higher educational institutions, we came across several distinctive issues that forced us to reconsider the framing of some questions that were part of our original research design. The analysis of student opinions in matters such as selection among optional courses, pursuit of internships, involvement in co-curricular activities and the shaping of career preferences, throws up more questions for persons interested in this sector. In the subsequent section, we have

extended the discussion to examine how the rapid growth of the corporate legal sector in India has been affecting the delivery of legal education (Section 3.2). While it is self-evident that what is taught as part of professional courses needs to be constantly revised so as to keep pace with the needs of the market, there is also a lot to be said in favour of preserving the humanist orientation of higher education. Even as formal legal education adapts to the demands of the workplace by bringing in more practice-oriented coursework, it is also equally important to cultivate the skills needed for rigorous self-examination, adopting an international and comparative framework for academic inquiry and understanding the value of interdisciplinary learning. This chapter then proceeds to another survey that was focussed on the career choices made by recent law graduates (Section 3.3). We have also included a discussion on concerns about socio-economic diversity and how it reflects in student experiences (Section 3.4.).

Chapter 4 engages with the supply-side of formal legal education. It begins by dwelling upon the persistent problem of attracting and retaining sufficient teaching talent in our law schools (Section 4.1). It explores some steps that can be taken to improve faculty hiring and development practices. This is followed by surveys which had looked at the opinions of late-stage students in terms of their impressions about the pursuit of careers in teaching. It was especially instructive for us to gauge the opinions of students enrolled in postgraduate programmes (such as LL.M. and Ph.D.), since it is ordinarily presumed that they would be interested in pursuing teaching and research on a full-time basis. It might suffice to say that this presumption needs to be revisited in light of the evidence that we ended up collecting (Section 4.2). We have also included brief descriptions of extension activities such as Clinical Legal Education, Continuing Legal Education and Public Education Initiative such as distance and online courses (Section 4.3). Chapter 5 synthesizes the discussion in the preceding chapters and concludes the report with some actionable suggestions.

Statement of Methodology:

This report incorporates findings from nineteen distinctive studies conducted between the Academic Years 2015-2016 and 2019-2020. Eight of these were directly based on

responses collected from students enrolled across 26 higher educational institutions. On the whole, we were able to gather 665 substantive responses from students at different stages of legal studies. While the other eleven studies were largely descriptive in nature, they were based upon structured interviews conducted with faculty members, research scholars and persons occupying administrative positions. Needless to say, it proved to be quite a task to organise the survey data, interview transcripts and relevant literature into a coherent form. While most of the surveys and interviews were conducted through visits to the respective institutions, much of the aggregative data was generated through online surveys conducted through the period of this study. As the subsequent chapters will demonstrate, some sections of this Report have also relied upon inter-institutional correspondence and the available secondary literature. On the whole the methods applied by the investigators include qualitative analysis of the responses that were generated as well as some quantitative claims based on the specific responses of a few targetted surveys.

1.2 Survey of Literature

The enactment of the Advocates Act, 1961 was primarily intended to ensure nation-wide mobility for legal practitioners. This legislation abolished the multiple grades of legal practice which had evolved during the colonial period (namely Vakils, Revenue Agents and Mukhtars before the subordinate courts; Pleaders, Solicitors and Barristers before the High Courts). The disparity in the qualifications needed for these grades of practice across different States were creating 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 enrollment as an Advocate. Accordingly, this law empowered the Bar Council of India (BCI) to play a regulatory role in the legal education sector.[1] 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

1 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.

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.[2]

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 (Aggarwal 1959; Von Mehren 1965; Bastedo 1969).[3] 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 predominantly in the English language (Getman 1969).[4] 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.

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2 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).

3 The subject was explicitly discussed in the *Law Commission of India's 14th 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).

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

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.[5] 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,[6] 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.[7]

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.

5 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).

6 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. For 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).

7 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.[8] 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.[9] 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).[10]

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

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

9 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.

10 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).

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 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).[11] Applicants could join it after completing 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.[12] Coupled with the continued reliance on part-time teachers,

11 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).

12 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',

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 order to pursue a five-year integrated B.A, LL.B. programme (Cottrell 1986).[13] 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).[14]

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

9(1) *Law and Society Review* 11-38 (1974).

13 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).

14 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).

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.[15] 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).

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).[16] 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

15 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).

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

programmes through the highly competitive Common Law Admission Test (CLAT) which was initiated in 2008, following a judicial intervention.[17] The main purpose behind its introduction was to reduce the transaction costs that would be incurred by applicants in writing multiple entrance examinations for the various National Law Universities (NLUs) at different locations. At the time of finalizing this report (July 2021), there are 23 National Law Universities in existence.

While there is considerable scholarly writing on the state of legal education in post-independence India,[18] the field becomes much narrower when we turn towards work that directly engages with the experiences of students. In order to understand the evolution of their curriculum in law schools, we can look at reports of the Curriculum Development Committees (CDCs) for Law set up by the University Grants Commission (UGC), which were published in 1990 and 2001 respectively.[19] 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).[20]

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

18 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 21st 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).

19 *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).

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

Since these curriculum development reports largely offered suggestions in a recommendatory manner, it cannot be presumed that their prescriptions have been closely followed by Indian law schools at large. 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 some institutions such as 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.[21] This effort from the professional body came soon after the framing of the BCI Rules on Legal Education in 2008 which currently occupy the field.

There is an emerging body of scholarship which addresses the administrative and curricular practices at various law schools. 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.[22] 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.[23]

21 *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].

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

23 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

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 teaching experience at NALSAR Hyderabad (Dhanda & Parashar 2009).[24] Rukmini Sen has discussed the evolution of the courses in 'Sociology' and 'Sociology of Law' at WBNUJS Kolkata.[25] 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 classroom teaching (Dasgupta 2010).[26] 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)[27] and referenced by observers (Bloch & Prasad 2005, Kalantry 2015).[28] Danish Sheikh has described how he designed a course on 'Law and Popular Culture' which was taught on a visiting basis at four different institutions.[29] 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).[30]

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and Suffering: Civil Rights Movements and Teaching of Human Rights in India'.

24 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.

25 Rukmini Sen, 'Teaching Sociology in a Law School: Predicaments, Negotiations and Innovations', 1 *Journal of Indian Law and Society* 37-57 (2009).

26 Lovely Dasgupta, 'Reforming Indian Legal Education: Linking Research and Teaching', 59(3) *Journal of Legal Education* 432-449 (2010).

27 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).

28 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).

29 Danish Sheikh, 'Taking Popular Culture Seriously: Towards Alternative Legal Pedagogy', 9(1) *Socio-Legal Review* 146-161 (2013).

There are several apprehensions and criticisms that come to mind when we look at the functioning of the law schools today. There is a genuine concern about the rapid rise in their number. There are more than 1,500 law schools that are currently operating in India, with more than half of them established in the last twenty years. 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.[31] For instance, it is not optimal to admit students and launch taught programmes before having done the groundwork of substantial faculty recruitment, curriculum development and preparation of physical infrastructure such as classrooms, hostels and library facilities. Several newer law schools 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. There is an evident mismatch between the demands from students entering these institutions and the availability of teaching talent needed to meaningfully address them. Some would argue that in many cases 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

30 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].

31 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).

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.[32] 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. Applicants have also voiced 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.

Since a majority of law schools are either constituents of or affiliated to State Universities, they depend 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 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 institutions 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. 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.

32 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.

This visible trend feeds the perception that despite bearing a public character, many law schools (including the best-known ones) 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 for the NLUs favour applicants from wealthy, urban and English-speaking backgrounds (Basheer, Krishnaprasad, Mitra & Mohapatra 2014).[33] For example, a 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 2016).[34] 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.

Another overarching criticism is that graduates of the leading law schools 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.[35] Professor Upendra Baxi has repeatedly stated that these institutions appear to be producing 'servants of global capital' instead of 'soldiers of social justice', the latter term attributed to the Late Prof. Chattrapati Singh (Baxi 2007).

Swethaa Ballakrishnen has expressed concerns about how the alumni networks evolving around the established law schools might be replacing family or kinship ties as enablers of professional mobility, especially in corporate legal practice. However, she has pointed

33 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' 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), pp. 578-605.

34 Chirayu Jain, Spadika Jayaraj, Sanjana Muraleedharan & Harjas Singh, *The Elusive Island of Excellence–A Study on Student Demographics, Accessibility and Inclusivity at National Law School 2015-16* (National Law School of India University, 2016).

35 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).

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).[36]

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).[37]

These developments have led to ambivalence about the broader social role of the better-known Indian law schools. 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

36 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).

37 Jonathan Gingerich & Nicholas Robinson, 'Responding to the Market: The Impact of the Rise of Corporate Law Firms on Elite Legal Education in India' 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), pp. 519-547. 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.

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 enrollment for courses which tangibly demonstrate their utility for professional prospects in the short run as opposed to those which are oriented around theory-building and may enable deeper intellectual growth on part of the students in the long run (discussed in Sections 3.1 and 3.2).

Another apparent weakness of many Indian law schools is that while they seem to be heavily invested in the administration of the five-year integrated undergraduate programmes and the three-year law programmes, there has been considerable neglect towards advanced programmes such as the master's in law (LL.M.) and research degrees (Ph.D.). 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).[38] This

38 Sudhir Krishnaswamy & Dharmendra Chatur, 'Recasting the LL.M.: Course Design and Pedagogy', 9(1) *Socio-Legal Review* 101-120 (2013). Also see Badrinath Srinivasan, 'LL.M. in India: A Critical Review', Proceedings of the National Conference on Contemporary Legal Education in the Globalized World, Central Law College, Salem [Available through *Social*

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. 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.[39] When it comes to legal studies, the opportunity costs of pursuing full-time 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 law schools have not developed the library resources or institutional networks needed for meaningful exposure to the same.

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.[40] 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.

We expect our law schools to deliver an intensive experience for the students as they engage with their coursework. Most of them follow a semester-pattern with modes of

Science Research Network (SSRN), September 2017]

39 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 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 amount of funding given to successful applicants.

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

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 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).[41] 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 or the lack of importance accorded to the quality of classroom teaching when it comes to the criterion for recruitment and promotions (Surendranath & Arun 2012, Pai and Ranjan 2013, Chauhan 2013).[42] 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 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.[43] 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

41 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).

42 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).

43 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).

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 dimension of legal education. In many ways, this report has proved to be prophetic if one reviews the situation two decades later.

In 2001, NLSIU had produced a brief document outlining a 'New Vision' for the institution's future.[44] 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 4th and 5th 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.[45] Its recommendations touched on the regulation of legal education in general. 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

44 G. Mohan Gopal (ed.), *New Vision for Legal Education in the Emerging Global Scenario* (NLSIU Bangalore: 2001).

45 National Knowledge Commission, *Recommendations of the Working Group on Legal Education* (2006).

Research (NCHER) is similar to the present deliberations on the possibility of creating a Higher Education Commission (HEC). 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.[46] 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 to the Supreme Court of India in relation to a case dealing with the questionable recognition of a private law college.[47]

We can also turn to a report prepared by a Review Commission for NLSIU Bangalore in 2009.[48] This Commission had been established under Section 14 of the NLSIU Act which contemplates a periodic review of the academic and administrative functions of the institution. Its' report 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 and the Bar inquired into allegations of academic and administrative irregularities at NALSAR Hyderabad.[49] 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

46 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).

47 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]

48 K.T. Thomas, Virender Kumar & M.P. Singh, *Report of the NLSIU Review Commission* (2009).

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.[50] A similar Review Commission was instituted for WBNUJS Kolkata and its' report was submitted to the office of the Chief Justice of India (CJI) in October 2017. It was published later in March 2018.

The debate surrounding the regulation of legal education has also been examined by the Law Commission of India (LCI) in recent years. Those interested in tracing the evolution of different positions on this subject can refer to the 184th Report published by this body in 2002 as well as some sections in the 266th Report published in 2017.[51] While on this subject, one can also peruse a report published by the Parliamentary Committee on Personnel, Public Grievances, Law and Justice in 2016.[52]

The survey of literature in this section clearly demonstrates that there has been very limited work that directly foregrounds the experiences and opinions of law students. There are very few examples of credible published work that adopted a meaningful empirical approach. An early example is an article by Russell B. Sunshine and Arthur L. Berney (1970), which was based on interviews conducted among law students at the

49 S.S.M. Quadri, V.V.S. Rao, Ramesh Ranganathan & S. Ravi Kumar, *Report of the NALSAR Inspection Committee* (September 2011).

50 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).

51 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).

52 *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).

Faculty of Law (Delhi University), Government Law College (Ernakulam, Kerala) and the Kishanchand Challaram Law College (University of Bombay). The emphasis was on the student's opinions about the quality of legal education that they were receiving at the time.[53] It focused on the quality of classroom teaching and the implications of the curricular changes that had been introduced in the 1960s, the most significant one being the introduction of the three-year LL.B. programme. Another notable example is an article by Robert Kidder (1974), who had interviewed students at three law colleges located in Bangalore, asking them about their career preferences, as part of a larger analysis of career ambivalence in the Indian legal profession.[54] While some eminent law professors have produced writing that demonstrated deep reflections about their experiences in teaching, research and educational administration, there has been a visible dearth of engagement with the opinions, preferences and interests of law students. In recent years, the literature in this area has been reinvigorated to some extent, largely through surveys of the socio-economic profiles of admitted students. We had earlier mentioned a study conducted at NLSIU Bangalore (2015-2016) and a similar exercise was conducted at the School of Law, Jamia Millia Islamia (2018-2019), which obviously records a very different set of observations.[55] In recent years, the Increasing Diversity by Increasing Access (IDIA) programme has also been publishing surveys that describe the socio-economic profiles of first-year students admitted to some of the well-known law schools.

Our previous report which examined the structure and functioning of the various National Law Universities (NLUs) was an effort in deepening the literature in this direction. The present study is a little more ambitious. It is our hope that reading both of these reports will be a fruitful exercise for fellow travellers who are interested in the development of higher education in our country as a whole.

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53 Russell B. Sunshine & Arthur L. Berney, 'Basic Legal Education in India: An Empirical Study of the Student Perspective at Three Law Colleges', 12(1) *Journal of the Indian Law Institute* 39-118 (1970).

54 Robert L. Kidder, 'Formal Litigation and Professional Insecurity: Legal Entrepreneurship in South India', 9(1) *Law and Society Review* 11-38 (1974).

55 Husain Aanis Khan, *Inclusivity and Diversity In A Minority Central University: A Report on Jamia Diversity Census 2018-2019* (Jamia Millia Islamia, 2019).

CHAPTER 2: REFLECTIONS ON ADMISSION POLICIES

In this chapter, we begin the discussion by examining the need for an authoritative public ranking system of the various law schools in India (Section 2.1). This has become significant in a context where there is a growing base of applicants for the respective undergraduate, postgraduate and research programmes centred on law. While the Central Government has tried to address this need by including law schools in the National Institutional Ranking Framework (NIRF) from the year 2018 onwards, there are several questions related to the suitability of the criteria that are presently being used for the same. It is also worth considering how Indian law schools can better prepare themselves for the inevitable competition with institutions across the world. Next, we take a closer look at the long-term implications of the admissions policies that are presently in vogue among the better-known Indian Law Schools (Section 2.2). In particular, there is a growing preference for standardised entrance examinations, especially for admissions to the various integrated undergraduate law programmes and to a limited extent for postgraduate programmes as well. While such a shift is understandable in a country where there is considerable diversity among the scoring systems associated with the respective school-leaving examination systems, we found it prudent to examine a few social and pedagogic concerns arising out of the growing reliance on standardised entrance examinations (Section 2.3).

2.1 Ranking of Law Schools

What shapes the public reputation of a higher education institution? What makes it the choice of students, faculty and research scholars? What makes an institution a 'prestigious' place to graduate from? These questions are the starting point for thinking about why we need ranking systems in higher education.[56] While we may take a philosophical view that is skeptical of the need for comparing and ranking different educational institutions, we must be mindful of the needs of a growing base of aspirants for higher education in our country. Even as thousands of first-generation learners enter our colleges and universities each year, they often lack reliable information about the

56 We would like to thank Ananya Das (BA, LLB 2018) for her contribution in preparing Section 2.1 of this Report.

range and quality of courses that are on offer. Over the last two decades or so, several privately owned publications (especially news-magazines and websites with differing editorial standards) have been publishing annual rankings of higher educational institutions in India. However, there have been several criticisms of these publications, ranging from the use of faulty criteria, insufficient sample-surveys and outright favouritism in some cases. Hence, it was imperative for the Government to step in and create an authoritative ranking system. While the National Institutional Ranking Framework (NIRF) was initiated by the Ministry of Education (earlier known as Ministry of Human Resource Development) in 2015-2016, law schools have been included in it from 2017-2018. This is a welcome step since applicants for the respective undergraduate, postgraduate and research programmes now have a far more reliable source of information in this respect. Nevertheless, the creation of a reliable ranking system only sets out benchmarks that are meant for educational institutions to achieve. It cannot ensure qualitative improvements by itself.

Institutions offering legal education would of course be interested in improving their public reputation. This was a common sentiment expressed by our respondents, irrespective of whether they were faculty members, administrative officials, students or research scholars enrolled in the various institutions that were part of our surveys. While there had been some disgruntlement arising out of the rankings published by private parties in earlier years, the inclusion of legal education in the NIRF Rankings has at least created a legitimate set of criteria which specific institutions can examine and aspire to improve their respective scores. Having said this, there are some institutions which have set their sights higher and intend to appear in international rankings, while most others are content to build a credible domestic reputation.

The importance of the rank that an institution carries has been discussed by Henderson and Zahorsky[57] in a short article that examines the debate surrounding the rankings of US Law Schools. It presents a case study of 'John' (assumed name to protect anonymity)

57 William D. Henderson & Rachel M. Zahorsky, 'The Pedigree Problem: Are Law School Ties Choking the Profession?', *American Bar Association Journal (July 1, 2012).*

who is an experienced litigator boasting of an impressive resume that lists out a string of professional achievements. However, when looking for fresh employment at the leading commercial law firms, his applications were repeatedly rejected since he had earlier studied at a supposedly ‘second-tier’ law school. One can easily gather many examples from the Indian context which show that young people often choose to give up the opportunity to excel at a lower-ranked institution in comparison to being deemed as a mediocre student at a higher-ranked educational institution. What then is the reason for this? Henderson and Zahorsky put this down to 'brand bias', the elitist orientation of some law schools and the 'associative goods' approach. The associative goods approach is, as the name suggests the idea that ‘the thing that a college or university is selling its students is, in large part, its other students.’ One can therefore argue that there is formation of a self-serving cycle, wherein the rank of a law school attracts brighter prospective students and then these students attract more bright prospective students in the future, thus ensuring that the rank of the institution is sustained over a period of time.

However, we must ask how does the rank itself first get established? A study published in 2008 laid out ‘26 Factors that Influence Lawyer Effectiveness’ (enumerated later in Section 2.1).[58] These would suggest that the relative worth of an institution offering professional education should be based on whether it meaningfully imparts the qualities needed for attaining professional success in the respective field. So far it would seem that the reputation of an institution seems intrinsically linked to its rank, a hypothesis that is worth testing. How authentic are these rankings then? In the Indian context, news magazines and websites such as 'India Today', 'Outlook', 'The Week', 'Careers360' and 'Education World' have long been conducting these ranking exercises. Of late, the readership for print publications has been declining and is clearly shifting towards digital publications. This has led to many more private entities such as coaching services and educational consultants offering their own assessment of the relative worth of courses offered by higher educational institutions across the country. However, it would be

58 Marjorie M. Shultz & Sheldon Zedeck, 'Identification, Development and Validation of Predictors for Successful Lawyering', *Final Report University of California Berkeley (*September 2008).

prudent to recall that such private parties gain much of their financing from advertisements, which in turn are based on the volume of readership. In such a scenario, some institutions have resorted to malpractices such as paying for substantial advertisements in the very print and digital publications that are supposed to assess them in an objective manner. This often leads to exaggeration and misrepresentation, thereby distorting the choices made by applicants.

It was in recognition of this problem that the Central Government made a meaningful intervention by introducing the NIRF. The NIRF methodology has defined a 'set of metrics for ranking of universities and colleges based on the parameters agreed upon' by the framing body.[59] Five broad parameters have been defined, which are further divided into sub-categories. Each category has a weightage assigned to it and there is weighted distribution among the sub-categories. An overall score has to be computed for each participating institution. The NIRF methodology also accounts for the varying institutional arrangements, such as the 'Institutions of National Importance established by Acts of Parliament, Central Universities, State Universities, Deemed-to-be Universities, Private Universities and other autonomous Degree-Awarding institutions. It also includes colleges that are affiliated to universities and do not enjoy full academic autonomy.' The Ranking Authority or Agency also has the power to conduct random checks of the records and accounts at the participating institutions, in order to ensure that ethical behavioral principles are being observed. The five broad parameters used for NIRF are outlined below along with the respective sub-categories:

Category I: Teaching and Learning Resources (TLR)

A. Teacher-Student Ratio with Emphasis on Permanent Faculty

B. Combined Metric for Faculty with Ph.D. and Professional Experience

C. Metric for Library and Laboratory Facilities

D. Metric for Sports and Extracurricular Facilities

59 Department of Higher Education, Ministry of Human Resource Development, 'A Methodology for Ranking of Universities and Colleges in India', NIRF (2015).

Category II: Research Productivity, Impact and Intellectual Property Rights (RPII)

A. Combined Metric for Publications (Emphasis on scholarly articles published in peer-reviewed journals, externally funded research projects)

B. Combined Metric for Citations

C. Intellectual Property Rights (for example, Patents granted for scientific innovations)

Category III: Graduation Outcomes (GO)

A. Combined Performance in University Examinations

B. Combined Performance in Public Examinations

(Weightage is given for graduates pursuing advanced education such as postgraduate and research degrees during the preceding three academic years; Weightage is also given for graduates who obtain formal employment opportunities during the preceding three academic years)

Category IV: Outreach and Inclusivity

A. Outreach Footprint (Continuing Education, Services)

B. Percentage of Students from Other States/Countries

C. Percentage of Women Students and Faculty

D. Percentage of Economically and Socially Disadvantaged Students

E. Facilities for Differently Abled Persons

Category V: Perception

A. Process for Peer Rating in Category

B. Applications to Seat Ratio

The criteria used for NIRF has been commended as a major improvement upon the parameters that were being used by the various print and digital publications operated by private parties. It adopts a holistic view towards higher education and gives due weightage to the volume and credibility of research output (RPII) as well as the demonstration of values such as inclusivity in faculty hiring practices and student admission policies. This is especially welcome since the commercial rankings tend to be

narrowly focused on criteria such as placement statistics and the physical infrastructure at a particular institution. The criterion is responsive to the unique needs of Indian society, where educational institutions need to concentrate on faculty hiring and the retention of qualified personnel as well as producing rigorous research in the form of scholarly books, articles and reports that should aspire to meet international standards.

All in all, the introduction of the NIRF rankings has been a step in the right direction and provides a balanced pathway for institutions to plan ahead. Going forward into the 2020s, the internationalization of Indian higher education is one of the priority areas mentioned in the National Education Policy, 2020. Hopefully, this will push more institutions to take decisive steps that are needed to enter the better-known international raking systems. Hence, it would be useful to briefly compare the NIRF criteria (used in 2018, 2019, 2020) with those used in internationally acclaimed ranking systems, a representative example being the Shanghai Academic Ranking of World Universities (ARWU). The ARWU is even more specifically focused on the research output generated by universities. The criteria for the same is outlined below:

3. PUB – THE NUMBER OF PAPERS AUTHORED BY AN INSTITUTION IN AN ACADEMIC SUBJECT
4. CNCI – CATEGORY NORMALIZED CITATION IMPACT, FROM INCITES DATABASE TO MEASURE AVERAGE IMPACT OF PAPERS AUTHORED BY AN INSTITUTION IN AN ACADEMIC SUBJECT
5. AWARD – THE TOTAL NUMBER OF THE STAFF OF AN INSTITUTION WINNING A SIGNIFICANT AWARD IN AN ACADEMIC SUBJECT
6. TOP – THE NUMBER OF PAPERS PUBLISHED IN TOP JOURNALS IN AN ACADEMIC SUBJECT
7. IC – THE PERCENTAGE OF INTERNATIONALLY COLLABORATED PAPERS AUTHORED BY AN INSTITUTION IN AN ACADEMIC SUBJECT

26 FACTORS THAT INFLUENCE LAWYER EFFECTIVENESS

SOURCE: MARJORIE M. SHULTZ & SHELDON ZEDECK, 'IDENTIFICATION, DEVELOPMENT AND VALIDATION OF PREDICTORS FOR SUCCESSFUL LAWYERING', *FINAL REPORT UNIVERSITY OF CALIFORNIA BERKELEY (*SEPTEMBER 2008).

INTELLECTUAL & COGNITIVE

1) Analysis and Reasoning, 2) Creativity/Innovation, 3) Problem-Solving, 4) Practical Judgment

RESEARCH & GATHERING

5) Researching the Law, 6) Fact-Finding, 7) Questioning and Interviewing

COMMUNICATIONS

8) Influencing and advocating, 9) Writing, 10) Speaking, 11) Listening

PLANNING AND ORGANIZING

12) Strategic Planning, 13) Organizing and Managing One's Own Work, 14) Organizing and Managing Others (Staff/Colleagues)

CONFLICT RESOLUTION

15) Negotiation Skills, 16) Able to See the World Through the Eyes of Others

CLIENT & BUSINESS RELATIONS—ENTREPRENEURSHIP

17) Networking and Business Development, 18) Providing Advice and Counsel, and Building Relationships with Clients

WORKING WITH OTHERS

19) Developing Relationships Within the Legal Profession, 20) Evaluation, Development and Mentoring

CHARACTER

21) Passion and Engagement, 22) Diligence, 23) Integrity/Honesty, 24) Stress Management, 25) Community Involvement and Service, 26) Self-Development

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2.2 Standardised Entrance Examinations: 'Backwash' Effects

Historically, admissions to both undergraduate and postgraduate law programmes used to be based on the performance in school-leaving and college-leaving examinations. This was the norm till the 1980s, since the general perception about legal education in India was not very high. Most applicants for professional courses were described as having chosen this field as a second or third option, after having failed to get admission in relatively prestigious fields such as engineering, medicine or management. There was also a presumption that law students and graduates exhibit a high degree of career ambivalence, since a majority of them did not end pursuing careers related to legal practice. However, these perceptions have changed considerably over the last three decades, primarily due to the rise of better career options following the economic liberalisation process that began in the early 1990s. Legal education is now seen as a pathway towards a range of newer career options such as those in commercial law firms, in-house legal departments of large businesses, alternative dispute resolution methods (Arbitration, Mediation, Negotiation), legal teams of technology companies and specialised advisory roles in international organizations. These pathways have opened up in addition to the established career options such as courtroom advocacy, judicial services, teaching, civil services and social advocacy.

With this expansion of horizons, there is growing interest in pursuing formal legal education. This is evident if we look at the continuous rise in the number of applicants for the various programmes for full-time legal studies.[60] Needless to say, more and more law colleges are opting for standardised entrance examinations as the method for admitting students. This shift also makes sense at a practical level since there is considerable disparity between the scoring systems used for the various school-leaving examinations and University examinations conducted across the country. The Faculty of Law, Delhi

60 To take a representative example, the total number of applicants for the Common Law Aptitude Test (CLAT) has increased from around 12,000 applicants in 2008 to nearly 77,000 applicants in 2020. These numbers include the applicants for both undergraduate and postgraduate law programmes.

University has been conducting its own entrance exam for admissions to the three-year LL.B. programme for several decades now. Several State Universities have been conducting their own entrance examinations for the purpose of admissions to LL.B. And LL.M. programmes, while many are still persisting with admissions based on academic performance in the school-leaving or college-leaving exams. A few State Governments have introduced consolidated entrance examinations for law programmes offered by the respective State Universities and Affiliated Colleges. This replicates the model followed for other professional courses. Notable examples include the MH-CET(Law) in Maharashtra and the TSLAWCET in Telangana. As mentioned in the introductory chapter, CLAT was started primarily for admissions to the National Law Universities (NLUs). Since its inception in 2008, several other law schools have started using CLAT scores as a criterion for admitting their students. So far, NLU Delhi has been conducting a separate entrance test named the All-India Law Entrance Test (AILET). However, based on public statements, there is a good chance that it will join CLAT from 2022. Private Universities such as O.P. Jindal Global University have been admitting students through the LSAT-India exam since 2009, the Symbiosis Group has been administering its own entrance exam for its law schools located in Pune, Noida, Hyderabad and Nagpur. Over the last decade, there are several newer institutions which have chosen between using CLAT scores, LSAT-India or their own entrance tests.

This section looks at the 'backwash effect' of such standardised entrance examinations, that is, the effect that the examination has on the educational processes that precedes it.[61] Studies of this kind have been conducted with respect to other well-known standardised examinations, such as the Test of English as a Foreign Language (TOEFL),[62] but there has been limited engagement with entrance examinations used in India's legal education sector. The 'backwash effect' occurs where a test affects how teachers and students react to its preparation. Where a test lends itself easily to the backwash effect, therefore, teachers shall 'teach to the test' instead of focusing on how to build aptitude for the

61 We would like to thank Pranav Agarwal (B.A.,LL.B. 2016) for his contribution that shaped Section 2.2 of this Report.

62 J.C. Alderson & D. Wall, 'TOEFL Preparation Course: A Study of Washback', 13 *Language Testing* 280 (1993).

chosen field of study. Since CLAT has become the most well-attended entrance examination for legal studies in India, this section takes a closer look at its format and long-term effects, especially on applicants and teaching practices that precede formal legal studies.

Between 2008-2019, the applicants for the UG CLAT were required to answer 200 questions in 2 hours. These questions were spread across sections such as 'English' (including reading comprehension), 'General Knowledge and Current Affairs', 'Elementary Mathematics', 'Legal Aptitude' and 'Logical Reasoning'. Based on feedback received over the years, some changes were made in CLAT 2020. The number of questions were reduced to 150 and questions based on static general knowledge were discontinued. Questions based on established law subjects such as the Law of Torts, Law of Contracts, Law of Crimes and Constitutional Law were also pared down, since these would work to the advantage of applicants who had already studied law for some time before giving the CLAT in an effort to get admitted to the better-known law schools. Where entrance examination papers become predictable, preparation institutes crop up that intend solely to teach to the test. Persons who have access to such specialised and often expensive training, invariably tend to do better than those who do not. This is already seen in the case of the CLAT. A survey among admitted students at the top law schools showed that 87% of them had relied on private coaching services, whereas only 13% had relied on self-study.[63]

Section 2.2. proceeds in three sub-parts. The first sub-part discusses the 'backwash effect' more generally, the potential consequences of the effect on society as a whole, and finally looks at what should be considered as legitimate and illegitimate forms of testing. The second sub-part provides the background of a survey conducted on this issue in March-April 2016, while setting out the sources used therein. 43 respondents drawn from the early stages of undergraduate legal studies had completed it. The third sub-part describes the results of the survey in order to map the effect of different portions of the CLAT.

63 See for instance: Shamnad Basheer and Geetanjali Sharma, 'IDIA Diversity Survey (2013-2014): Analysis and Policy Recommendations' (2015).

Section 2.2. ends with a listing of the questions that were part of this survey.

What is the 'Backwash Effect?'

The “backwash effect” (also called the “washback effect”) is the direct or indirect effect that an examination may have on teaching that precedes it. There is considerable academic agreement on the fact that a test exerts considerable influence on a candidate that wishes to take the test, as well as on a teacher that attempts to help the test taker prepare. As Swain writes, “It has been frequently noted that teachers will teach to a test: that is, if they know the content and/or the format of the test, they will teach their students accordingly.”[64] Pearson, similarly, states: “It is generally accepted that public examinations influence the attitudes, behaviour, and motivation of teachers, learners, and parents.”[65]

There is some degree of confusion on what the exact contours of backwash are. A simple formulation was given by Alderson and Wall (1993). They posit a set of fifteen plausible alternative hypotheses that together encompass most reported concerns with testing. They admit, however, that the situation is likely more complex than what these hypotheses allow for. The enumerate the following as creating the territory for the 'washback' hypothesis:

5. A test will influence teaching
6. A test will influence learning
7. A test will influence *what* teachers teach
8. A test will influence *how* teachers teach
9. A test will influence *what* learners learn
10. A test will influence *how* learners learn
11. A test will influence the *rate* and *sequence* of teaching
12. A test will influence the *rate* and *sequence* of learning
13. A test will influence the *degree* and *depth* of teaching

64 Merril Swain, *Large Scale Communicative Testing: A Case Study*, in YP Lee et al. (eds.), NEW DIRECTIONS IN LANGUAGE TESTING 35, 43 (1985).

65 I. Pearson, *Tests as Levers For Change* in D CHAMBERLAIN & R BAUMGARDNER, ESP IN THE CLASSROOM: PRACTICE AND EVALUATION (1988).

14. A test will influence the *degree* and *depth* of learning
15. A test will influence *attitudes* to content, method, etc. of teaching/learning
16. Tests that have important consequences will have washback
17. As a corollary, tests that do not have important consequences will have no washback
18. Tests will have washback on *all* learners and teachers
19. Tests will have washback effects for *some* teachers and some learners, but not for others.[66]

A handy model for understanding the backwash effect is given by Hughes (2000), who distinguishes between the participants, the process and the product, and noting how all three are affected by the introduction of a test. *Participants* include those that are directly related to a test – such as candidates, teachers, administrators and syllabus designers. Examining the *process* requires one to look at the actions of the participants in so far as they change the process of learning. Finally, the *product* limb of this framework requires one to examine what has been learnt.[67]

Bachman and Palmer (1996) demonstrate that the backwash effect is not limited to learners or teachers that are immediately affected by the test in question. The effect, rather, leaves a far greater impact that resonates across society, educational systems and individuals. They divide the effects of backwash into the *micro* level and the *macro* level. The first covers the effect of testing on teachers and students directly linked to the test. The latter, on the other hand, covers the broader effect that backwash creates on society and the educational system.[68] What are the more widespread repercussions of the backwash effect? One example of the kind comes from Buck (1988), who writes in the context of Japan:

"Japan is a country in which the entrance examination reigns supreme. It is almost impossible to overstate the influence of these examinations on both the educational

66 J.C. Alderson and D Wall, *Does Washback Exist?* 14 APPLIED LINGUISTICS 115 (1993).

67 A. Hughes, *Backwash and TOEFL 2000* (Unpublished Manuscript), University of Reading.

68 L.F. BACHMAN & A.S. PALMER, LANGUAGE TESTING IN PRACTICE 29-35 (1996).

system as a whole, and the day-to-day content of classroom teaching. Their importance in the lives of young people is such that almost all future social and economic advancement is dependent on the results of these entrance examinations."[69]

The financial implications of backwash were made starker by Ingulsrud (1994), who once again writes in the context of university-level education. He points out how students make considerable sacrifices, both of time and of money, to attain a seat in a good university. In his words:

"For students who are serious about entering a highly ranked university, a considerable amount of coaching is normal in preparing for the entrance examination. High-school students spend evenings, weekends, and even vacations preparing for the test at the various *juku* [exam preparation schools] that provide a range of coaching services. Supplemental education of this kind costs a good deal of money, and yet students and their families are willing to make such sacrifices. If they do well.., they are assured of a place in a prestigious university, which, in turn, leads to a successful career in business or government."[70]

What counts as 'Legitimate' and 'Illegitimate' Testing?

Testing, as Mehrens (1984) shows, has little co-relation with why a candidate performs as she does. As he states: "The only reasonable direct inference we can make from a test score is the degree to which a student knows the domain of material that the test samples. Any inference about why the student knows the domain to that degree... is clearly a weaker inference…"[71] Any accurate assessment must therefore take into account that the domain tested allows for direct inferences. A test is likely to sample the total domain of the information taught. How, then, is a test-maker to shape a test in order to gauge the

69 G. Buck, *Testing Listening Comprehension in Japanese University Entrance Examinations*, 10 JALT JOURNAL 12, 16 (1988).

70 J.E. Ingulsrud, *And Entrance Test to Japanese Universities: Social and historical Contexts* in C. HILL & K. PARRY (eds.), FROM TESTING TO ASSESSMENT: ENGLISH AS AN INTERNATIONAL LANGUAGE 61, 79-80 (1994).

71 W.A. Mehrens, *National Tests and Local Curriculum: Match or Mismatch?*, 3 EDUCATION MEASUREMENT: ISSUES AND PRACTICE 9, 10 (1984).

inferences desired from it? Mehrens and Kaminski (1989) argue that this depends on what the test-maker seeks to make inferences about, and their argument is traced below.[72] Where inferences are intended to only be made about the degree to which students picked up specific skills that were taught, one should devise a "*criterion-referenced test*" that only samples those skills. In such a scenario, an ideal test would sample each of the objectives sought to be tested. It would become invalid, however, where, what is tested draws only from some of the multifarious skills that a student's competency in is sought to be measured. This sort of testing is championed by Cohen (1987), who writes as follows of criterion-referenced testing:

"CRI presents the identical task to be learned in both the instructional process as well as in the final assessment, an ideal way to insure the precise match among what is taught, what is measured, and what is intended to be learned. The effect is near perfect learning…"[73]

On the other hand, educators often do not wish to test only the specific skills that have been taught during instruction. This would require a general domain to be drawn upon, rather than the specific and narrow set of skills that a teacher seeks to develop. A skillful teacher must be able to create broad and meaningful generalizations from narrow subject matter, and it is such generalization that is the most important outcome of the teaching process. As standardized tests intend usually to test skills far broader than criterion-referenced testing would allow, it seems unwise to teach the specific skills that a standardized test would call for. Standardized tests may at best only test for a small sample of the desired objectives, and a small set of items in the said objectives.

Thus far, we have examined the types of testing that are legitimate for particular objectives sought. We shall now look to teaching methods, when they are legitimate, and when they are not. Mehrens and Kaminski (1989) further observe that teaching slips into illegitimacy at some point in the following continuum, where (1) would always be

72 *See* W.A. Mehrens & J Kaminski, *Methods For Improving Standardised Test Scores: Fruitful, Fruitless or Fraudulent*, 8 EDUCATIONAL MEASURES: ISSUES AND PRACTICE 14, 15 (1989).

73 S.A. Cohen, *Instructional Alignment: Searching for a Magical Bullet*, 15 EDUCATIONAL RESEARCHER 16 (1987).

legitimate, and (6) and (7) would always be illegitimate. At some point between (2) and (5), therefore, a teaching method slips out of legitimacy. The continuum so stated is as follows:

1. General instruction on objectives not determined by looking at the objectives measured on standardized tests;
2. Teaching test taking skills;
3. Instruction on objectives generated by a commercial organization where the objectives may have been determined by looking at objectives measured by a variety of standardized tests. (The objectives taught may, or may not, contain objectives on teaching test taking skills.);
4. Instruction based on objectives (skills, sub-skills) that specifically match those on the standardized test to be administered;
5. Instruction on specifically matched objectives (skills, sub-skills) where the practice (instruction) follows the same format as the test questions;
6. Practice (instruction) on a published parallel form of the same test; and
7. Practice (instruction) on the same test.

Applying this continuum to the kinds of tests they have previously discussed, they conclude that when examining standardized tests, in cases where one seeks to measure skills *not* entirely sampled by the test, the line dividing appropriate and inappropriate instruction lies between (3) and (4). We shall subsequently examine whether CLAT confirms with Mehrens and Kaminski's continuum.

Survey conducted on 'Backwash Effects' of CLAT (March-April 2016)

The purpose of this survey was to examine the 'backwash' hypothesis in the setting of the CLAT. In keeping with the larger orientation of this project, we examined these claims through the viewpoint of the students writing the CLAT, particularly those who have seen a fair degree of success in the exam, and of trainers who have been assisting students in preparing for the CLAT. We also looked at the teaching related to the CLAT, mainly by looking at the preparatory material given to candidates. Data of four kinds was collected for this survey,

(I) Interviews of trainers engaged in CLAT preparation;
(II) A survey of students that had given the CLAT in the preceding two years, that is in 2014 and 2015;
(III) A survey of preparatory materials and tips provided by coaches on how to address the CLAT; and
(IV) A consideration of previous years' papers, examining similarities across the same

(I) Trainers: This survey explored the mindset of CLAT trainers, their attitudes towards preparing students for the CLAT examination, and the methods they use for this purpose. Seven trainers, all of whom were current law students in March-April 2016, were interviewed for this purpose. The trainers interviewed fell into three distinct groups. Those belonging to Group A, two in total, all taught legal reasoning at a particular center of a prominent CLAT coaching institute with a national presence. Those belonging to Group B, again two in number, were trainers with a national level project that intends to bring legal education to underprivileged children that would not otherwise have access to CLAT coaching. Of these, one was involved in the preparation of content at the level of an all-India team within the organization. The other directly trained students at Hyderabad for the examination. Finally, those belonging to group C, three in total, worked for a prominent website that provides guidance and assistance with CLAT preparation. Of these, two directly engaged with candidates and/or wrote content that would directly be accessed by candidates, whereas the third exclusively created content without directly interacting with candidates.

(II) Applicants: We further explored the approach and motivations of students that attempted the CLAT exam, and achieved a fair degree of success in the same. A survey was circulated among first- and second-year undergraduate law students. 49 students responded, out of which, 43 completed the survey in its entirety. The survey itself was loosely formulated on the basis of theories relating to the backwash effect that are enumerated above. The questions related to the tested sections, namely 'English', General Knowledge and Current Affairs', 'Elementary Mathematics', 'Legal Aptitude' and 'Logical Reasoning'. Further, one set of questions related more generally to their experience with

the CLAT examination as a whole. The text of the survey is included at the end of Section 2.2.

(III) Preparatory Materials: Most coaching institutions give out guides and exercise books that assist candidates with how to address specific aspects of the entrance examination. The same are only available at exorbitant rates to interested applicants. We were able to examine some examples of preparatory and guidance material that is easily available online.

(IV) Previous Year's Question Papers: We looked at previous years' question papers to examine repetitions in questions, and structural similarities between questions asked across different years. For this purpose, the CLAT question papers used between 2008 and 2015 were analyzed. Each question was analyzed according to its type and structure so as to draw a simple typology of predictable patterns. Interestingly, these patterns were more or less observed in the exams conducted for 2016, 2017, 2018 and 2019. It was only in CLAT 2020 that some structural changes were made.

Now we shall look individually at each of the portions that form part of the CLAT before finally launching into a final discussion of the overall nature of this test. The CLAT tests conducted between 2008 and 2015, included 200 questions that were split into five distinct sections. These sections are:

Legal aptitude (50 marks): This section claims to test the legal reasoning and knowledge of a candidate. A fictional situation satisfying a given legal proposition is given, where the candidate is required to apply the proposition and arrive at an answer by choosing among four different possibilities. This section also sometimes tests candidates on legal knowledge, where questions are asked about the Indian Constitution, significant legislations and judgments.

General Knowledge (50 marks): This section largely contains questions from current affairs and static general knowledge.

English (40 marks): This section which claims to test a candidates' proficiency in English usually has questions that test comprehension skills, spellings, grammar etc.

Verbal Logic and Reasoning (40 marks): This section tests the reasoning capacity of the candidates. This includes verbal puzzles, sequences and syllogisms.
Mathematics (20 marks): This section aims at testing elementary mathematical skills of the candidate.

Legal Aptitude:

Coaching websites stress on the importance of solving multiple papers and mock exercises before attempting the legal aptitude portion of the CLAT. They also suggest that students keep abreast generally with legal concepts. Consider the following extract from Clatgyan, a prominent coaching website: "Revise your concepts thoroughly, and reflect on the mistakes you make in the questions and alter your line of reasoning accordingly. Don't forget to solve past year papers. You never know what the paper might entail this year, so don't ignore Legal Knowledge, which would include brushing up basic Constitution trivia and other legal concepts like torts, contracts etc."[74]
The same website elsewhere states as follows: "Knowing certain concepts beforehand will help you save time in understanding them principle during the exam. The topics you should be doing beforehand are: a. Law of Torts, b. Contracts, c. Criminal Law, d. Constitutional Law"[75]

A slightly more nuanced picture comes through when one accounts for candidate responses when answering legal reasoning questions. Certainly, an overwhelming number of candidates did seem of the belief that coaching and training were essential in performing well in this section. 9 respondents were of the opinion that a prior knowledge of the concepts involved while was entirely essential and 28 thought it was beneficial, only 6 thought it was irrelevant. An overwhelming number of respondents were of the opinion that going through the coaching process gave student a major but not insurmountable advantage over those who did not, with 32 being of this opinion, in contrast, only 3 respondents believed that there was no advantage so gained. The kind of

74 Srija Kumar, *And the Countdown Begins*, April 10, 2016, Available at: http://www.clatgyan.com/the-window/countdown-begins/.

75 *Introduction to Legal Reasoning,* November 22, 2010, Available at: http://www.clatgyan.com/clat-legal-aptitude/introduction-legal-reasoning-finally/.

advantage gained also seems more benign than other sections – while most respondents were of the opinion that it gave them practice, boosted their speed and helped them avoid major pitfalls (36 respondents each), very few (6 respondents) believed that they had learnt any special tricks in the coaching process.

More interesting, however, are the areas that respondents seem to believe coaching helped them with. None of the students surveyed were from years where legal knowledge was tested and we were therefore unable to gauge the validity of the same. An overwhelming number of respondents were of the opinion, however, that the legal reasoning section was in fact beneficial to them. 74.4 % (32 respondents) were of the opinion that the section helped them learn how to approach the law, 60% (26 respondents) believed that they absorbed the importance of paying attention to details from the exercises, and 48% (21 respondents) believed that they gained a greater appreciation of the legal concepts involved.

A similar picture comes through when examining teacher responses to the legal reasoning section. Of the 7 trainers interviewed, four were involved in legal reasoning training – including both trainers from Group A and one each from Group B and C. Their views on this segment of the examination largely coincided with each other. First, all four trainers unanimously agreed that they felt compelled to tailor their instruction according to the questions that would be relevant for the CLAT. While one trainer reported slight deviations from what was strictly necessary for the course, she claimed considerable discomfort in doing so. This was the case irrespective of whether they were monitored by a superior (this was most significant in Group C). They also reported that students rarely deviated from the exam pattern, although it does appear as though students were more enthusiastic than trainers about such infrequent deviations.

Interestingly, all the trainers interviewed were of the opinion that the legal reasoning section of the CLAT indeed does reflect one's legal acumen. They all agreed that there is a correlation between the two. To quote from the response of one trainer: "From what I saw this year, there were candidates who has a lot more trouble choosing the most obvious answer because they would fail to comprehend the principle, wouldn't read the

question properly and thus not factor in all the nuances. I would feel that if they weren't capable of this, they would have a difficult time in law school."

All other trainers gave similar answers to this question. They were all of the belief that the segment was unique in how it required the application of a particular principle to multifarious situations – something that could only inadequately be covered by other sections. All trainers echoed candidate's views that training for the examination gave candidates a significant advantage over those who had not undergone the same. There was some disagreement about how much such training mattered, however. Two (one from Group A and one from Group B) were of the opinion that there was sufficient similarity in such questions to ensure that the greater the amount of practice one got, the better they were likely to perform. Others, however, believed that the only role of coaching was to familiarize candidates with the kinds of questions asked in this section. Once such familiarity was achieved, additional practice had little effect on their performance.

The examination papers studied have all have legal reasoning questions of only one structure and format. They each involve one principle that is provided, on the basis of which candidates are required to select the correct option. These questions are largely from major concepts of tort law, contract law and criminal law. A sizeable part of the paper corresponds to the legal reasoning segment.

General Knowledge:

This segment of the paper appears to be the most immune to backwash. Most respondents saw little benefit of coaching in dealing with the 'General Knowledge' segment. Out of the 43 respondents, only 9 believed that coaching gave a person any advantage in this segment, whereas 34 were of the opinion that coaching created no benefits whatsoever in this regard. All 9 respondents who saw some advantage in coaching for this section, were of the view that it helped by developing a measure of self-discipline in candidates. Interestingly, 28 respondents reported a significant improvement in general awareness after studying general knowledge for the CLAT, while the remaining 15 claimed a slight increase in awareness.

One of the interviewed trainers had prepared 'General Knowledge' modules for a prominent CLAT guidance website. She held a similar view on the role of General Knowledge. There is little, in her opinion, that a coaching center may do to train someone for this component. At best, she claimed, such an institution can compile prominent newsworthy events and deliver them to candidates in a capsule form. Nevertheless, these are likely to be heavily inadequate, and a candidate in order to actually perform well must personally be dedicated to studying the subject.

An online CLAT coaching website too, conveys a similar limitation, exhorting students to work as much as possible, without offering much by way of strategy. Sample this statement: "This section is exhaustive, and unless you're blessed with the genes of Einstein, you will have a hard time covering this in just one month. This month is solely meant for revision, and that too systematic revision. Divide your day in a way where you give at least an hour or two to revise current affairs and static GK. And if you've just started preparing for GK, you really need to toil. Brush up on all the important current affairs from the compendiums and read some basic static GK. Don't decide to start a new GK book afresh and try finishing it because it would be an ideal recipe for disaster. Do as many questions as possible from whatever sources you land upon, this will help."[76]

English:

The respondents were overwhelmingly of the opinion that coaching was irrelevant in how well one could solve the English section of the paper. All but 6 respondents were of the opinion that coaching did not help them with the English section. These 6 respondents claimed that coaching taught them tricks and tips by which to crack the section, however, others claimed that CLAT coaching had practically no effect on how they approached the paper. This is odd, given that the English segment of the paper has been exceedingly formulaic and predictable. The repetitions in question patterns and structures could be easily observed over the 8 papers surveyed. The questions can be easily sub-classified

76 Srija Kumar, *And the Countdown Begins*, 10 April 2016, Available at http://www.clatgyan.com/the-window/countdown-begins/.

under the headings of 'Comprehension', 'Miscellaneous Grammar', 'Foreign Phrases and Idioms'.

Why is there such an evident disparity between the structure of the paper, which lends itself to backwash, and the reaction of aspirants, who seem to find training inconsequential in this regard? A possible answer may be found in how the online CLAT guidance portal introduces the English segment of the paper. Consider the following statement:

"The amount of effort you need to put in for English actually depends to a great extent on your current level of proficiency in it. ... If you are well-read and have a good grasp of the language, this section shouldn't be a tough nut."[77]

Logical Reasoning:

Without a doubt, the Logical Reasoning portion carries the most potential for the 'backwash effect', simply because it is quite predictable. This is clearly reflected in the responses to our survey. Of the 43 respondents, 13 were of the belief that CLAT training gave one a considerable advantage in this segment over those who had not been through test-focused training, while 30 were of the opinion that while it gave candidates an advantage, this advantage could be overcome. Almost all of the 39 respondents that had gone through coaching themselves reported that the same helped with increased speeds (33), identifying pitfalls (31), learning tricks and techniques (36) and exposing them to questions that would come in the main paper (33). Most respondents surveyed leaned towards techniques being more important than logical skill. 13 were of the opinion that techniques take primary importance, 24 claimed that they were of equal importance, while only 6 believed that innate skill contributed more to one's score than the techniques one was familiar with.

One of the trainers interviewed was a content creator with the IDIA programme, and he

77 Apoorva Yadav, *English: A Section to Test Your Linguistic Soundness*, 22 September 2010, Available at http://www.clatgyan.com/clat-english/english-section-to-test-your-linguistic-soundness/.

largely created logical reasoning questions for the purposes of internal testing. When asked about how he drafted material for the CLAT, he seemed to be of the belief that such drafting required one to be excessive formulaic. He would specifically be asked for content of specific sorts (syllogisms, blood relations etc.), and would have to create exercises in the same pattern. This formulaic nature of the CLAT is evident in the question papers that were closely read for the purpose of this study. The questions in this segment can be easily sub-classified as those based on 'Syllogisms', 'Analogies' and assessing 'Strong and Weak Arguments'. This repetitive pattern has been noticed by coaching institutes. Most of them lay stress upon identifying the underlying pattern of a particular question. Examine, for instance, the following excerpts from an introductory piece on logical reasoning:

"Whether it is Critical reasoning or Analytical reasoning, in most cases, there is slot into which questions can fit. For example, in Critical Reasoning you have the 'What is the conclusion?' or the 'Does the following statement strengthen or weaken the argument?' type of questions. In Analytical Reasoning the pattern is even more obvious. All number sequences, codes, sets, genealogy problems will have an underlying pattern. The minute you are familiar with the patterns that can come, it becomes very easy for you to fit your question into the pattern and answer the question fast.

"As CLAT is not just testing your reasoning ability, but how fast you can process the information given and find solutions, short cuts can be the reason why it is you and not someone else sitting in a prestigious law school tomorrow."[78]

Elementary Mathematics:

Interestingly, survey results for Mathematics show the most variance among all segments. When asked how relevant coaching is for doing well in this segment, 4 respondents replied that it was essential, 25 were of the view that it conferred an advantage, while 14 were of the opinion that it gave no assistance at all. Similarly, when questioned on what they gained from preparation for Math, 13 respondents claimed that they gained nothing at all. In the remaining 30, 23 answered that it helped them with

78 Rupali Samuel, *An Introduction to Logical Reasoning*, 23 September 2010, Available at http://www.clatgyan.com/clat-logical-reasoning/intro-logical-reasoning/.

speed, 19 claimed that they picked up several essential tips and tricks, and 12 claimed that it exposed them to questions that finally appeared on the paper. When asked which among pure skill and acquired tricks were more significant, 19 responded claiming that skill was more important than any tricks that might have been learned, 14 claimed that they were both of equal relevance, and 9 claimed that tricks were more important than any skill one might have.

This sharp division in opinions signal that while the backwash effect does change how some students respond to the mathematics segment, many others choose to ignore it. Why is this the case? A possible answer may be that it is only elementary mathematics that the test looks at. Consider the following excerpts from pieces on guidance for Mathematics: - "Get rid of the big fat books for a minute and think. Look at the past years CLAT papers. Are the math questions given there actually that difficult? Do they actually constitute the stuff that nightmares are made of? No. The kind of math that is needed for CLAT is not rocket science. They do not test your knowledge of difficult formulae or elaborate steps. What they do test is your skill at solving simple sums in the shortest possible time period. Believe it or not, the kind of math that CLAT tests is basic school level math"[79]

"If you really want it, the mathematics section of CLAT is the easiest thing to crack you'll find when you give the paper next year. If CLAT 2010 is anything to go by, (which it isn't) it'll be a question of what you can do faster-read the question or solve the question."[80]

Yet, clearly not everyone is comfortable with such elementary mathematics, evidenced by the large number of write-ups intending to console those who find it difficult to attempt the section.[81] Here, it becomes relevant that the Maths paper lends itself extra-

79 Pallavi Panigrahi, *Dealing with the Math-Phobia*, 31 January 2013, Available at http://www.clatgyan.com/clat-mathematics/dealing-mathphobia-pallavi-panigrahi-rank-2-clat-2012/.

80 *Whole Lotta Love & The Car Number Game: An Intro to Mathematics*, 3 December 2013, Available at http://www.clatgyan.com/clat-mathematics/whole-lotta-love-car-number-game-maths/.

81 See, for instance, Yashashree Mahajan, *How to Tackle Maths?*, 7 December 2010, Available at http://www.clatgyan.com/clat-mathematics/tackle-maths/.

ordinarily to backwash. Similar questions have been repeated time and time again, which makes it easy to predict the kind of questions one may face in the final paper, and prepare accordingly. A survey of previous question papers show repetition of questions that can be grouped under 'Arithmetic', 'Algebra' and 'Sequences and Patterns'

Overarching Observations:

Other than questions specific to particular segments of the exam, students were also surveyed on their general approach towards preparation for CLAT. Out of the 43 participants of the survey, 4 students had not attended any sort of coaching whatsoever. Among the remaining 39, few students had attended various types of coaching classes, some specific to CLAT and some not. A few simply attended ‘Entrance’ coaching class, where sections that are common in entrance exams across disciplines were taught.

Among the surveyed group, 14 students attended year-long coaching programs (4 of them were appearing for the exam for the second time). 34 people attended month-long crash courses, of these were 7 students who also attended year-long coaching programs. There were 9 others who were from cities that did not have coaching centres for CLAT, who mostly took online correspondence courses and then attended month long crash courses in cities. 40 students accessed and used free online resources. In all, only 3 students had no access to any institutional training whatsoever. All 43 students giving the exam had referred to past year papers and 35 of them agree that this was the most helpful source for exam preparation. 32 students took mock tests regularly which largely molded on the basis of the past year papers. 27 students accessed question banks while 22 students relied on material provided by coaching institutions.

The students were also questioned on the number of 'timed' and 'ranked' test simulations they had each taken. 15 students had attempted 16 or more tests. 13 attempted between 11 and 15 tests. 14 attempted between 6 and 10 tests. 1 student had attempted less than 3 tests. When asked whether their performance increased with the test, the students overwhelmingly replied in the positive. Every student noticed an increased efficiency in their performance rising proportionately to the number of tests taken. 31 students claim

that they witnessed high improvement while the others (11) said there was moderate improvement.

Finally, students were surveyed on how they approached the paper. They were asked whether they were more oriented towards cracking the paper or developing their aptitude more generally. While development of reasoning and aptitude was what most students sought, their immediate approach to CLAT was a need based one. 32 students' approach was best defined by option two, where preference was given to cracking the exam as opposed to developing aptitude. 11 students said that cracking the exam was the only concern and development of aptitude can be left for law school. Students were also asked if they had a broad strategy on how to approach the paper. 27 students said that they had allotted time for each section and stuck to this method religiously. 12 students had a vague time management strategy and a general pattern of solving the paper. 2 students said the generally managed time with no particular pattern to approach the paper, while 2 students said they had no strategy at all.

Findings on 'Backwash Effect' of CLAT

The following findings can be stated on the basis of the preceding discussion:

1. Most students that eventually did make it into the institution studied had developed considerable familiarity with the test before writing the CLAT. A significant majority of those surveyed benefited from formal training. Most students had attempted such tests a considerable number of times, and had particular strategies on how to address each portion of the test.
2. While this does indicate the possibility of substantial backwash, it may be concluded that the effect is unevenly distributed across the exam. While some portions of the exam lend themselves considerably to backwash, others do not do so at all. Many portions of the test, further, are structured in a manner that they require no prior study to engage with despite the possibility of backwash.
3. The legal reasoning portion lends itself to considerable backwash, with a similar pattern of tests repeated year after year. One may note, however, that the kind of backwash created is positive. While the questions asked are similar, the skills required to

answer them are necessary for one's law school career in general. Therefore, it is only essential skills that a segment like legal reasoning is developing, regardless of the backwash that it creates

4. The general knowledge section is almost entirely immune to backwash. The very nature of general knowledge is such that one cannot be trained for it. Students that prepare for this segment, further, report an over-all increase in their general awareness.

5. The English section, though structurally open to backwash, has not been reported as resulting in the same. This study speculates that the same may be because the English tested is elementary in nature, thereby allowing those proficient in the language to score well in the exam without preparation.

6. The logical reasoning section is perhaps the only section entirely open to the criticisms of negative backwash. Questions are routinely formulaic, and have followed similar patterns throughout the history of the CLAT. This allows students to rely on short cuts and techniques instead of logical skill to do well in this segment.

7. The Mathematics section is prone to backwash, with considerable repetition of similar questions being the norm. However, since the Math tested is elementary in nature, many are able to perform well in this section without training, thereby undercutting the severity of backwash.

<u>Questions asked in the Survey about Backwash Effects of CLAT</u>

(Administered to early-stage law students in March-April 2016, 43 respondents)

Q.1 How relevant, in your assessment, was the knowledge of legal concepts to attempting the Legal Aptitude portion of your exam?

4. Very relevant
5. Helped me answer questions, though it wasn't necessary
6. Irrelevant

Q.2. Did preparing for the legal aptitude segment assist you with any of the following in your law school career? (Select all that are relevant)

- It helped me understand concepts better while studying them

- It taught me how to approach the law and legal principles
- It taught me how to pay attention to detail
- It made no impact on how I learnt the law

Q.3.In your assessment, how relevant is coaching to solving a legal reasoning paper well?

It gives candidates an insurmountable lead

It gives candidates an advantage, but the same may be overcome

It gives candidates no benefits

Q.4.Which of the following did practicing legal reasoning questions assist you with in the CLAT exam? (Select all that are relevant)

- It gave me practice in solving such problems, which made me faster.
- It made me aware of the pitfalls of solving such problems, which I could later avoid.
- It taught me special tips and tricks that helped me solve such problems.
- It let me solve questions that appeared in the exam.
- It did not help me in any manner

Q.5. In your assessment, did you notice your level of general awareness grow as you studied for the CLAT?

7. Major increase in general awareness
8. Slight increase, but not substantial
9. No such increase
10. Didn't specifically prepare general knowledge for the CLAT

Q.6. In your assessment, how relevant is coaching to solving a general knowledge paper well?

It gives candidates an insurmountable lead

It gives candidates an advantage, but the same may be overcome

It gives candidates no benefits

Q.7. Which of the following did coaching for general knowledge questions assist you with in the CLAT exam? (Select all that are relevant)

- It gave me practice in solving such problems, which made me faster.
- It taught be special tips and tricks that helped me solve such problems.
- It developed discipline in me, which pushed me towards self-study
- It let me solve questions that appeared in the exam.
- It didn't assist me in any manner.

Q.8. In your assessment, how relevant is coaching to solving an English paper well?

It gives candidates an insurmountable lead

It gives candidates an advantage, but the same may be overcome

It gives candidates no benefits

Q.9. Which of the following did practicing English questions assist you with in the CLAT exam? (Select all that are relevant)

- It gave me practice in solving such problems, which made me faster.
- It made me aware of the pitfalls of solving such problems, which I could later avoid.
- It taught be special tips and tricks that helped me solve such problems.
- It let me solve questions that appeared in the exam.
- It did not help me in any manner

Q.10. How relevant has what you studied for the CLAT English segment proved in your law school career?

- It has been of tremendous help in building the skills necessary for law school
- It has been of incidental relevance, but has not had much of an impact
- It has had no impact on my law school career

Q.11. In your assessment, how relevant is coaching to solving a Logical Reasoning paper well?

It gives candidates an insurmountable lead

It gives candidates an advantage, but the same may be overcome

It gives candidates no benefits

Q.12. Which of the following did practicing Logical Reasoning questions assist you with in the CLAT exam? (Select all that are relevant)

- It gave me practice in solving such problems, which made me faster.
- It made me aware of the pitfalls of solving such problems, which I could later avoid.
- It taught be special tips and tricks that helped me solve such problems.
- It let me solve questions that appeared in the exam.
- It did not help me in any manner

Q.13. In your assessment, how do skill and tricks learnt during coaching interact in the CLAT Logical Reasoning paper?

- The tricks learnt during coaching are all-important, while skill is irrelevant
- The tricks learnt during coaching are most helpful, although skill is relevant too
- Both are equally important
- The tricks learnt during coaching are helpful, but skill is of primary importance
- Skill is all-important in the exam, while tricks acquired during coaching are irrelevant

Q.14. In your assessment, how relevant is coaching to solving a Mathematics paper well?

It gives candidates an insurmountable lead

It gives candidates an advantage, but the same may be overcome

It gives candidates no benefits

Q.15. Which of the following did practicing Mathematics questions assist you with in the CLAT exam? (Select all that are relevant)

- It gave me practice in solving such problems, which made me faster.

- It made me aware of the pitfalls of solving such problems, which I could later avoid.
- It taught be special tips and tricks that helped me solve such problems.
- It let me solve questions that appeared in the exam.
- It did not help me in any manner

Q.16. In your assessment, how do skill and tricks learnt during coaching interact in the CLAT Maths paper?

- The tricks learnt during coaching are all-important, while skill is irrelevant
- The tricks learnt during coaching are most helpful, although skill is relevant too
- Both are equally important
- The tricks learnt during coaching are helpful, but skill is of primary importance
- Skill is all-important in the exam, while tricks acquired during coaching are irrelevant

Q.17. Which amongst the following did you participate in as part of your preparation for the CLAT? (Select all that are relevant)

- Year-long CLAT coaching program
- Month-long CLAT crash course
- Online correspondence course
- Free online resources (eg. CLATGyan.com)

Q.18. Did you rely on any (or more) of the following sources while preparing for the CLAT? (Select all that are relevant)

- Previous years' papers
- Mock tests
- Commercially available CLAT question banks
- Material provided by coaching institutions

Q.19. In your subjective assessment, which of the following describes best your approach

to the CLAT?

- Cracking the paper was all-important, while developing my aptitude held no importance to me.
- Cracking the paper took primary importance, while developing my aptitude was, though important, secondary.
- Cracking the paper and developing my aptitude were equally important.
- Cracking the paper was, though important, secondary, while developing my aptitude took primary importance
- Cracking the paper held no importance to me, while developing my aptitude was all-important.

Q.20. How many, if any, timed and ranked test simulations did you partake in before writing the CLAT?

- 16 or more
- 11-15
- 6-10
- 4-5
- 3 or under
- I did not attempt such tests

Q.21. If you took 4 tests or more, how did your performance improve with the number of tests you had given?

- High improvement along with the number of tests taken
- Moderate improvement along with the number of tests taken
- No co-relation between the number of tests and performance
- Decline in performance along with number of tests taken
- I did not take 4 tests.

Q.22. Did you have a broad strategy on how to attempt the paper before writing the exam?

- I had allotted time for each section, and had a specific pattern according to which I would solve the paper
- I had a vague time management strategy, and a general pattern that I would adhere to while solving the paper
- I generally managed time, however had no pattern with which to approach the paper
- I had no strategy

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2.3 Standardised Entrance Examinations: Effects on Diversity

In a survey of around 550 students across 9 leading Indian law schools that was conducted by the IDIA programme in 2013-2014,[82] it was found that a startling 97% of the students had finished Class 12 in English medium with 86% students completing it from urban areas. In a country where only about 4% of the population speaks English and almost 70% of the population comes from rural background, the current composition of the leading law schools does seem highly problematic and exclusionary. It also raises serious questions about the nature of the CLAT which is now being used as the main filter for admitting students.

In this section, we have examined the very troubling question of whether standardised entrance examinations are actually making it difficult to admit students from varied socio-economic backgrounds.[83] Instead of advancing the constitutional goals of social justice through better representation of marginalised communities in higher education, is our insistence on using standardised exams taking us in the wrong direction? We must also examine how the idea of merit is sometimes wrongly invoked to legitimize existing socio-economic inequalities while also privileging certain individual capabilities over others. As a result, the failure of standardised tests in evaluating "merit" has been subjected to considerable discussion and analysis in recent years. It would also be instructive to look at the data which suggests the lack of socio-economic diversity at our leading centers of legal education.

How should we view the idea of 'merit'?

The term 'merit' assumes significance given the difficulty in attributing a definite meaning to it. This is so because, as Amartya Sen argues, the general idea of merit must

82 *See* IDIA DIVERSITY SURVEY QUESTIONS, http://idialaw.com/wp-content/uploads/2013/09/Diversity-Survey-2013.pdf.

83 We would like to thank Pradyuman Kaistha (BA, LLB 2018) for his contribution in preparing Section 2.3 of this Report.

be conditional on what the society considers good.[84] For any examination, it would denote what the test-makers value as essential attributes to be tested. Given the contingent nature of what is regarded as good there would always be alternate views regarding what is meritorious and what is not. The idea of merit expresses strongly egalitarian principles and rejects any ascribed or inherited privileges.[85] Meritocracy's claim to superiority for any test is premised on two arguments. The first is the *argument of equality* which states that the candidates are not limited by birth or by specific backgrounds but rather all are given a chance and the best out of them are then selected; and the second is the *argument of efficiency* which states that the candidates most appropriate for the particular place are accurately and reliably found through the means of the test.

It is argued by some that standardised entrance examinations such as CLAT, AILET, LSAT-India and SLAT among others, manifestly fail both these arguments. The first *argument of equality* can be blunted by simply looking at the profiles of admitted students at the leading higher education institutions, where it is evident that students from certain privileged backgrounds always tend to capture the seats that are ostensibly made available to all. The *argument of efficiency* falls since it is virtually impossible to find out the appropriateness of candidates for a seat in the college through the means of a standardised entrance exam. In context of the LSAT in USA, it has been argued that the exam fails to test the qualities required to be successful in the legal profession.[86] Thus it would be incorrect to come up with static parameters on which such candidates may be judged. Furthermore, the very basis of the *argument of efficiency* can also be doubted. This argument presupposes accuracy and reliability on the part of the admission test, but the ability to do so is scarcely present in any admission test.

The idea of merit purports to be neutral as it claims to reward individual actions and abilities. In doing so, it fails to see the individual as a part of the social structure drawing

84 Amartya Sen, MERIT AND JUSTICE, Princeton University Press 6 (1999).

85 Amman Madan, SOCIOLOGISING MERIT, 42(29) Economic and Political Weekly 3044 (2007).

86 The JBHE Foundation, HERE COMES A POSSIBLE DEATH KNELL FOR THE LSAT, The Journal of Blacks in Higher Education, No. 62 at 31 (2009).

from the available cultural and social resources which are a function of the nature of upbringing and the birth of the individual. In a highly stratified society, a public discourse centered on merit legitimizes effects of the historical injustice that has been perpetrated. It portrays the present socio-economic arrangements as just and those who failed to acquire the rewards of upward mobility as people who did not deserve them. The failure to consider the possibility that standardised exams may not actually test "merit" in the substantive sense, leads people who have risen through this system of meritocracy to feel a greater sense of entitlement and satisfaction.[87] Consequently, the people who have received the fruits of so called "meritocratic" system tend to believe in the legitimacy of the inequality. Thus, this system tends to entrench the prevailing inequality by justifying it.

Lani Guinier advocates the replacement of the current definition of merit by a democratic definition that also takes into account an individual's character.[88] She argues that admission criterion should be based on the degree to which the candidates help the institution and contribute to the society. Qualities of honesty, team-work and leadership are more important traits for a person's success in a democracy which are currently not valued. All entrance tests have been constructed in an individual-centric manner and seek to promote students who perform well academically or have good aptitude. This is measured through the equally problematic means of standardised exams. Thus intelligence, aptitude and hard work are privileged over all other equally important virtues of resilience, honesty and team work. In doing so, the larger institutional or the societal good tends to get ignored in this meritocratic regime.

Foundational Problems of Standardised Tests

Standardised tests are defended on the ground that they serve as objective basis to judge students and accordingly distribute rewards. Researchers have evaluated how individuals display "different ways of knowing and problem solving" that reflect differing styles, but

87 Amrutanshu Dash, UNFINISHED BUSINESS: REFORMING TESTOCRACY, IDIABlog, 4 May 2015, http://idialaw.com/blog/unfinished-business-reforming-testorcracy/.

88 Lani Guinier, THE TYRANNY OF THE MERITOCRACY: DEMOCRATIZING HIGHER EDUCATION IN AMERICA (Beacon Press).

not differing abilities.[89] These varying styles are often linked with race, class, caste and gender identities. Also, in the construction of the questions for these standardised tests, the method of answering or the style that is taken as being objective is that of the privileged upper-class urban man.[90] Thus effectively the tests are as much measures of the income, background and schooling as they are measures of achievement or skill. In doing so, standardised tests suppress human subjectivity which would have otherwise surfaced and been appreciated in a holistic admission process.

With respect to the Law School Aptitude Test (LSAT) in the USA, the presumptive correlation between LSAT scores and actual performance in law school has been studied. The performance of minority students seems to significantly improve vis-à-vis their Caucasian counterparts over the course of the J.D. program. The correlation between LSAT score and performance in college, which is seen to exist in the first year of the course, seems to wither away with time.[91] It has also been found that among law school applicants with the same performance in college, students of colour encounter a substantial performance difference on the LSAT as compared to their White classmates.[92]

It is often claimed that the lower test marks of people from certain under-privileged backgrounds is due to the biases and inequalities that exist in the primary and secondary schools and the society in general. Thus, nothing wrong is seen in the exams *per se.* However, the tests not only reflect the biases but also tend to compound and reinforce

89 D. Monty Neill and Noe J. Medina, STANDARDISED TESTING: HARMFUL TO EDUCATIONAL HEALTH, 70(9) The Phi Delta Kappan 692.

90 This is most evident in cases of Mathematics Sections. It has been argued that "sex differences in mathematical problem solving may be ascribed to timed tests which reward the facile test taker, not the thoughtful thinker who gathers information and organizes, evaluates, and expresses ideas clearly, perceives subtle relationships and patterns, and makes reasonable estimates and predictions." *See* Kate R. Sheehan, SAT SUPPORTS ILLUSIONS OF MALE GRANDEUR, The New York Times (21 July 1989).

91 James Hathaway, THE MYTHICAL MERITOCRACY OF LAW SCHOOL ADMISSIONS, 34(1) Journal of Legal Education 88 (1984).

92 William Kidder, DOES THE LSAT MIRROR OR MAGNIFY RACIAL AND ETHNIC DIFFERENCES IN EDUCATIONAL ATTAINMENT? A STUDY OF EQUALLY ACHIEVING "ELITE" COLLEGE STUDENTS, 89(4) California Law Review 1058 (2001).

them. The objectivity of the test is also used as a means to legitimise the inequality that the test perpetuates. The shortcomings of standardised tests are evident from the fact that the Code of Ethics promulgated by the National Association of College Admission Counsellors (NACAC) in the USA, which requires member institutions to refrain from using minimum test scores as the sole criterion for admission.[93] In the Indian context, thus instead of using a single exam test score, the test score could be used in conjunction with other data such as school record, essays and recommendations, to avoid discriminating against students whose scores may reflect such structural bias. Some researchers arrived at an alternate evaluation method to LSAT, which sought to evaluate "emotional recognition" and "situational judgment". Such an assessment was empirically found to correlate to success in the legal profession and remarkably found that there was no racial disparity in the scores obtained for these characteristics.

Absence of Diversity in Leading Indian Law Schools

Some students belonging to the Scheduled Castes and Scheduled Tribes manage to obtain admissions in the better-known law schools owing to the policy of affirmative action. The same is true for persons with disability. The question of how such students who enter highly selective colleges subsequently cope with the academic pressure and the institutional environment is a much broader line of inquiry.[94]

A positive aspect in the student composition of the National Law Universities (NLUs) is the adequate representation of females. The number of females on an average is equal to the number of males in the NLUs. A consolidated list is not published anymore, however in CLAT 2011 there were 497 females among the top 1,000 ranking students and in the top 5,000 there were 2,503 females.[95] However, if one takes an aggregate view of the situation, social exclusion in these highly selective institutions is quite visible and it can

93 Kary L. Moss, STANDARDIZED TESTS AS A TOOL OF EXCLUSION: IMPROPER USE OF THE SAT IN NEW YORK, 4(2) Berkeley Journal of Gender, Law & Justice, at 232.

94 The impact of the absence of diversity on the recruitments of the students, especially students from SC and ST background has been elaborated in Shamnad Basheer et al., THE MAKING OF LEGAL ELITES AND THE IDIA OF JUSTICE, Harvard Law School Program on the Legal Profession Research Paper No. 2014-18.

95 CLAT RESULT 2011.

be broadly framed around the following four categories (Class, Language, Region and Religion):

Class Based Exclusion: In India, the legal profession was historically a domain of the rich and still tends to be one. In terms of class, it is clear that the majority of the students come from privileged upper class urban backgrounds. In the survey of NLUs conducted by IDIA in 2013-2014, almost 83% of students hailed from families with incomes above Rs 3,00,000 and more than 50% students had a family income of more than Rs. 7,00,000. In the Diversity Survey conducted at NLSIU Bangalore in 2015-2016, covering 97% of its student body, it was found that more than 50% of the students had a family income of more than Rs. 1 Lakh per month.[96] This has to be juxtaposed with the scenario of the country at large where the average income of a household was Rs. 1,57,683 in 2012-13 while the median income was even lower at Rs. 98,867.[97] A little over 11 per cent of the households earned Rs. 3,00,000 or more in 2012-13. Thus, the exclusion on the basis of class is evident and has been corroborated by similar surveys conducted in recent years.

Language based Exclusion: The IDIA survey also clearly points out the highly skewed ratio in favour of English-speaking students. A startling 97% of the students studied Class 12 in English medium schools. The same figure is replicated in the Diversity Survey conducted at NLSIU Bangalore. Almost 90% of the surveyed students' fathers and 70% of the mothers were fluent in English. The statistics of the whole country reveal that less than 10% of the population speaks English as their first or even second language.[98]

Region based Exclusion: Socio-economic factors have also led to an absence of geographical diversity in the NLUs. For instance, in the NALSAR Batch of 2013-2018, there are no students from Jammu and Kashmir, Uttarakhand, Goa, Chhattisgarh, Manipur, Mizoram or Tripura. Out of a total of 550 students surveyed by IDIA, there was not even a single student from the states of Arunachal Pradesh, Tripura, Goa, Nagaland and Sikkim. There was just one student each from Himachal Pradesh, Manipur, Meghalaya and Mizoram. In the Diversity Study conducted at NLSIU Bangalore it was

96 Chirayu Jain, et.al, NLSIU DIVERSITY STUDY (2015-2016).

97 *See* Household Earns Rs 41.5 trillion in 2012-13, Consumer Pyramids, 3 March 2014.

98 INDIA SPEAK: ENGLISH IS OUR SECOND LANGUAGE, The Time of India, 14 May 2010.

found that there was not even a single student from Goa, Meghalaya, Mizoram and Sikkim. There were less than three students from Nagaland, Jammu and Kashmir, Arunachal Pradesh and Manipur each. Thus, the NLUs evidently also lack diversity on the basis of region. In terms of the urban-rural divide, 86% of the students come from urban background.

Religion based Exclusion: The lack of religious diversity is also apparent in the most well-known law schools, given that 86% of the students were Hindus and a miniscule 1.6% of the students were Muslims.[99] The figure was even more abysmal in the NLSIU Bangalore survey, where Muslims constituted only 0.76% of the student body. This is happening in a backdrop where the 2011 census reported that 14% of the country's population is Muslim. The reason for this is the socio-economic backwardness of the Muslim community in general.[100] The educational conditions of the Muslim community are not very promising either. Economically speaking, the Muslim community happens to be almost at the same level as the Scheduled Castes (SCs) and Scheduled Tribes (STs).[101] Thus, in the absence of an affirmative action policy available to them, the Muslim students fail to receive adequate representation in the universities.

Normative Value of Diversity in Higher Education

The critical need for student diversity has been emphasized upon time and again.[102] The lack of concern and outrage over the decline of diversity in law school classrooms has

99 The figures for the other religions were proportionate to their share in the population. 86.5% of the students' fathers were Hindu and 86.2% mothers were Hindus. Only 1.6% of the students had Muslim parents.

100 *See* A REPORT ON THE SOCIAL, ECONOMIC AND EDUCATIONAL STATUS OF THE MUSLIM COMMUNITY IN INDIA (Sachar Committee Report), Prime Minister's High-Level Committee, November 2006. The literacy rate among Muslims is 59.1% falling below the national average of 64.8%. Also 7% of the population aged 20 years and above are graduates or hold diplomas, while only 4% among the Muslim population does.

101 The mean per capita expenditure for Muslims is lower than the OBCs but slightly higher than SCs and STs. The SCs/STs together are the poorest with an HCR of 35% followed by the Muslims who record the second highest incidence of poverty with 31 % people below the poverty line.

had a significant impact on ambience of the classes, the quality of legal education, and the prospects for meaningful reform in the legal profession.[103] This exclusion, being not legally mandated or very evident, mostly remains ignored and unchallenged. The obvious question that needs to be answered is why is there a need for diversity in law schools and, by its logical extension, in the legal profession?

First, diversity has to be seen as an end in itself.[104] The idea of having a set of diverse students coming from different backgrounds entails some inherent value. The importance of diversity is highlighted by the fact that it has served as an important criterion for admission to colleges around the world and in India. *Second*, increasing access for people from under-privileged backgrounds would further help empower these people and their communities in general, thereby paving the way for the realisation of the ideal of inclusive growth. *Third*, those trained to manage and protect the legal system of our increasingly diverse nation have to be representative of those who they serve. The crisis of the legal profession today is that it is failing to deliver justice to impoverished communities. *Fourth*, any sort of legal or non-legal discourse generated in the law schools or in professional settings would happen to be exclusionary, since the engagement is between groups of relatively homogeneous people. Thus, there is a clear need for student diversity in the law schools.

Exclusionary Aspects of the Admissions Process

In the NLSIU Diversity Survey, a strong correlation was found between the CLAT Ranks of students and their respective family and social backgrounds. The report however doesn't explore the reasons for the same or the problems that could exist with the exam itself. There are several impediments that are faced by students coming from an under-

102 Elizabeth Rindskopf Parker & Sarah E. Redfield, INCREASING DIVERSITY IN THE LEGAL PROFESSION: A MODEL FOR COLLABORATION WITH SCHOOLS OF LAW, EDUCATION, LIBERAL ARTS AND HIGH SCHOOLS AND BENCH, BAR AND CORPORATE COUNSEL, (Education Law Association Papers).

103 Margaret M. Russell, MCLAURIN'S SEAT: THE NEED FOR RACIAL INCLUSION IN LEGAL EDUCATION, Fordham Law Review 70 (2002), p. 1827.

104 Shamnad Basheer et al., THE MAKING OF LEGAL ELITES AND THE IDIA OF JUSTICE, Harvard Law School Program on the Legal Profession Research Paper No. 2014-18.

privileged background. We can examine these impediments in two parts: (A) Impediments in deciding to appear for CLAT, (B) Impediments in attempting the exam itself. In this section, the emphasis is not on the various sections or communities in the society that are excluded but rather on the exclusionary characteristics of the exam itself. This has been done since most of the identities that do not find space in law schools are excluded by certain common features of the exam and the admission procedure which have been highlighted while proposing alternatives to improve them.

(A) IMPEDIMENTS IN DECIDING TO APPEAR FOR CLAT:

Before a candidate makes a decision to appear for CLAT, she needs to have knowledge of the possibilities of the exam and the legal profession. Given the lack of awareness, especially among the under-privileged students, there is not much scope of such students even appearing for such entrance examinations. From the small set of people who are actually aware of their existence, a significant population can be estimated to make a decision against appearing in the exam. As discussed in Section 2.2, it has become rarer over the years to see people get into law school without having studied at coaching centres. These coaching centres charge exorbitant amounts and put students from an economically weaker background at a disadvantage at the very outset.[105] The high fees charged by the coaching institutes has been claimed to be one of the reasons for there being a direct correlation between family income and an individual's success.

The Application fee for a student from the unreserved category is Rs. 4,000 while candidates from reserved categories are required to pay Rs. 3,500. This is a fairly high amount in comparison to the application fees for the IIT Joint Entrance Examination (JEE)[106] or the National Eligibility cum Entrance Test (NEET) used by the leading medical colleges.[107] Another impediment at the application stage is the fact that application forms are only available online. It is not that the application forms cannot be

105 Illustratively, Career Launcher which is one of the most reputed coaching centres for CLAT, charges around Rs. 80,000 for a one-year course. *See* LST PLUS PRODUCT DESCRIPTION, http://www.careerlauncher.com/cl-online/

106 The application fees for General/OBC category candidates appearing for the IIT-Joint Entrance Examination (JEE) is Rs. 1,000 (Boys) and Rs. 500 (Girls). For the SC/ST/PWD students, the fee is Rs. 500.

made available offline. Online registration could be made optional while retaining the traditional method of manually filling the application forms, as was the case till 2014.

Other than these immediate impediments, when a person decides to appear for an entrance examination, they could be assumed to look at the fees structure of the colleges and only then make a decision to appear for the same. All NLUs charge an exorbitant fee which for most of them is above Rs. 2,00,000 per year. Such high fees would also act as a deterrent for any person who makes a decision to appear for CLAT. There is indeed availability of scholarship schemes, but their efficiency is under question. Further, many students are unaware of the available scholarship schemes or the application process in inaccessible or unclear. It often happens that the scholarships do not provide the required money at the appropriate time. Students have to make constant demands for the release of the funds, which at times are released after the students have paid the fees out of their own pockets. It is important that financial aid schemes function smoothly so as to allow timely disbursement of funds.

(B) IMPEDIMENTS IN ATTEMPTING THE EXAM

Linguistic Aspect: In order to communicate one's level of ability, the test-takers must be well versed with the language of the test. Thus, tests written in English cannot effectively assess the performance of those students for whom English is a second and only partially mastered language. This is very evident for CLAT, since 97% of the admitted students happen to be from English medium backgrounds. In India, English is the first language for only 2.3 Lakh Indians. Around 86 million (around 7% of the population) use it as their second language.[108] What such form of exclusion does is that it accentuates the pre-existing fractures in the society by reinforcing a social, cultural, economic, and discursive divide between the English-educated in the legal profession and the majority.[109] Most of

107 The application fee for General/OBC students appearing for NEET is Rs. 1,400 while that for SC/ST/PWD students is Rs. 750.

108 INDIA SPEAK: ENGLISH IS OUR SECOND LANGUAGE, The Time of India, 14 May 2010.

109 David Faust and Richa Nagar, POLITICS OF DEVELOPMENT IN POSTCOLONIAL INDIA: ENGLISH-MEDIUM EDUCATION AND SOCIAL FRACTURING, 36(30) Economic and Political Weekly 2880 (2001).

the population that has access to English is the urban upper-class, upper-caste privileged population. Thus, the issue of language is inextricably linked to other issues of identity. It has been observed that the increased privatisation of schools has led the English/non-English distinction to coincide with the private/public education dichotomy at the higher levels of education as well.

Insofar as the legal profession is concerned, the importance of English cannot be dispensed with. The Constitution of India mandates the usage of English in the Supreme Court and High Courts apart from legislative enactments and other official documents.[110] At the appellate level, only lawyers, who are competent in English, tend to argue before the court. The provision for allowing languages other than English to be used in High Courts exists but thus far only the courts in Madhya Pradesh, Bihar, Uttar Pradesh and Rajasthan have allowed the use of Hindi.[111] Moreover commercial law firms, which happen to be the largest recruiters from the leading law schools these days, also prioritize proficiency in the English language. Most of the rich legal literature is also exclusively available in English. Thus, the use of English in the legal profession cannot, any time soon, be dispensed away with.

The burden thus is to reconcile the need for inclusion of several sections of the population who lack knowledge of English with the requirement of knowledge of English. The solution that I propose is that the Section on English in CLAT should be done away with while retaining the language of the test as simple English. In doing so, the students would be tested on their bare minimum knowledge of the English language while attempting the other sections but the burden of specifically tackling a Section on English would be removed. Thus, the students that clear CLAT, though not necessarily proficient in English language, would have some knowledge of the language which could further be refined after the students reach college through some remedial classes which the university shall be obligated to provide to bring all students at par.

The retention of English as the medium of the test has to come with the caveat that the other Sections are framed in a manner that the language used therein is kept as simple as

110 Article 348, CONSTITUTION OF INDIA.

111 Johnson, TAMIL IN COURTS, The Economist, 11 April 2013.

possible. For instance, in the Logical Reasoning section candidates should be tested merely on logic and not language. There have been several instances in the CLAT question papers where complicated English is employed in framing questions in sections other than the English section and consequently, students end up being tested on their proficiency in English in other Sections too. Such an approach should be immediately discarded and CLAT should use simple English in framing the question paper.

An objection against this proposal could be that such students would not be able to cope with the reading intensive courses after getting admitted to the law schools. However, such an objection presumes the nature of the courses to be independent of the kind of students in the class. Rather, the course is a product of the kind of students that get into college. If there are students from linguistically diverse backgrounds then the difficulty level of the courses would need to be customised. The reduction in the linguistic difficulty of the courses ought to be distinguished from the dilution in the quality of the courses. Also, the university rules regarding the minimum requirements of grades may also be relaxed to some degree in the first couple of years of college for the students who are not proficient in English. The inclusion of students from diverse backgrounds should be the beginning of the process and not the end. Supplementary measures must be made an integral part of the programme which would include remedial teaching, counselling and attempts to lower the incidence of drop-outs, especially from historically marginalised communities.

An alternative is that the entrance examinations can be conducted in the various scheduled languages, while retaining a section meant to gauge functional skills in the English language. This would help make the exam more inclusive. The retention of the section on English should be done so as to ensure that the students coming in to the well-known institutions possess a bare minimum knowledge of English. This idea needs to be deliberated and developed further before being concretised. The NEET, a test for admission in medical colleges, has been regularly conducted in multiple languages. Although the questions in Hindi were translations of the ones in English, the same was not true for the other languages where entirely different questions were asked.[112]

112 Sumi Dutta, NEET 2018: SAME QUESTION PAPER IN VERNACULAR LANGUAGES WILL ENSURE UNIFORMITY, END DISCRIMINATION, SAY STUDENTS, EXPERTS, The New Indian Express (May 6,

The nature of questions: The type of questions that are asked in the General Knowledge section of CLAT tend to perpetuate the dominance and the probability of success of a particular section of the society. CLAT notification for 2015 stated that: the current affairs section would test students on "matters featuring in the mainstream media."[113] In the 2015 CLAT question paper itself, there were four questions in the General Knowledge Section related to the internet. The possibility of success of the people who do not have access to mainstream media sources is significantly undermined. There are certain questions in the CLAT papers concerning matters that would not even be covered by the local vernacular media or newspapers. Such questions reflect the experience of the people framing the questions and the kind of sources of knowledge that they have access to. Thus, a change in the nature of General Knowledge questions is also called for.

The section of Logical Reasoning has questions on both analytical reasoning and critical reasoning. There are certain analytical reasoning questions involving syllogisms, sitting arrangements and directions. Such questions necessitate a visualisation of the situation created in the specific question. Such questions thus become very difficult to answer for the visually impaired candidates. Although the importance of questions of analytical reasoning cannot be denied, their number can be reduced by increasing the number of critical reasoning questions. The analytical reasoning questions that remain could test students on analogies, completion of series and relationships, since such questions do not necessitate the visualisation of the situation created by the question. Insofar as the Mathematics questions are concerned, they also pose a problem to the visually impaired candidates since complicated calculations become a difficulty. Thus, a balance has to be struck between maintaining a certain level of difficulty of the exam while simultaneously not excluding the visually impaired candidates.

Method of conducting CLAT (Computer Based Test): In most cases, Computer Based Tests for existing paper-based tests are assumed to maintain comparability of scores from one testing format to the other.[114] But such an assumption can be brought to question. Computerising a test entails issues of equity and skill in computer use. Computerised

2018).

113 PATTERN OF CLAT 2015. The CLAT 2018 notification stated that students would be tested on domestic and international current affairs.

tests put certain students at a disadvantage due to lack of access and familiarity with computer usage.[115] Such problems, in the Indian context become accentuated since a significant population does not have access to computers. Thus, the idea of computerised testing which seems to be aimed at avoiding technical discrepancies should be rejected since such a measure cannot come at the cost of excluding people.

Concluding Remarks for Section 2.3

As detailed in Chapter 2 of our previous report, over the years, CLAT has been marred by allegations of paper leak, correct answers being underlined, deviation from the notified exam pattern and technical discrepancies in the publication of results. The pattern of the exam has kept changing since its inception. Thus, if any consistency is to be seen in the standard of the examination, a permanent committee needs to be appointed which could avoid the mistakes that have been made in the past. Also, arguments in the preceding sections have been made in favour of structural changes to make the process more holistic and inclusive. Such proposals would only have meaning if a permanent committee looks into them, since an individual college cannot possibly change the entire admission procedure in the long run. Recommendations that have been given above are not a panacea to the problem of exclusion that CLAT and other standardised entrance tests face. It is our hope that these criticisms and suggestions, if discussed and deliberated, would definitely diversify the student composition of the law colleges and consequently have a positive impact on the legal profession and the society at large.

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114 Ann Gallagher, Brent Bridgeman & Cara Cahalan, THE EFFECT OF COMPUTER-BASED TESTS ON RACIAL-ETHNIC AND GENDER GROUPS, 39(2) Journal of Educational Measurement, at p. 138 (2002).

115 Sandra Thompson et al., USING COMPUTER-BASED TESTS WITH STUDENTS WITH DISABILITIES (National Centres on Educational Outcomes).

CHAPTER 3: CURRICULAR PRACTICES AND STUDENT EXPERIENCES

This chapter forms the substance of this report as it examines the surveys that were focussed on the students' responses to significant changes in curriculum design that have taken place over the last decade. In particular, we tried to gauge responses to the incremental implementation of the Choice Based Credit System (CBCS) at many law schools (Section 3.1). The discussion builds upon the results of our previous surveys that were limited to the context of the National Law Universities (NLUs). Since our present study was based on responses gathered from a broader range of higher educational institutions, we came across several distinctive issues that forced us to reconsider the framing of some questions that were part of our original research design. The analysis of student opinions in matters such as selection among optional courses, pursuit of internships, involvement in co-curricular activities and the shaping of career preferences, throws up more questions for persons interested in this sector. In the subsequent section, we have extended the discussion to examine how the rapid growth of the corporate legal sector in India has been affecting the delivery of legal education (Section 3.2). While it is self-evident that what is taught as part of professional courses needs to be constantly revised so as to keep pace with the needs of the market, there is also a lot to be said in favour of preserving the humanist orientation of higher education. Even as formal legal education adapts to the demands of the workplace by bringing in more practice-oriented coursework, it is also equally important to cultivate the skills needed for rigorous self-examination, adopting an international and comparative framework for academic inquiry and understanding the value of interdisciplinary learning. This chapter then proceeds to another survey that was focussed on the career choices made by recent law graduates (Section 3.3). We have also included a discussion on concerns about structural discrimination and how it reflects in student experiences (Section 3.4.).

3.1 Implications of Choice-Based Credit System (CBCS)

Over the last decade, Indian Universities have been transitioning towards a model of choice-based courses during undergraduate studies. This is a welcome move since undergraduate education in India was repeatedly criticized for being unidimensional by

forcing students into narrow areas of study at a relatively young age. The changes brought about by the use of the NIRF methodology since 2015 and the recently announced National Education Policy, 2020 indicate a substantive shift towards interdisciplinary and flexibility in the coursework that should be offered to our students. Given the immense disparity among the capacities and resources available at our higher education institutions, the actual implementation of these ideas will also proceed in varying forms. Since some of the well-known law schools (both public and private) have already taken decisive steps to implement a Choice Based Credit System (CBCS), we felt that it was important to assess student responses to the early stages of this ongoing transition. In order to provide a more textured discussion, we have been able to draw upon the findings of two separate surveys conducted in April 2015, which were administered to two different sets of respondents.[116] We aimed for breadth as well as a representative character in our sampling of responses.

Survey I on Choice-Based Credit System (April 2015)

(138 respondents, 9 institutions)

The objective was to examine how student choices of elective courses (as part of integrated undergraduate law programmes) are determined by their perception of suitability towards employment in the corporate legal sector. This can be broadly understood as orienting oneself to seek well-paid employment in commercial law firms, auditing firms and as legal advisors to large businesses, among other comparable options. It is worth asking whether such academic choices lead to compromises on what could be a wholesome, holistic study of the law, and whether this approach compromises the pursuit of interdisciplinary in formal legal education.

The literature on the special importance of interdisciplinary learning is almost unanimous in arguing that a wider variety of subject choices will equip students with skills to take on comparative law, and ultimately make them truly capable of 'global' lawyering.[117] There

116 We would like to thank Karthik Suresh (B.A.,LL.B. 2015) and Ayush Ranka (B.A., LL.B. 2016) for conducting these two surveys that form the basis of Section 3.1 in this Report.

117 Robert Morris, *Globalizing & De-Hermeticizing Legal Education*, BRIGHAM YOUNG UNIVERSITY EDUCATION AND LAW JOURNAL (2005), p. 53.

is of course literature that addresses the relevance of commercial law courses for equipping students to later handle commercial disputes, especially through changes made to the way contract law, or company law is taught.[118] However, there is also more interesting literature that highlights the significance of fields such as 'Jurisprudence' that study the underlying theoretical assumptions behind the design and working of law and legal institutions. We found two articles that are particularly interesting: one by W. Jethro Brown (1909)[119] on how jurisprudence taught in the US was remarkably different from what was taught in England at the time. While jurisprudence may be just one among the many courses taught in institutional settings in the US, for the English even today, jurisprudence remains the mainstay of their legal education. The second one is that of J. S. McQuade (1995)[120] talks about the diminishing importance of jurisprudence and legal theory in American law school curricula. In fact, several US law schools had dropped the legal philosophy course from their list of requisite courses in the three-year Juris Doctor (J.D.) programmes. In recent years, this development has been mirrored by many Indian law schools that have discontinued the mandatory courses on 'Jurisprudence', while relying upon the BCI Rules on Legal Education, 2008 that list 'Legal Methods' as an introductory subject. While the debate between prioritising legal philosophy (the 'English' model) and 'hands-on' subjects (the 'American' model) is relevant even today, our present focus is on the pursuit of interdisciplinary learning in Indian law schools.

In this regard, there is an insightful survey by Coates, Fried and Spier (2014),[121] where they interviewed alumni of Harvard Law School who were working at large commercial law firms and asked them what subjects would they have taken in hindsight and what would they advise current students. Some intriguing observations were that the alumni

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118 Lawrence Friedman and Stewart Macaulay, *Contract Law and Contract Teaching: Past, Present and Future*, WISCONSIN LAW REVIEW (1967), p. 805.
119 W. Jethro Brown, *Jurisprudence and Legal Education*, 9(3) COLUMBIA LAW REVIEW, (1909).
120 J. S. McQuade, 'Procrustean Jurisprudence: Squeezing Legal Philosophy into an Already Crowded Law School Curriculum', 40 AMERICAN. JOURNAL OF JURISPRUDENCE (1995), p.79.

121 John C. Coates IV, Jesse Fried and Kathryn Spier, *What Courses Should Law Students Take? Harvard's Largest Employers Weigh In*, HLS PROGRAM ON THE LEGAL PROFESSION Research Paper No. 2014-12.

presumed of a Harvard student that they would have the intellectual foresight to pick the courses they need to further their careers after law school. The intention of the survey was also to help current HLS students pick courses in a more informed manner, while also helping faculty members in designing their curriculum more effectively and advising students better. If we look at similar work in the Indian context, Jonathan Gingerich and Nick Robinson (2014) have tried to study the impact of corporate law firms on legal education in India.[122] However, their paper did not closely discuss the aspect of how students choose among elective courses made available to them. Another article by Jonathan Gingerich, Vikramaditya Khanna and Aditya Singh (2014) described the recruitment process of corporate law firms from elite law schools in India,[123] This paper examined the role that corporate law firms are increasingly playing in student decisions with regards to admissions, extra-curricular activities and maintaining good grades. However, it did not look at how the institutions themselves are responding to this larger process of corporatisation.

One area of meaningful investigation in this regard has emerged out of the adoption of the Choice Based Credit System (CBCS) by Indian Universities, especially in the 2010s. In fact, 80% of the respondents to our survey conducted in April 2015 reported that their institutions were offering elective courses. Therefore, the onus was on the students to choose courses that would add value to their resume and build their core capacities. In light of this, our survey was designed to record student perceptions about the relevance of commercial law subjects, and how students were choosing among the elective courses offered to them. We asked them about the courses they had already done as part of their studies, broadly grouping them based on disciplinary orientation. We also asked about career plans, and about what factors influence them while taking a course. In the same vein, we asked if they felt that their prospects of getting a job-offer would increase if they

122 Jonathan Gingerich and Nick Robinson, *Responding to the Market: The Impact of the Rise of Corporate Law Firms on Elite Legal Education in India*, HLS PROGRAM ON THE LEGAL PROFESSION, Research Paper No. 2014-11.

123 Jonathan Gingerich, Vikramaditya Khanna and Aditya Singh, *The Anatomy of Legal Recruitment in India: Tracing the Tracks of Globalization* (November 11, 2014), HLS CENTER ON THE LEGAL PROFESSION, Research Paper No. 2014-25.

have taken courses that fit the job description. 138 students from 9 different law schools responded to this survey. The broad patterns in the responses have been outlined below:

Q.1: The first question was about the institutional affiliation of the respondent.

Q.2: The next question, 'which year of law school are you in?' saw responses from all five batches in roughly equal proportion. Only students pursuing the five-year integrated law courses were asked to respond.

Q. 3: This was whether the student had any indication, however rough, as to what he/she would like to pursue after law school. The majority answer here was 'I somewhat did', with 49 persons saying so. 'I did not' was the option for 30 people, and only 19 people were sure as to what they wanted to do after law school.

Q. 4: The next question was about the type of elective courses the student has chosen. The student was asked to list out all chosen courses and slot them under the following four categories, (i) 'Commercial/ Trade-related/Corporate subjects'-37 respondents, (ii) 'Courses on Legal theory/Jurisprudence'-28 respondents (iii) 'Courses on Social Justice/Criminal Law/Human Rights'-27 respondents, and (iv) 'Other courses'-27 respondents.

Q. 5: In terms of career plans after law school, a large number of students chose corporate law firms and corporate in-house roles. Yet, these preferences do not reflect actual career trajectories. The respondent could choose more than one option.

Q. 6: The question was whether the elective system existed in their university or not. While 71 out of 98 students had responded saying their electives are open only to the senior batches, that is 4th year and 5th year students in integrated law programmes, 17 said that their institutions had elective courses which were open to all students, while 10 said that their college had no system of electives.

Q. 7: 87 students answered a question about what were the factors which they had in mind while choosing an elective course. The options were: reputation of course instructor, relevance of course to their career plans, and 'other plans' which usually denote involvement in moot court competitions, internships and other labour-intensive activities, which push students to choose comparatively 'light' subjects to focus on them.

Q. 8: This question was about whether students would change their career plan based on a subject they may have liked during law school. 97 students answered this question. The responses are as follows:
Yes (52 students), No (20 students), Can't Say (25 students)

Q. 9 The final question was a descriptive one. It dealt with the perceived importance of a student's choice of courses while deciding upon their career path, and whether they (in terms of self-perception) stand a higher chance of being offered a desired job if they have focused on courses that fit the job description. Some of the recorded responses are quoted below:

1. I do not think that choice of course while in law school helps much in deciding the career path. Getting a job is more dependent on the amount of self-study (by self-study I don't mean self-study of the syllabus ... but on reading things apart from those taught in college) that a person puts in.

2. Yes specializing in corporate law gives you an edge in recruitment. Also, streams like B.A., B.Sc., B.B.A. affect your CGPA significantly which can have a huge impact on career prospects. B.A. students have it rough compared to B.Sc. and B.B.A. students at NLUJ.

3. To some extent it does help. But if you have the personality-job description match, then the employer can trust you to acquire the knowledge required on the job.

4. From what I've heard from my limited grapevine discussions, while selection of a particular course may positively impact your chance only to the point of acknowledgement. Avenues such as interviews or shortlisting may be decided on these aspects, but I suspect a justification and a well-rounded application or pursuit shouldn't affect your chances if the recruitment process is thorough and encompassing.

5. The fundamentals are important for everyone. However, I feel that seminar subjects in the final two years should be taken up on a choice-basis, with students opting for subjects that they additionally wish to learn, and not those for which teachers are available.

6. The courses that we take do give an insight as to what we would want to do with our lives after law school and whether what we had been planning all along (good money and comfortable, metropolis lifestyle) is even worth it (as there are bigger and better things to do). But sometimes, for example - NSE refused to take a person only because she did not have Capital Markets on her CV.

7. Courses chosen are a matter of interest and a matter of gaining knowledge. The kind of work you want to do is determined by pretty much the same factors. However, the course chosen does not always determine the job you get. For example, you can be interested in both IPR and trade (like I am) and take courses in one while keep interning / studying the other on the side.

Analysis of Responses:

The fact that students' course selections are important and shall help shape their professional prospects has been established by now. The introduction of the Choice Based Credit System (CBCS) has been unfolding across many Indian law schools and will most likely be scaled up further in the 2020s. The question therefore is, what are the prevailing circumstances under which students opt for the electives, and why do they exist? Is it that employers expect students to take certain courses? Based on the data that we collected, it can be said that while the subject choice may be used by a student to indicate interest and a better grasp of issues whilst in the interview room, it does not make any difference when it comes to shortlisting of candidates for interview or internship. Some employers (such as the National Stock Exchange, as one respondent indicated) may require specified knowledge on certain subject areas, but with law firms and generalist corporate counsels, it does not appear to be the case. Students have varying reasons for selecting among elective courses. Some may do so out of interest, some may do so to make their resumes attractive to potential employers, some may do so because they have other priorities, some may take courses based on reputation of the course

instructor, and even peer pressure is a reason. While the responses suggest a higher preference for corporate jobs and electives dealing with commercial law, they do not indicate an overwhelming preference towards the same.

Some other points also emerge from the responses. Most students do have a rough idea as to what they would like to pursue after law school. So, it is possible that their subject choices would reflect their pre-determined outlook at some level. It is also possible that this would change if a student is greatly influenced by a particular field and wishes to build a career in it. While aspiring corporate lawyers may represent the largest group of students passing out of the leading law schools these days, they would barely register as the majority if we consider the larger landscape of legal education in India. Furthermore, attrition rates from these corporate law firms is high, and many people leave these firms for pursuing other avenues in litigation, social advocacy, research and even other fields that are not closely related to law.[124]

Nevertheless, the law schools must strive to widen the range of the various elective courses offered to their students. A balance must be struck between ensuring meaningful interdisciplinary learning, knowledge of contemporary developments and the spirit of humanist inquiry. Irrespective of fluctuating market-demands, students should be advised to take courses across a variety of topics to deepen their knowledge of the law's interaction with worldly affairs. At the same time, universities should remind themselves of their roles in shaping tomorrow's legal minds and the *globalized* nature of legal pedagogy.[125] Several Indian Law schools have accumulated considerable social and reputational capital, so as to not give up on their core function of training socially responsible lawyers.

124 While outside of the scope of this study, an interesting analysis of law firm attrition in India has been attempted by Jayanth Krishnan who uses Marc Galanter's 'haves-have nots' binary to examine relations within and between law firm partners and their junior associates: See Jayanth Krishnan, *Peel-Off Lawyers: Legal Professionals in India's Corporate Law Firm Sector*, 9(1) SOCIO-LEGAL REVIEW (2013) p. 1. This persisting pattern of career ambivalence among law graduates is also examined in Section 3.4 of this report

125 See Jane Schukoske, *Legal Education Reform in India: Dialogue Among Indian Law Teachers*, 1(1) JINDAL GLOBAL LAW REVIEW 251-279 (2009).

Survey II on Choice-Based Credit System (April 2015)

(76 respondents, 5 institutions)

In this survey, the objective was to collect some data regarding the teaching resources at the chosen institutions, the overall structure of their taught programmes, the range of courses being offered and student perceptions about the programmes as well as the quality of teaching being provided to them. In the long-run, student satisfaction varies enormously across institutions and different periods of time. While the BCI Rules on Legal Education (2008) prescribed a list of 20 compulsory courses and 4 Clinical courses that must be part of taught law programmes, law schools have some leeway when it comes to assembling their basket of elective courses. The idea is to give students greater freedom in shaping their education experience in accordance with their personal academic and professional goals. Clinical education is provided with the aim of inculcating professional ethics and introducing the students to the realistic working of the legal system.

Before discussing the results of this particular survey, it would be useful to sketch the profile of faculty resources available at the chosen institutions. We can also appreciate the difficulties in delivering many of the required courses effectively, owing to the considerable shortage of competent faculty in many law schools. This is of course a larger problem across the higher education sector in India. With respect to the movement towards a Choice Based Credit System (CBCS), the significant question to ask here is regarding the kind of courses that are actually being offered. Are courses structured according to student desires, the availability of faculty expertise or due to some other factors? It is also pertinent to ask questions about the utility of clinical legal education and its actual delivery. This aspect has been addressed more elaborately in Section 4.3 of this report. A total of 76 student responses were collected from five different law schools. Interviews were also conducted with 7 faculty members.

Faculty Resources:

All the institutions that were surveyed had divided their faculty among the established

academic ranks such as Professors, Associate Professors and Assistant Professors. In some institutions, teaching responsibilities were also being discharged by younger appointees designated as 'Teaching Associates' or 'Research Associates'. The institutions had, on an average, a faculty student ratio of 1:19. However, a numerical majority of the faculty in all of them were Assistant Professors (over 50%,), with many of them in ad-hoc or discretionary positions. The number of Full Professors was quite low, suggesting a bottom-heavy organizational structure. This imbalance needs to be corrected. The issue seems to be a widespread reluctance in promoting younger teachers in a time-bound manner. Once again, this is a problem that is visible across all segments of higher education in India (further discussed in Section 4.1 of this report). The faculty members who were interviewed opined that the reasons for this largely relate to self-serving behavior, with entrenched groups of Senior Professors often being unwilling to share administrative powers and financial benefits with their younger colleagues. However, a constructive reason was that in many cases teachers had to first prove themselves at the lower levels, before being given more substantive positions. Another quite straightforward reason is that of controlling costs, especially in public universities. It is economically beneficial to unduly prolong the Assistant Professor phase of a teaching professional for as long as possible.

Ensuring job-security for younger teachers in ad-hoc positions and time-bound promotions for those already absorbed in permanent positions, would result in much more autonomy in matters such as the choice of teaching methodology, designing of courses and the depth of materials covered. It is important that academic decision-making should be made in a participatory manner, where younger teachers and researchers are given a say in matters such as curriculum design, revision of course content, modifications in evaluation methods and the initiation of research projects.

In recent years, the better-known law schools have had a good gender ratio in terms of the students being admitted. Some institutions have even had more female students joining their full-time programmes in comparison to male students. However, the gender ratio is very poor when we look at their faculty composition. At best, female teachers

have comprised a third of the teaching workforce at some of these law schools. At one of them, there is not a single woman serving as a Full Professor. The gender ratio is not much better when we look at recently recruited teachers, that is hiring during the preceding three academic years (2013-2014, 2014-2015, 2015-2016). The exclusion of the female voice in teaching significantly affects the education at these institutions. The experiences and sensibilities of women are largely absent from the law school curriculum, barring a few notable exceptions. The functioning of anti-sexual harassment mechanisms is visibly compromised in such male-dominated settings. The seemingly non-measurable impact of the under-representation of women among faculty members is something we need to be wary about, and we should consciously work towards correcting this disparity.

Compulsory Courses:

The Bar Council of India (BCI) prescribes a list of courses that should necessarily be taught for granting the undergraduate degrees in law, be it the Five-Year Integrated Law Programmes or the Three-Year programmes that are pursued as a second degree.[126] The BCI Rules of Legal Education, 2008 also stipulate things such as the class sizes that a university must have, and the number of hours that make up a credit. These compulsory courses are taught across all India law schools, and hence throw up common problems reported across these institutions. Among our respondents, students were generally more dissatisfied with the teaching of the compulsory courses in comparison to that of the elective courses. This is understandable since the elective courses give faculty member more leeway in terms of what is to be taught. More than half of the respondents reported dissatisfaction with the quality of instruction delivered as part of their most recently taught compulsory courses. There were reports of the syllabus not being completed, substantial departures from the course plans, arbitrariness in evaluation practices and in some cases unprofessional behavior by teachers such as frequent cancellation or rescheduling of classes. If we go beyond these personalized complaints about misconduct, there was also a structural criticism that very often, younger teachers were

126 Rules of Legal Education, Schedule II, Part II(A), Bar Council of India, Available at: http://www.barcouncilofindia.org/wp-content/uploads/2010/05/BCIRulesPartIV.pdf

allocated courses in which they did not have sufficient expertise or prior preparation. This problem was reported by respondents from all the established categories of law schools, whether they were the leading National Law Schools, Law Departments in State Universities, Affiliated Colleges or Law Schools that are part of the newer Private Universities. A related complaint was that the frequent turnover of faculty over several years also led to instability in the quality of teaching that was being delivered at the respective institutions.

Nearly one-third of the respondents named other faculty members at their law schools who in their estimation were better suited to teach subjects in which dissatisfaction was reported. This suggests that internal administrative committees are perhaps not exercising due care in allocating teaching responsibilities, which should account for the relative experience and subject-matter knowledge of their faculty members. In some cases, it might just be a problem of scarcity in respect of the available personnel. In other cases, such problems of misallocation are products of the long-term neglect of faculty hiring and development. Unfortunately, this problem of shortages of teaching staff and the misallocation of teaching roles was also reported from law schools that are generally enjoying a comfortable financial position. Apart from proactive faculty hiring in accordance with the needs of the curriculum, it is also important to carefully consider student feedback on the performance of teachers (discussed in Section 4.1).

The faculty members who were interviewed also believed that the shortage of qualified academic staff at their respective institutions was adversely affecting the teaching of several compulsory courses. They also confirmed the students' criticisms about frequent changes in the allocation of teaching roles, which prevented the consolidation of good teaching practices over time. One view was that in the longer-run, the professional regulator should think about allowing a higher degree of flexibility in the curriculum so as to allow individual institutions to meaningfully plan their faculty hiring and development practices. Comparisons were drawn with contemporary curricular structures in several foreign countries such as the three-year Juris Doctor (J.D.) programmes in the USA and the three-year LL.B. Programmes in UK, where the compulsory courses usually

account for 35-40% of the total coursework. To make a pointed comparison, the BCI Rules stipulate at least 34 compulsory courses out of 50 in the Five-Year Integrated Law Programmes (which follow a semester pattern) and at least 24 compulsory courses out of 36 in the Three-Year LL.B. programmes. This comparison suggests that there is scope for paring down the requirements for compulsory courses in order to allow individual law schools to offer a broader range of elective courses to their students. Such a policy change might allow law schools to deliver subject-knowledge and professional skills that are better suited to their local or regional contexts while also better reflecting the expertise and experience of their faculty members.

Elective Courses:

The general sentiment among our student respondents was that the elective courses offered at their law schools were, for the most part, being delivered better than the compulsory courses. Even the faculty members who were interviewed echoed this view. However, the transition towards a Choice Based Credit System (CBCS) has not been perfect, and several new problems have been arising. A unanimous opinion among the student was that student preferences must be taken into account while deciding upon the elective courses that are being offered to them. The students said that the courses must reflect their academic and professional interests while also helping them in achieving their expectations from the university experience, and that this was not always the case. The students also stated that the elective courses should only be offered if the available teaching staff has demonstrated specialist knowledge in that area, either by virtue of their own professional experience or previous academic engagements. However, acting on student preferences can also raise serious dilemmas for those involved in educational administration. Younger students are more likely to value courses that appear to be in sync with short-term employment requirements rather than those which develop theoretical capacities and deep knowledge in a chosen area. In other words, letting students behave as demanding customers could also drive down the overall quality of the academic experience. This raises complex questions about a potential trade-off between veering towards short-term responsiveness to students and the long-term value of academic judgments made by administrators and faculty.

The students however stated that complete freedom from student expectations has generally meant that a certain kind of courses have been preferred over the others. The argument is that the serving faculty members have consciously chosen academic careers, and hence a natural bias would exist against people whose interests do not align with them. Students also argued that it is not unusual for a teacher teaching an elective to have no expertise in the subject too. Several times, those teachers who took electives, took them for the first time, and planned the courses as they went about them. These courses were then not offered in the following semesters, another area of interest having replaced them. This however, seems like an issue of the elective system being in its nascent stages at most law schools, and it could be easily diffused with the passage of time.

Clinical Legal Education:

Clinical Legal Education is premised on the idea that law schools are not just meant to educate students in what the law was, but also in how the law is being practiced. The students are to emerge out of law school with a certain familiarity with the practice of law.[127] It is with this interest in imparting a more rounded professional education, that clinical courses emerged in several US law schools in the middle of the 20th century. The student experience at a law school has been viewed by some as a self-contained and terminal educational episode.[128] The students emerging from law schools were meant to be professionals already, not people readied to become professionals. However, the clinical education experience in most Indian law schools has not been up to the mark. The first indicator of this is the near complete absence of any professionals from the faculty at all the law schools that were surveyed. If the idea behind offering clinical legal education is to impart training that is relevant for professional settings, then resource-persons who have accumulated meaningful work experience need to be involved in their delivery, at least as Visiting Faculty members.

127 Bradway, 'The Beginning of the Legal Clinic of the University of Southern California', 2 *Southern California Law Review* 252 (1929)

128 Frank I. Bloch, 'The Clinical Method of Law Teaching', 14 *Indian Bar Review* 229 (1987).

Another objective of clinical education is to develop legal aid initiatives anchored at the respective law schools, thereby directly contributing to public services. The available literature suggests that many leading legal professionals in India agree that legal aid programs should be directly linked to law school education, and that clinical education was thus a priority area for improvements in this sector. The idea also was that having effective clinical legal education would also influence the overall orientation and standards of teaching, making the full-time faculty members more interested in the practical aspects of the law. This has meant that several law schools which were part of our survey have started clinical programs, especially in the 2000s. However, many of our student respondents stated that the clinical programmes often exist only on paper, and that the actual delivery of courses related to them was quite unsatisfactory and required urgent remedial interventions. Even though most student respondents accepted the normative significance of clinical legal education, more than half of them believed that their respective law schools should discontinue these programmes if they could not devote the material resources and qualified personnel needed to run them properly. As stated earlier, the main problem seems to be the lack of involvement of experienced legal professionals in the delivery of clinical legal education. Full-time faculty members often lack the practice experience which is needed to impart useful skills and knowledge. On the other hand, engaging busy professionals as visiting faculty members to supervise the clinical courses will also drive up the administrative costs for the higher educational institutions. In many law schools that are located away from urban centres, engaging competent persons to teach the clinical courses is the preliminary hurdle.

Findings:

Student satisfaction with the education that they receive is consistently low among all the law schools that were surveyed. The problems that have emerged from further questioning however, have been of a nature that is not deeply concerned with methods of teaching or ideologies, but instead primarily stem from the lack of proper management of courses, and a seeming lack of co-ordination among the teaching staff, the administrative staff and the students in a university. It is important that we look to at least solve such co-ordination problems at the least.

Delivering competent instruction in compulsory courses requires far-sighted investments in faculty hiring and development. Apart from trying to attract the best possible teaching talent on fair service conditions, law schools also need to pay due attention to the retention of existing faculty members who have shown professional diligence and developed thorough subject-expertise through their teaching and research efforts. Excessive reliance on ad-hoc faculty members in discretionary positions and the frequent turnover in teaching positions frustrates the long-term goals of delivering high standards, be it in classroom teaching, research supervision or educational administration. Law Schools with sufficient material resources must ensure that the compulsory courses are taught by people who have the required subject-expertise, either through their own academic qualifications, research output or prior work experience.

Even as we are seeing a clear shift towards the implementation of a Choice Based Credit System (CBCS) in most Indian law schools, there needs to be careful regulation of the same by internal academic committees. It is not enough to have relatively competent teachers simply delivering courses based on their own areas of specialization. The needs and preferences of students, especially those related to skills and knowledge needed for professional settings, also need to be factored in while designing a basket of elective courses for each academic year. This requires far more time, energy and creativity in the processes of educational administration, which is often found lacking in many institutions. Clinical Legal Education (discussed further in Section 4.3 of this report) is an important facet of contemporary law schools which needs regular investments of monetary resources, networking exercises (with governmental bodies, business concerns and civil society organisations) and the sustained involvement of experienced legal professionals. Clinical courses must balance academic interest and expose the students to the practical aspects of the law, while also utilizing their skills to benefit society in general.

The central issue is the visible shortage of competent teachers, even at the best-known law schools. One of the plausible solutions is the regular involvement of practitioners

from different sub-fields as well as academics from other Universities, who can be invited to teach shorter courses on a visiting basis or through inter-institutional exchange arrangements. This results in a sharing of the academic resources that Universities have, and the inclusion of professionals working in the field into the university structure. Universities must come together and look to utilize the resources at their disposal to the best of their abilities. However, such a strategy can only address some gaps in the teaching capacity of an institution from time to time. In the long-run, talent-search processes and budgetary allocations need to be focused on the regular hiring of competent and motivate teachers. On this account, the Law Departments at some State Universities are in abysmal shape, with substantial numbers of vacancies and even the teaching of compulsory courses being delegated to ad-hoc teachers appointed on a discretionary basis.

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3.2 Impact of Corporatisation on Legal Education

This section offers a deeper discussion on one of the themes that emerged through the surveys covered in Section 3.1. In particular, we were interested in examining how the growth of the corporate legal sector in India is both directly and indirectly affecting the delivery of formal legal education. Far more than explicit changes and revisions made to the curriculum, Section 3.2. tries to describe the internal institutional environment that has been shaped as a result of this development, especially since the process of economic liberalisation began in the 1990s. Consistent with the methodology used for the other sections in this report, we have tried to foreground the opinions and interests of the student respondents.[129] It is beyond doubt that increasing importance is being given to the corporate legal sector by majority of graduates from elite law schools, such that a substantial number among them are opting for careers in this sector rather than the conventional options that were available prior to the liberalisation of the Indian economy, such as litigation, judicial services, civil services, teaching, research or social advocacy. Gingerich and Robinson (2014), contend that 'corporate legal employment market' has

129 We are grateful to Anjali Rawat (B.A.,LL.B. 2015) and Veera Mahuli (B.A.,LL.B. 2017) for conducting the surveys in April 2015 and April 2017 respectively, which form the basis of Section 3.2 in this Report.

many takers from the students in elite law schools, even those not seriously interested in the field of corporate law for it gives the students valuable legal experience and professional connections or credentials before they shift their career path.[130] They claim that this market acts as the backdrop which shapes 'how all, or almost all, students experience law school rather than as an ambition that all law students at elite schools aim at.' In this context, the key question is whether the legal education at these elite law schools is increasingly getting 'corporatized', which is to say that it is now substantially geared towards the needs of the corporate legal sector (transactional lawyering that is principally carried out by commercial law firms, in-house legal roles in large businesses, settlement of commercial disputes). Is this trend undermining the holistic character of legal education which is supposed to equip law students for multiple possibilities of engagement with public institutions, market operations and civil society institutions?

Survey I on Corporatisation of Legal Education (April 2015)

(139 respondents, 80 aspirants and 59 admitted students)

This particular survey was in fact set inside our own institution, that is NALSAR Hyderabad, which has been consistently ranked among the top law schools in South Asia. The aim was to identify and analyze the reasons for the prevalence of corporate-oriented career goals among a majority of undergraduate students. Building on this, the intent was to map out the behavioral adjustments that they routinely make during their academic engagements, so as to comply with the norms associated with recruitments in the corporate legal sector. The survey included a broad range of student respondents who had opted for a corporate job in their penultimate or final year of undergraduate legal studies.[131] The respondents included students who had secured Pre-Placement Offers ('PPO') based on internships with their prospective employers as well as those who got directly recruited on the basis of interviews held on campus. Responses were received

130 Jonathan Gingerich and Nick Robinson, 'Responding to the Market: The Impact of the Rise of Corporate Law Firms on Elite Legal Education in India', Harvard Law School Programme on the Legal Profession, Working Paper Number 2014-11.

131 The context behind this trend can be easily grasped by stating that the percentage of students opting for a career in the corporate legal field increased from 56.96 % in the B.A., LL.B. Batch of 2005-2010 to 82.05 % in the BA, LLB Batch of 2009-2014.

from 59 individuals spread across seven successive batches of the 5 year integrated B.A.,LL.B. programme, namely the batches that had completed this programme between 2010 and 2016. Two sets of questionnaires were circulated, one for the five most recently graduated batches at the time of the surveys (April 2015), while the second one was directed at students who were due to graduate in 2015 and 2016 at that point of time. Both questionnaires were similarly worded, but they were administered separately in order to track the substantive distinction between the situation of recent graduates and late-stage students who were yet to formally commence their careers.

The survey on this aspect consisted of fifty questions, aimed at understanding the following issues:

a) the background of students and their reasons for coming to NALSAR;

b) the aspirations which the survey participants had from their law school life and their interest areas; c) the adjustments they made and accommodation they did in order to build their CV; and,

d) their reasons for joining the corporate legal sector and their future plans.

In addition to this survey, another questionnaire was posted on the Facebook Page of CLATGyan (a popular online coaching service), to collect responses from law school aspirants at the school-leaving stage, inquiring about their reasons for pursuing legal education and what they wished to do with the law degrees in the future. This secondary questionnaire drew 80 responses, thereby increasing the total sample size to 139 respondents.[132] The respondents among the CLAT aspirants could not be identified based on any institutional affiliation. In hindsight, it would have been better if we had asked this group to at least mention their hometown and previous schooling background.

Background for Survey:

The Indian corporate legal sector is witnessing a dramatic growth with the majority of

132 The text of the questionnaires and the consolidated responses are available on file with the authors. Since the responses are discussed at length in Section 3.2, we found it redundant to replicate the questionnaires that were administered by Anjali Rawat in April 2015.

graduates from India's most elite law schools opting for positions in this sector.[133] This has resulted in a high level of segmentation between the corporate and personal legal services, with the graduates opting for litigation from the most well-known law schools being disproportionately lower than those choosing the corporate route. Writing about the US context, Elizabeth Chambliss (2012) had described the problem of increasing segmentation within the legal profession, with the balance tilting in favour of corporate practice.[134] The acclaimed empirical legal scholar, Marc Galanter (1999) had similarly remarked that the legal world is increasingly devoting itself to servicing large organizations (be they social, economic or political entities) rather than individuals and therefore the law has been reduced to an arena for the routine and continuous domination by such large organizations.[135] Jonakait (2007) had referred to a 'hemispherical and sharp division' in the legal profession and notes that the corporate side (the lawyers who represent large organizations or are part of them) has been growing at a much faster pace than the personal-client sphere (wherein lawyers represent small businesses and individuals).[136] He observes that these "two kinds of law practice are the two hemispheres of the profession. Most lawyers reside exclusively in one hemisphere or the other and seldom, if ever, cross the equator."

The even-increasing cost of formal legal education is often cited as the reason for this predominant shift towards the lucrative corporate sector. Brian Tamanaha (2012)

133 Jonathan Gingerich, Vikramaditya Khanna, and Aditya Singh, 'The Anatomy of Legal Recruitment in India: Tracing the Tracks of Globalization', HLS Center on the Legal Profession Research Paper No. 2014-25.

134 Elizabeth Chambliss, 'Two Questions for Law Schools about the Future Boundaries of the Legal Profession', 36 *The Journal of the Legal Profession* 329-352 (2012).

135 Marc Galanter, 'Old and in the Way: The Coming Demographic Transformation of the Legal Profession and Its Implications for the Provision of Legal Services', 6 *Wisconsin Law Review* 1081-1118 (1999).

136 *"Urban Lawyers found that in 1975, 53% of the total legal effort was spent on corporate clients, while 40% went to individuals or small businesses with the rest unassigned. Twenty years later, 64% went to the corporate sector while 29% went to individuals and small businesses."* See: Randolph N. Jonakait, 'The Two Hemispheres of Legal Education and the Rise and Fall of Local Law Schools', 51 New York Law School Review 864-905 (2007), Citing John P. Heinz, Robert L. Nelson, Rebecca L. Sandefur & Edward O. Laumann, *Urban Lawyers: The New Social Structure of the Bar* (University of Chicago Press, 2005) at pp. 865-866.

criticizes the law schools for failing to keep the costs in check and leaving the law graduates with the only option of accepting a high-paying job because that's all they can afford. In a telling observation, he writes that "Law schools, finally, are failing society. While raising tuition to astronomical heights, law schools have slashed need-based financial aid, thereby erecting a huge financial entry barrier to the legal profession. Increasing numbers of middle class and poor will be dissuaded from pursuing a legal career by the frighteningly large price tag. The future complexion and legitimacy of our legal system is at stake".[137]

A comparable scenario is emerging in the Indian setting with the costs of pursuing formal legal education skyrocketing with each passing academic year. The best-known law schools charge hefty tuition fees and admit students through standardised entrance examinations such as CLAT, AILET, LSAT-India and SLAT among others. As discussed in Sections 2.2 and 2.3 of this report, these entrance tests push many applicants towards expensive coaching services, thereby choking entry for aspirants who might come from a broader socio-economic strata in the country's population.[138] We need to seriously consider whether Brian Tamanaha's critique could also progressively apply in the Indian context, where we have a much higher degree of socio-economic inequality and a crying need for more competent lawyers who can attend to the needs of common people. There is no question that young law graduates should have the freedom to pursue upward economic mobility through their career choices. However, there is something to be said if the best and brightest talent is staying away from the established forms of legal practice that are meant to serve the needs of the disadvantaged and underprivileged sections of our population.

Description of Respondents:

The geographical background of the respondents was highly diverse, with candidates

137 Brian Z. Tamanaha, FAILING LAW SCHOOLS (University of Chicago Press, 2012).

138 Shamnad Basheer, Krishnaprasad K.V., Sree Mitra, and Prajna Mohapatra, 'The Making of Legal Elites and the IDIA of Justice', HLS Program on the Legal Profession Research Paper No. 2014-18.

identifying themselves as coming from most parts of India. A little surprisingly, only one-third of the respondents belonged to the six largest cities in India.[139] As for the family income of the respondents, 57.62% hailed from the income bracket of Rs. 7-25 Lakhs per annum while another 27.11% came from the bracket of Rs. 2-7 Lakhs per annum. Around 16.94% of the respondents hailed from the above Rs. 25 Lakhs per annum bracket and only 1 out of the 59 respondents reported a family income below Rs. 2 Lakhs.

The respondents had joined NALSAR with different aspirations and in varying circumstances, but the common factor was their decision to join the corporate legal field immediately after completing the Five-year integrated law programme. Almost 61% of the respondents did not want to pursue law since childhood and had other goals, but it was largely during the high school stage (Class 11 and 12) that most of them narrowed down on pursuing law as a career. The stated reasons for making this choice were several, ranging from a nudge from parents, lack of alternatives which promised 'real, guaranteed jobs that actually paid', the emphasis on speaking and writing skills or simply, coming from a legal background and seeking to continue with the family tradition. Some respondents described their decision to study law as being motivated by wanting to do something useful to serve the country; specifically, to help people by being in a position of power from where change can be affected 'for which the legal field and judiciary seemed like a good option'. The demand for studying at highly selective law schools has visibly increased in the recent past since the aspirants are aware that corporate entities such as commercial law firms, large business houses and leading PSUs are likely to hire from these institutions. Law school rankings published by private periodicals (discussed in Section 2.1) emerged as an important source that shaped the choices of applicants. Reference by friends and acquaintances was a distant second among the factors that shaped the decision to seek admission to a well-known law school.

139 20 out of 59 Respondents identified their hometowns as New Delhi, Mumbai, Kolkata, Chennai, Bangalore or Hyderabad, which are presently the six largest cities in India in terms of their population. Our initial presumption was that this number would be much higher, given the high premium placed on English language proficiency.

Changes in student attitudes towards academic experience:

While 21.9 % of the respondents from the 2010-2014 batches reported corporate law to be their favourite subject, this number rose substantially to 45.2% among the respondents from the 2015 and 2016 batches. This implies that 66.67% of the 59 student respondents had taken up a corporate sector job despite their stated area of interest lying in other fields such as Jurisprudence, Constitutional Law, Criminal Law or Gender Studies to name a few prominent areas within legal studies. Some respondents did report primary interests in fields such as Alternative Dispute Resolution (ADR), Securities Regulation and Investment Law, which are closely related to the needs of the corporate legal sector.

For those who stated that their primary academic interests were in Corporate and Commercial Laws, the subsequent career choice is a logical outcome. However, the trend worth examining closely is why would many others start their careers in this sector, despite their stated academic interests lying in fields that are quite distinct from the requirements of the corporate legal sector. Robert Granfield (1986) had observed that even though several people entered the best rated US Law Schools while professing a commitment to public interest law, only a handful among them actually graduated with the same goals.[140] Granfield attributed this shift away from the student's initial motivations to the ways in which the law school environment is increasingly being structured, the same becoming 'corporatized' in the sociological sense. For instance, the class time-tables, assignment deadlines and activity schedules appear to be mimicking the rigors of the corporate legal sector, where fear of failure pushes one to work harder and harder. In our survey conducted in April 2015, 62.5 % of the respondents from the 2010-2014 batches and 45.2 % of those from the 2015 and 2016 batches said that they had not intended to join the corporate legal sector at the time of beginning their legal education. However, many of them ended up starting in this area, with one respondent describing the decision to join a law firm as a 'stopgap' arrangement.

For those respondents whose primary interest did not lie in the corporate sector, the

140 Robert Granfield, 'Legal Education as Corporate Ideology: Student Adjustment to the Law School Experience', 1(3) *Sociological Forum* 514-523 (1986).

survey asked them if they planned on pursuing their field of interest after spending a few years in the corporate legal sector. In the survey directed at graduates from the 2010-2014 batches, 14 respondents said 'Yes', 4 responded with a 'Maybe' and one interesting response was that the stint at a law firm had introduced the respondent to an area of practice which he/she has come to enjoy working in. It is worth highlighting that 18 out of these respondents had already left their first job at the time of answering the questionnaire. In the survey directed at the students from the 2015 and 2016 batches, 7 respondents stated that they intended to pursue their areas of interest immediately after graduating, while 8 respondents said that they were not sure about their future pursuits.

Behavioral Adjustments:

Gingerich and Robinson (2014) had observed that the rise of corporate law firms in India has changed the way students experience legal education at elite law schools in the country. The students at these institutions emphasize and shape parts of their legal education in a manner that they believe will be appealing to corporate firms.[141] They seem to be under constant pressure to adjust their law school experience to achieve a certain goal. Joining the corporate side is not an easy path and students face a lot of dilemmas in the process, which they resolve by either disavowing the attitudes and values of the 'corporate tool' or by seeing their actions as confirming with an established norm. A process of gradual cooption and accommodation become the usual course of action and Robert Granfield (1986) had earlier shown in the US context that these attitudes help students in rationalizing their immediate institutional experiences.[142]

One respondent pointed out how those who do well in terms of academic performance are expected to apply for well-paid positions at commercial law firms, almost as a form of validation of one's existence in a top law school. Another factor is the role that immediate peers and friends play in matters such as job selection. Keeping this in mind, we had asked questions about whether the respondents had developed their resumes to increase their employability in the corporate legal sector. Nearly 65% of the respondents reported

141 Gingerich & Robinson (2014), pp. 18-19.

142 Robert Granfield (1986), pp. 519-520.

that they consciously did this, largely affected by the influence of older students and peers inside the institutional environment. Most respondents further opined that their pursuit of internship opportunities and co-curricular activities (such as participation in moot court competitions and legal writing competitions among others) was aligned towards similar goals. Even the survey of CLAT aspirants revealed a substantially high proportion of students seeking a corporate placement as the immediate objective for pursuing legal education (41.25%) with their reasons for choosing a law school being the ranking of the law school (58.75%) and the reputation of a particular institution in terms of the past record of recruitments (47.50%).

Preserving the space for humanist inquiry in legal education:

Prof. Upendra Baxi has rightly observed that it is extremely important to address questions of social justice in the law school curricula.[143] The Late Dr. N.R. Madhava Menon supported this line of thought by observing that "it goes to the very fundamental objective of legal education in a developing country, where the Indian Constitution enjoins the legal system to facilitate eradication of poverty, inequalities in status and of opportunities and ensure justice to all in social, economic and political spheres."[144] Martha Nussbaum (2010), in her book, *Not for Profit*, alerted us to a 'silent crisis' in which nations 'discard skills' as they 'thirst for national profit'. She argued that the deliberate downsizing of the arts and humanities in higher education poses a great danger to the foundations of democracy, as they are essential for inculcating critical thinking skills. An effective grounding in the humanities is necessary for independent action and for intelligent resistance to the power of blind tradition and authority.[145]

The respondents were specifically asked if the study of jurisprudence as well as a range

143 Jayanth K. Krishnan, 'Professor Kingsfield Goes to Delhi: American Academics, The Ford Foundation, and the Development Of Legal Education In India', 46 *The American Journal of Legal History* 482 (2004).

144 Menon, Blue Paper, at 8.

145 Martha Nussbaum, NOT FOR PROFIT: WHY DEMOCRACY NEEDS THE HUMANITIES (Princeton University Press, 2010).

of courses related to the humanities and social sciences (History, Political Science, Sociology, Economics) comprised an essential component of legal education. 100% of the Survey I respondents (2010-2014 graduates) replied in the affirmative but the corresponding number shrank to 76.67 % for the Survey II respondents (2015 and 2016 graduates). Some of the reasons which candidates attributed to the importance of these fields were:

"they add perspective to the law learnt, and contribute to a holistic education; hones the basic understanding of law, what it is and how it is perceived and these values and skills are valuable in the corporate sector as well; helps in imparting analytical ability and critical thinking; helps law students understand that laws do not exist in a vacuum and every legal structure is supported by political, economic and social considerations; helps us to develop a first principle argument based on the fundamentals. Humanities is also very crucial to provide a real time experience to ones work which in [my] work has been important in cases involving study of fundamental rights; imparts a broad humanist perspective; law in practice is interdisciplinary and removing jurisprudence/ humanities will dilute [your] knowledge of law and even possibly leave you bereft of any analytical understanding; it is the core of law and complements its study; and, some described it as the foundation and the most essential component of legal education.

For those who answered in the negative, the answers seemed to be based on short-term considerations rather than a substantive understanding of the concerned subjects. One respondent believed that for those aiming to work as transactional lawyers, the study of the humanities and jurisprudence was not relevant. Such dismissive responses appear to be based on a shallow understanding of legal education in particular, and higher education in general. A specific observation made by Robert Granfield (1986) appears to resonate with this myopic approach: *"…the implicit message [is] that smart people do corporate work. Smart people don't, as one professor says deal with the petty problems of ordinary people. There's a clear message that poverty law is not interesting and that anyone can do legal aid work but only the elite can do large firm corporate work… that doing corporate work is the path of least resistance. All you have to do is sign up [for an interview]. You don't have to do anything except put together a resume, whereas if*

you're a public interest person you have to do all your own work [in locating jobs]. It's simply easier to get a corporate job than a public interest one.[146]

One of the respondents says so much in stating that the choice was mainly due to the comfort of campus placements and since the remuneration was attractive[147] or how 'securing law firm employment seemed like the minimum for a law graduate'[148] or simply to try the law firm atmosphere before rejecting it. If these are relevant factors, what makes it difficult for recent graduates to leave and try other vocational paths. 58.1 % of Survey I respondents (2010 to 2014 batches) have already left their first corporate jobs and moved on to their fields of interest, but for many of those who are continuing, monetary stability seems to be the most significant reason. In the reasons given by respondents for joining the corporate legal sector, the fact of institutional job security with a well-paying job minus the entrenched barriers to entry (say for instance those in litigation) occupied the top priority for 43.8% of the Survey I respondents, while the reason shifts to interest in corporate law for the Survey II respondents (2015-2016 batches) with 25% answering to this effect. However, 55.2% of Survey II candidates have opted for a job with an explicit intention to leave it at some stage.

For those who are in the sector without their interests being in the field, a host of factors serve to trap them. Institutional and job security and the monetary stability which this job guarantees being a primary factor. Peer pressure, self-satisfaction at being recruited first and by the best of the lot, the general opinion among the law students that working with a 'Tier-1' law firm is the ideal employment choice count as some factors. Law graduates tend to stay on for reasons ranging from good money, or them beginning to enjoy their work experience or the plain lack of incentives to pursue their original career goals. So, what is the final verdict? 77.4 % of Survey I and 62.1 % of Survey II respondents were of the belief that legal education is indeed getting corporatized, a finding that tends to

146 Granfield, at 518.

147 Survey I, at AM 36.

148 *Id.,* at AM 40.

confirm the presumptions of the investigators.

Chambliss says, "Law schools have three options for responding to segmentation: *to ignore it*, as most schools have done for decades (and continue to do, despite evidence that segmentation will only increase); *to exploit it*, as most top-tier law schools attempt to do, for instance by forming preferred provider relationships with large law firms and other corporate-sector employers; or *to combat it*, as arguably it is in most law schools' interest to do, for instance by repurposing law schools to provide training that applies across sectors and promoting a collective commitment to access to justice."[149]

The most well-known Indian law schools have been passively exploiting the process of corporatization, projecting 100 percent placement figures to attract newer and brighter students to their programmes. However, there is a thin line of difference between passive and active exploitation and if serious attention is not paid, we might irredeemably lose the primary goal of legal education. Early-stage students tend to believe what they are told, both explicitly and implicitly. They often start behaving in ways that fulfill the prophesies the system makes about them and "*students do more than accept the way things are, and ideology does more than damp opposition. Students act affirmatively within the channels cut for them, cutting them deeper, giving the whole a patina of consent, and weaving complicity into everyone's life story*".[150]

Survey II on Corporatisation of Legal Education (April 2017)

(50 respondents, 5 institutions)

The objective of this section is to further discuss the functional link between legal education and career decisions. This overarching theme includes the law school environment, the approach of the students towards legal education and the visibly increasing corporatization of legal education. The analysis raises a lot of open-ended

149 *Supra* n. 19, at 333.

150 Duncan Kennedy, 'Legal Education and the Reproduction of Hierarchy', 32 *The Journal of Legal Education*, 591-615 (1982).

questions, since the nature of research necessarily involves individualized thinking and decision-making. As in the preceding survey (April 2015), our hypothesis was centered on corporate law firm jobs being the "end" of law school. The scope of this second survey conducted in April 2017 was again focused on the academic culture developing inside law schools and the prioritization of corporate law firms in career choices.

Let us closely examine the 'means' that law school provides and the 'end' that becomes the objective of legal education. Does the 'end' justify the 'means' chosen by law students, or the 'means' that are available justify the 'end'? The corporate law firm frenzy is best explained by the objective of legal education being a 'job' and not a 'career'. A corporate law firm job is the most lucrative option or security to have right out of college. The surge enjoyed by corporate law firms since the 1990s and consequently the market pushing graduates from the most well-known law schools towards the former is also understood as a factor. Law firms rely on the brand value of national law schools[151] and tend to have more hiring requirements as compared to other fields. Recruitment figures for 'Day Zero' point at a big number within the batch getting offers. This is followed by the Placement Week and a year-long season of placement. An interview with the Recruitment Co-ordination Committees (RCC) of the 2017, 2016 and 2015 batches revealed that around 45-50 students subscribed for the same and almost the entire number sits for the 'Day Zero' recruitment process. There is also no denying that there are students genuinely interested in the field of corporate law who then choose to pursue these employment opportunities.

The concerns discussed in this segment is how these trends affect law school culture and how do they shape the attitudes of the students. towards legal education. Even for people who do not visualize a long-term career in the field of corporate law, does a law firm job become the ultimate goal of law school? Is the objective of legal education to get a job? Even to understand individual behavior, this layered form of questioning cannot be avoided. The kind of student profiles that national law schools receive also explains why

151 William D. Henderson and Rachel M. Zahorsky, 'The Pedigree Problem: Are Law School Ties Choking the Profession?', ABA Journal (2012).

corporate law is much sought after, the common ties being privilege and elitism.

If the objective of legal education is to get a corporate firm job, then does legal education serve only as a means to the achievement of that end? This paper does not intend to imply that all law students can be fit into a single category, tick the one checkbox of corporate law. Surely, corporate law objectives merit no criticism, as it is as legitimate a field of law as any other and there can be no one label that can be put on all who choose it, as is true for anything. It is examining the process around corporate law prioritization vis-à-vis law school academic culture. Is every academic and even extra-curricular choice made in law school an attempt to get closer towards the law firm end? Or are the academic choices a manifestation of other characteristics of law school culture and post-facto justified by placement at a corporate law firm? These are some of the preliminary queries regarding law schools that were sought to elicit responses through the survey.

Trends Exhibited by the Survey Data

Since, the appeal and demand for the best-known law school students is evident, the survey was circulated to select groups of students of the National Law School of India University (NLSIU) in Bangalore, National Academy of Legal Studies and Research (NALSAR) in Hyderabad, West Bengal National University of Juridical Sciences (NUJS) in Kolkata, National Law University Delhi (NLUD) and the National Law University located in Jodhpur (NLUJ). The aim was to ensure a representative sample for the responses that would be gathered. The survey contained the following questions, followed by a number of options that were provided to the respondents (answers discussed in the subsequent paragraphs):

Q.1. Among the following factors what would you accord the highest priority to while selecting a course?

Q.2. What would be the most significant reasons for not selecting a course?

Q.3. Which of the following motivated your law school choices to the greatest extent?

Q.4. When did you decide you wanted to work in a corporate law firm?

Q.5. Which of these career choices, in your order of preference, do you find yourself interested in?

Q.6. Do you think legal education encourages diversity in career choices?
Q.7. Do you think it is a defect in the legal education system if students are hesitant in making certain career choices? Is it the role of legal education to instill confidence in diverse career choices?
Q.8. Do you think corporate law firm jobs are prioritized and glorified as a career?
Q.9. Is post-job complacency real?

The survey gathered 50 responses, mostly from students nearing the end of their fourth year of studies in the integrated B.A., LL.B. programmes. Q.1. involved options such as interest area, the workload in terms of reading for class, how relaxed the grading is and expectations of the teachers with regard to the amount of effort to be put in. An overwhelmingly large number of people made their interest areas their highest priority in deciding which course to opt for. However, while it might be the highest priority, it's only evidence of the fact that their interest area is one aspect a majority of the students are not willing to overlook while selecting courses. The other three options do not compare quite closely to the numbers of the first option. Among each other, the numbers are quite neck-to-neck. The next option that got the highest responses was that the teacher shouldn't be too demanding about the kind and amount of effort to be put in. However, the number of people factoring in this as their highest priority was not even one-fourth of the people making interest area their highest priority. A close next was the option to make course workload their highest priority. Ease and assurance of scoring well was the least favoured option.

Q.2. required the respondents to mention what would categorically deter from them picking a certain course. Three of the given seven options ranked quite close to each other in numbers. Majority of the people voted for the course subject not being an interest of theirs, the competency of the teacher and the course quality and the course matter not sounding great. This question allowed people to pick more than one such factor. The next most preferred option indicated that even though the students might be interested in doing the course, the prospect of not getting a good grade would make them hesitate in selecting it. The next three options to get almost head-to-head votes were that the 'teacher

is competent but the student lacks motivation to put in the required effort', 'the teacher is competent but the course design and structure are lacking' and lastly, that the 'course will entail far too much work in relation to what the respondent is prepared to do.

Q.3. asked the students to select the factors that best motivated the law school choices made by them. Among the 13 options given to the respondents, around 23% of them said that they had not made their choices based on grades and just did what they found interesting to learn. Around 15% said that they believed that law school should be a holistic experience and the focus should be on becoming a good lawyer, while another 15% said that wanted to make the most of what law school had to offer, by giving everything a shot and did not want to limit themselves to one particular area of study. The next two options tied at around 9% of respondents who said that they just wanted to work hard for the sake of popular notions of success and glory, but corporate law firm jobs would always be the priority. Another 7% said that they had always wanted a corporate job and pursued the courses and activities that would help them in this respect. 5% answered that they wanted to be successful at everything – be it in an area of their interest or not. 3% of the respondents answered that they wanted to litigate or work in the policy field and made their curricular choices accordingly. Yet another 3% of the respondents stated that they wanted to pursue higher studies and hence they made choices that were well-rounded in terms of pursuing their areas of interest and ensuring a strong academic performance.

Q.4. required people who intended to sit for interviews to join commercial law firms to indicate the rationale behind this decision. The only people exempted from this question were people who did not intend to sit for the recruitment process. Out of the 50 respondents, 9 skipped this question. Out of the nine options given, four options got zero votes. Among the five other options that were marked, the answer selected by 14 respondents was that they realized during their studies that they were interested in pursuing such a career. 7 respondents stated that they knew from the very beginning of law school that they wanted to work for a firm and that taking up a firm job is to ensure financial support for future career plans (such as pursuing higher studies or eventually

working in other fields such as litigation). 5 respondents accepted that a corporate law firm job was their default choice because they were undecided at this stage while 4 others described it as a back-up option in case other career plans (such as appearing for civil services or judicial services examinations) do not work out.

Q.5. gave a list of career options within the legal field, so that the respondents could rank them in order of their preferences. Corporate law firms emerged as the clear winner with 14 respondents marking it as their top preference; 6 respondents ranked working in the policy and development fields and teaching as their first preferences; 5 of them preferred salaried jobs such as working in banks and companies or eventually entering the Civil Services as their first preference; 4 respondents ranked working at law firms practicing in areas other than corporate laws as their first preference; 3 respondents ranked litigation or working in a litigation firm as their first preference; while 1 respondent each ranked legal aid, social work or entering politics as the top preferences respectively.

Q.6. sought opinions on whether legal education encourages diversity in career choices. 7 respondents said an unequivocal ‘yes’ and not a single person said ‘no’. However, 25 respondents supported the argument that the legal education system does not do enough and the information gap about various career paths is wide, which is also why some careers are glorified and appear to be more attractive than others. 13 respondents said that legal education does encourage diverse career choices, but there is an inherent struggle (financial, emotional, delayed returns) in pursuing some careers when compared with others.

Q.7. probed whether the hesitation in making certain career choices is a defect in the legal education system and if it is the role of education to instill confidence for pursuing diverse career choices? 41 respondents agreed that providing such exposure is integral to professional education, while 9 others observed that the educational institutions could not be expected to perform this role.

Q.8. also drew polarised responses, with 40 respondents agreeing that corporate law firm

jobs are prioritized and glorified as a career, while 10 disagreed with this proposition.

Q.9. dealt with the phenomenon of complacency observed after a late-stage law student secures a high-paying employment offer. 22 respondents said that they did not feel a sense of complacency post-employment, but they do feel relieved of the sense of pressure that had accompanied their academic decision-making in earlier years. They now feel enabled to make choices based on their interests rather than adopting an instrumental approach. 13 respondents observed that they did not feel a sense of accomplishment and that there were many challenges in the time ahead of them. 8 respondents accepted that there was a sense of complacency now that they could afford to take fewer initiatives, while 3 respondents reasoned that they would not have to compulsively engage in activities that are considered essential for securing lucrative employment opportunities. 2 respondents were quite blunt in stating that now they had accomplished their goal, the final year of undergraduate legal studies did not hold much interest for them.

Analysing the Survey Data

A pivotal point of inquiry is the apathy towards law school beyond the immediate objective of securing placement in a corporate law firm. Even among corporate law firms, the narrow vision of success is so well-entrenched, that the 'Day Zero' phenomenon becomes the parameter to judge the quality of legal education. The link that is repeatedly reinforced is the one between legal education and law firm jobs. This reinforcement begs the question of which phenomenon was triggered by which one? In order to further analyse these linkages, our research assistant had conducted personal interviews with 25 individuals.

As the internal environment at prestigious law schools becomes increasingly focused on attaining corporate law firm jobs, there is an increasing apathy towards those aspects of legal education which are not perceived to be useful for securing employment in the latter. The holistic purpose of legal education is never realized because of this systematic production of indifference. Among the 25 interviewees, at least half raised the futility of reading the assigned materials for classes in advance, because their academic

performance appeared to depend more on late-term preparation for the examinations. There is clearly an avoidance of elective courses that require extensive reading and have instructors who enforce the same. The idea of ‘professional essentials’ takes root here. Professional essentials is like an algorithm describing the bare minimum academic and co-curricular profile that is most suited to get an offer from a desired recruiter.

On one hand, the various reasons for choosing careers in the corporate legal sector are clear. Predominantly, it is a matter of job security and financial incentives. Other careers have a reputation of not providing the same level of financial stability, not even career-growth, both of which are deemed imperative and some career paths such as litigation are perceived to have an initial period of struggle. Thus, the pursuit of opportunities related to these other career paths (be it litigation, social work, teaching or research among others) become more of an individual endeavor outside the ecosystem of elite law schools. It could be argued that it is not the institution (faculty members, administrative officials) but the student community that prioritizes law firm careers. However, the collective preferences of the graduating students do leave a deep imprint on both the present and the future of an educational institution. Furthermore, students coming from elite family backgrounds would also find the notions of meritocracy and assured rewards attractive.

For students who are unsure about their career plans, law firm offers are a good fallback option. It does invite reflection on why staying unemployed and exploring one's aptitude through college and beyond college if the need be, becomes so unthinkable. The uncertainty about one's professional future and the immediate peer pressure is understandable, but why are there undue inhibitions towards pursuing other careers in these institutional environments? Q.6. and Q.7. in the survey dealt with the larger issues of legal education. Responses to these questions reflected the majority view that it is the role of the legal education system to instill the sort of confidence that enables the exploration and pursuit of diverse career options. Hence, it is a visible defect if formal legal studies are not providing that sort of information or exposure. Or is it a problem of student initiative once again? Should we move ahead with the presumption that some

career paths will always carry more difficulties and those choices ultimately depend upon the students having the conviction to work through them?

What is the impact of these career choices on law school culture? Can a decline in academic culture be attributed to this?[152] Let us understand the pursuit of undergraduate legal studies as having 'pre-placement' and 'post-placement' stages. The 'pre-placement' stage is one where curricular choices are motivated by the expectations of lucrative employment, as captured in our survey. This is the case for many students who came in to the law school environment with a clear sense of their ambitions. Among the early-stage students who were interviewed (those nearing the end of their respective first and second years of undergraduate study in April 2017), there appeared to be a growing reluctance towards opting for courses that would make them put in considerable work. The reluctance can even be explained by citing a genuine lack of interest. Third- and Fourth-year students were asked similar questions about course selection, particularly to understand the patterns of over-subscription in some courses in contrast to the dismal rates of subscription in some others. The responses were along the lines of the workload and evaluation methods for certain courses being very relaxed. Students said that they relied solely on the course outlines to anticipate which courses appeared to entail less intensive work. Fourth year students especially stressed upon the importance of taking the easiest courses, especially the ones that require less effort to score well, considering that the recruitment process starts during this stage of their studies.

Some students are recalcitrant because the elective courses made available to them do not cater to their academic or professional interests. Nearly 80% of our respondents (in the multi-institutional survey as well as separate interviews) claimed that much of content in the legal education offered to them did not serve a practical purpose. It might be worthwhile to ask how the respective law schools are responding to students' expectations, especially those which are funded substantially from the fees paid by the latter. Our survey did reflect the situation these students are in. As discussed earlier, Q.1.

152 Robert Granfield, 'Legal Education as Corporate Ideology: Student Adjustment to the Law School Experience?', 1(3) *Sociological Forum* 514-523 (1986).

got an overwhelming majority of respondents declaring that their 'area of interest' holds the highest priority when it comes to course selection. The respondents did specify that though their interests occupy top-most priority, that does not displace other factors such as the form of assessment and perceived levels of ease or difficulty. It is evident that course selection is shaped by a combination of factors, such as the subject-area they find interesting, the competence of the teacher, the requisite workload and the standards of evaluation. The responses to Q.5. in our survey somewhat deviated from the views expressed in the separate set of interviews. The motivations stated in the latter set of interviews ranged from pursuing one's interests in academic learning, grades never having been a consideration, gaining a holistic experience during undergraduate studies and making the most out of what the formal educational experience has to offer by trying a wide variety and courses and activities. 23% of the interviewees said that obtaining good grades were not their primary consideration while meaningful learning was one, while another 15% said becoming better lawyers and making the most out of the law school experience were their chief motivations.

Is it justified to place the pursuit of lucrative placements and the nurturing of a meaningful academic culture in a binary frame? Can both of these goals be pursued in a harmonious manner? Across the pool of our respondents and interviewees, when asked about social science courses or non-commercial legal courses such as Environmental Law, a majority of them answered that they did not find them to be relevant for their professional goals. It is indeed understandable if one has no interest in studying these subjects, but the constantly strengthening 'corporate ideology' prevailing among the students has led to the labeling of other fields as irrelevant, which can at the least be described as an uninformed view.

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3.3 Career Preferences Among Law 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. Nearly

seven 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 well-known law schools, the limited state support for recurring expenditure is leading to an excessive reliance on tuition fees paid by students. As explained in the preceding segments, 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 top-ranked law schools. 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.

Survey on Career Choices of Alumni (April 2017)

(32 respondents who had finished B.A., LL.B. before 2012)

This section presents the results of a survey conducted in April 2017 that gathered reactions from law graduates, with the filter being that the respondents should have completed their LL.B. Programme before 2012.[153] This survey posed questions such as why did they make the choices they made while choosing a career, what were their considerations, whether their considerations have changed, and if they have changed their career since graduation, is that choice susceptible to change again. Ambivalence occurs when there are two conflicting values that a person faces. The concept of ambivalence is itself quite subjective, different people might face different conflicts, different levels of uncertainty and different values when asked to respond to the same situation. A person can simultaneously have positive and negative feelings about a subject without feeling internal conflict. The more ambivalence one faces, the less functional one's attitude becomes. Persons who experience greater levels of ambivalence tend to be slower in making decisions and can be more sensitive to their surrounding socio-economic context.

This segment addresses two issues. The first is whether career ambivalence has a positive or a negative connotation. The second is to describe some patterns of career ambivalence among recent law graduates, which was attempted through our survey questions. Career ambivalence in its essence is internal conflict and being conflicted about different career choices to make. It has generally been portrayed as a negative. Ambivalence is viewed as a mindset to avoid. There is virtue in choosing a clear position or course of action rather than admitting to confusion or having mixed feelings. Ambivalence towards anything is an attitude that we are naturally inclined to avoid. However, at the same time, it is possible that we can embrace ambivalence purposefully in order to shield ourselves from possible negative repercussions. It is a subconscious way of saving face if one does not succeed, be it at the personal or professional levels. Persons who experience lesser

153 We acknowledge the efforts made by Avani Maha (B.A.,LL.B. 2017) in conducting this survey and sharing the results with us as part of her coursework.

degrees of ambivalence are more likely to be happier with the choices they made.

For the purposes of this survey, our research assistant reached out to working professionals, both through institutional networks and personal acquaintances. The initial questions were to gauge the profile of the respondents, and were as follows:

a. Name

b. Age

c. When did you finish your undergraduate studies in law?

d. Which University did you graduate from?

e. Have you pursued postgraduate studies?

f. If yes, then where did you pursue post-graduation from?

g. Did you have any close family member who was involved in the field of law before you made the decision to study law? If yes, did that fact impact your decision to study law?

After these, the next set of questions required more subjective responses.

Q.1. Was law a conscious career choice for you?

Q.2. Did you have a career path planned in college, if yes, then what was it?

Q.3. Did you pursue the same career path that you had planned for?

Q.4. Did you at any time feel like you wanted a change in career?

Q.5. If you did not pursue the career path you had initially planned for, then when and how did you decide to shift your career?

Q.6. Have the considerations of what you wanted from your career changed from when you graduated college? If yes, then how?

Q.7. In your current situation, do you think you will make the choice to shift your career, within the profession of law or otherwise, in the foreseeable future?

Analysis of Responses

The persons who answered this questionnaire were in the age group of 28-31 years at the time of data collection. This was intentionally done to ensure that respondents had the benefit of some hindsight to evaluate their own student experiences and subsequent

career choices. With respect Q.1., it was clearly established that ambivalence is a negative factor which is ordinarily associated with adverse consequences. It tends to create a reaction where persons shy away from it. However, career ambivalence can also lead to positive outcomes in some situations, such as those where one feels trapped in an exploitative work environment and then seeks better alternatives by moving out.

Half of the respondents had completed postgraduate studies in law and most of them had done so at foreign universities None of the respondents reported having a close family member in the field of law at the time of their entry into the undergraduate legal studies. For 58% of the respondents, law was a conscious career choice. This is the first point where the respondents would have experienced career related ambivalence. The consequence or the impact of this is seen through law school. Every person who said no went through some sort of career ambivalence. Two-thirds of those who answered yes to choosing law as a career further said yes to having pursued what they had initially planned for. However, there were several respondents who accepted that they had experienced career ambivalence soon after completing their first degree in law. Once the consideration shifted to actual satisfaction with the job that they were presently in, the ambivalence declined. 58% of the respondents stated that they were satisfied with their present career and did not see themselves moving away from it in the foreseeable future. 25% of the respondents said that they would possibly shift to another career at a later stage.

Almost all the respondents converged on the fact that the considerations behind shaping their professional paths have moved towards their core interests. Once they have achieved that objective of satisfying their core interests, their ambivalence about other things that law offers has significantly gone down. Out of the graduates who have pursued postgraduate legal studies, most stated that they did not experience career ambivalence after their respective master's degrees.

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3.4. Survey on Structural Discrimination (April 2017)

(Across 7 institutions, 122 respondents, 9 Structured Interviews)

This segment further explores the institutional experiences inside law schools and asks why all students are not able to perform well. It analyzes the phenomenon of structural discrimination that indeed exists within higher educational institutions, and then proceeds to suggest a few steps to improve the overall state of affairs, especially from the perspective of students belonging to historically marginalised sections of our society. Structural discrimination is a process where equal legislation, common behaviour and the set norms for everybody acts as an obstacle for some groups and individuals in achieving the same rights and opportunities that are available for the majority of the population in the society. It is a result of an idea constructed around formalist notions of equality that do not recognise socially entrenched differences in the status and abilities. It is an idea which is more about social exclusion, than overt discrimination. It is often hidden and occurs unintentionally. Structural discrimination is a result of an environment where institutional structures are created and maintained in an uncritical manner.

This particular survey was conducted in two stages. First, a questionnaire was circulated among a control group of undergraduate students to record their experiences and observations. Second, individuals in position of responsibility at several law schools were interviewed to record observations about their respective institutional experiences. The line of inquiry proceeds through three parts. The first part introduces the subject matter and highlights the method and key details of the survey that was conducted. The second part analyzes the law school experience of the respondents, largely on the basis of the data that was collected, and attempts to identify existing obstacles inside their respective institutional environments. It focuses on the academic sphere, participation in co-curricular activities, social life, and career preferences. The third part addresses the inadequacy of the existing safeguards that are meant to prevent exclusion and discrimination.

<u>The prevailing situation</u>

When it comes to the question of exclusion and discrimination, many might argue that situation inside the better-known law schools is much better than that of the larger public

universities. However, our student respondents have reported overt as well as subtle forms of differentiation based on parameters such as language, vocabulary, accent, spoken expression, social skills, mannerisms, surnames, place of residence, dressing style and body language among others.

When asked about the factors which influence the overall experience of an individual students inside a law school, a majority among the respondents stated that skills related to language are essential to survive and thrive. 94% of them believed that good communication skills are a must and deficiencies in this respect significantly affect the overall experience of a student. When asked about the role of language and vocabulary, 91% stated that they considerably influence the growth of a student. It is important to note that, though more than 90% of respondents felt that language, vocabulary and communication skills significantly influence the overall experience of students, 25% did not think accent and expression to be relevant factors. Some respondents opined that these attributes are necessary if one wants to study in institutions where the medium of instruction is wholly in English. Hence, there cannot be a compromise in the standards of communication in this language. It is pertinent to note that it is not the basic knowledge of English or an ability to comprehend it which seems significant. Instead, the emphasis seems to be more on related factors, the development of which depends on the specific cultural experiences of students coming from varied socio-economic backgrounds. 75% of respondents felt that factors such as accent and expression also significantly shape the student experience.

In addition to language skills, it was reported that social skills are also significant for the overall journey of a student. When inquired about the place of social skills and mannerisms, 87% of the respondents counted it as a parameter that considerably influences the growth of students' prospects, especially when it comes to securing internship and employment opportunities. Furthermore, more than half of the respondents were of the view that dressing style (54%) and body language (53%) are also important, particularly in shaping social interactions.

26% of the respondents thought that names and surnames still matter, in spite of the constitutional mandate to de-recognise caste identities. They reinforce an identity that is promptly associated with a person's reputation, especially when linked with language skills or social mannerisms. It is pertinent to note that names and surnames might not immediately have a negative impact on a student's prospects or self-esteem, but they definitely do have positive implications for people from dominant caste groups. 50% of the respondents also thought that locality and residence are also key factors in shaping the self-image as well as the overall estimation of a student's abilities and potential, be it in the academic or co-curricular sphere.

Reflections of Socio-Economic Differences in Student Experiences

The next question was whether markers of social difference such as caste, gender, religion, financial background and disability have a role in shaping the institutional experiences of students? More than 80% of respondents agreed that they do. Around 14% thought that these factors were no longer relevant, and even if there are a few cases of discrimination based on these markers, that might reflect exceptions to the norm. Quite a few students found gender, religion and disability to be less relevant, and expressed that caste and financial background are the operative categories of difference.

Another question was about the design of the coursework. To be specific, whether the design and structure of the academic obligations account for social diversity and attempt to be inclusive in the true sense. 24.71% of the respondents answered this question in the affirmative and expressed that the course design at their respective institution does account for social diversity. However, the remaining pool of respondents (an overwhelming majority) thought that their curricular structures failed to account for socio-economic diversity in a meaningful way. In fact, 41.24% of them labeled their coursework as having an exclusionary character, and thought that it is clearly centered on the cultural capital of the elite sections of society. Lack of attention to the rights of persons with disabilities was also pointed out. A closer look at the data shows that more than the design of the syllabus, there were concerns about the teaching methodology in several courses. There is also a trenchant criticism about faculty members largely coming

from the dominant caste and class backgrounds, and hence they are unable to accurately gauge the needs and interests of students belonging to historically marginalised sections of society, especially Dalit and Adivasi communities.

The next step in the inquiry was based on the pursuit of co-curricular activities, especially those that are student-led and are seen as prestigious. The query was about the inclusive nature of these activities, and whether they provide an equal platform for students coming from diverse backgrounds. 67.03% of respondents expressed disappointment citing the exclusive nature of many of these activities, with moot court competitions and competitive debating being the prominent examples. Both of these activities are seen as requiring a high order of linguistic skills as well as the ability to absorb large volumes of information in shorter time-periods. It is perceived that students coming from expensive private schools have an early advantage in this respect which they are able to leverage through most of their undergraduate legal studies. However, 10.99% of the respondents believed that the co-curricular activities were inclusive and gave fair opportunities to students from diverse backgrounds. 25.27% of respondents believed that while such activities do offer equal opportunities to all the students, participation in them is voluntary and it is up to the concerned student to pursue them at an introductory level or to try and excel in them through regular involvement. Most respondents did believe that advanced involvement in these activities (such as international moot court competitions, competitive debates and academic conferences) are correlated with the financial background of the students, since the educational institutions usually do not have the budgets to cover costs beyond a small number of interested students. In such a situation, only a few can self-finance their participation by meeting the costs of international travel, expensive accommodation and the applicable registration fees. There are of course some resourceful students who are able to raise the necessary funds on their own, especially by seeking donations from prominent professionals in different branches of legal practice. Older law schools are able to benefit from some monetary contributions made by their alumni. However, these occasional contributions are only able to benefit a miniscule number of current law students.

Another question was related to the experiences pertaining to the social life on the campuses. Financial backgrounds, linguistic and cultural constraints were cited as the factors which lead to social group formation. 17.02% of respondents felt that the social life on campuses is not exclusionary in nature. Whereas 60.64% of them believed that social life gets considerably influenced by factors such as language skills and social mannerism. 22.34% felt that social life is exclusionary in nature but the barriers are not necessarily created by peers. Allocation of hostel-rooms based on the rank in the entrance examinations was cited as a key reason behind segregation among the students. Another distinctive point was that some of the cultural activities conducted on campus (especially those which reflected the rituals and beliefs of dominant religious and caste communities) could also create perceptions of exclusion among students from minority and disadvantaged communities. This point is of course not specific to the experiences inside the law schools but is possibly applicable for all educational institutions that have a residential character.

When asked about the accessibility to various career options, 87.23% of the respondents said that the choice which one eventually makes is highly influenced by their socio-economic background. When further probed about this aspect, it was pointed out that having prior connections in the professional space helps in getting references and recommendations for securing internship and recruitment opportunities. These connections are often a function of the student's family, caste or kinship background rather than the student. This is especially true in scenarios where the recruitment process is largely a student-run initiative. A consequence of this is that very few students from the Scheduled Castes (SC) and Scheduled Tribes (ST) background are able to secure employment through the campus-based recruitment processes. This is an issue that calls for continued corrective action.

Lastly, questions were asked about the procedural safeguards which universities have instituted so as to prevent and remedy discriminatory behaviour. 87.10% of the respondents felt that their respective institutions had not put in place adequate safeguards in this respect. The specific query was whether the Universities were complying with the

mandate of the University Grants Commission (UGC) to create specialised cells that would tackle sexual harassment and caste-based discrimination. Some respondents also stated that their universities had often not taken any action against reported cases of discrimination, even when the allegations were quite serious. The perception is that such complaints are frequently brushed under the carpet, so as to keep the reputation of these institutions intact. The lack of socio-economic diversity among those holding the operative administrative positions was pointed out as one of the reasons for such inaction. It was also re-emphasized that most institutions were not providing structured training for language skills, especially for first-generation learners. In addition, the lack of efforts to make the educational spaces accessible for persons with disabilities was cited as a problem.

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CHAPTER 4: FACULTY DEVELOPMENT, RESEARCH AND EXTENSION ACTIVITIES

The preceding chapters have discussed the quantitative and qualitative responses to our questionnaires which were directed at faculty members and students at the participating institutions. In this chapter, 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. To be specific, this chapter engages with the supply-side of formal legal education. It begins by dwelling on the persistent problem of attracting and retaining sufficient teaching talent in our law schools (Section 4.1). We will touch on aspects such as the methods used for appraising teaching performance, necessary improvements in service-conditions of faculty members and the importance of sharing academic resources between institutions. This is followed by surveys which had looked at the opinions of late-stage students in terms of their impressions about the pursuit of careers in teaching. It was especially instructive for us to gauge the opinions of students enrolled in postgraduate programmes (such as LL.M. and Ph.D.), since it is ordinarily presumed that they would be interested in pursuing teaching and research on a full-time basis. It might suffice to say that this presumption needs to be revisited in light of the evidence that we ended up collecting (Section 4.2). Lastly, we have included a descriptive study of extension activities such as Clinical Legal Education (Section 4.3).

4.1. Faculty Development

The quality of teaching inside the classroom is the foremost concern for students. 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 incentivise 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.

Methods for appraising teacher performance

While most Indian Universities have adopted formal measures such as curriculum development workshops and refresher courses for faculty members, it is the feedback 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 many law schools have adopted 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 dialogic device which can help instructors in aligning their methods with the capacities and needs of their students. In the second scenario involving

the under-prepared 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. 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 enter the law schools with high expectations, the market for faculty positions is under-developed 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.

Improving service-conditions for faculty members

Admittedly, the problem of unsatisfactory teaching 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 institutions that either receive substantial public funding or those which recover a considerable portion of their operating costs from tuition fees paid by students. The substantial reliance on teachers appointed on an 'ad-hoc' or 'visiting' basis aggravates 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 surveys, we gathered that most law schools on average engaged 30-40% of their full-time teachers on an 'ad-hoc' or 'visiting' basis. 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. Of course, the overall situation at public universities in India is quite alarming since most of them have 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. On the other hand, 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 a few 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 prevent 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 various Universities located in different parts of the country, 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 relatively cheaper accommodation inside residential campuses is a significant incentive. Furthermore, one can look to the example set by some of the IITs and IIMs to grasp the importance of raising resources through contributions made by private parties, especially regular recruiters and close-knit alumni associations. The funds gathered from such sources can be distributed as research grants among faculty members apart from supporting students who need financial assistance to complete their studies. Faculty members should be given adequate time to engage in research projects which could be funded by government agencies, private businesses or civil society organisations.

It is in this context that the workload policies for full-time teachers 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 for the serving teachers themselves since contributions made to scholarly literature carry substantial weightage for promotions in academic institutions. In the broader sense, it is also important for the institutions to be able to show that their faculty members and research scholars are publishing their work in credible peer-reviewed journals, engaged in sponsored research projects and producing books that will be given a broad platform by established academic publishing houses. Showcasing research output is absolutely vital for our universities to gain a position of prominence in national and international rankings which place far more importance to this aspect when compared with other parameters of academic excellence.

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) as well as those identified as Persons with Disabilities. Central Educational Institutions and many State Universities also have reservation policies that favour candidates from Other Backward Classes (OBCs). While we were not able to gather reliable data to examine this issue, the

widespread feeling among our respondents was that the overall representation of teachers from marginalized backgrounds is quite minimal, often below 5% of the total faculty strength in some of the participating institutions. Unlike reservation norms for students which have to be met with each annual intake, 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. This in turn contributes to the view (reflected in Section 3.4) that students from disadvantaged backgrounds do not have adequate support for coping with an institutional environment that is largely shaped by persons from dominant caste backgrounds.

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 Universities. 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. Law Libraries at the various Indian Universities 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.

Encouraging Interdisciplinary Learning

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 (Section 1.2). Highlighting the connections between law and other disciplines is supposed to be central to the academic identity of the Five-Year Integrated Law Programmes. However, the experiences recounted by our respondents indicate numerous difficulties in the meaningful pursuit of interdisciplinary learning at these institutions. The Five-Year Integrated Law 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 law schools have 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. In many ways the question of interdisciplinary teaching and learning tends to be discussed by only examining how these integrated programmes 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. 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 PhD. 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. 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 on first glance 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.

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 law departments and colleges have largely been viewed as single-discipline institutions that are not enabling the cross-fertilization of ideas 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.

Survey on Teaching as a Career Choice (April 2017)

As demonstrated in Section 3.2 of this report, the increasing corporatisation of the Indian economy means that the demands of the legal market have changed, resulting in a shift in the structure of the legal profession. While earlier generations of Indian law graduates

rarely engaged in transactional practice, these days a bulk of the students graduating from the most well-regarded law schools start their careers in the corporate legal sector. As further shown in our surveys and other contributions, this has definitely impacted the content and delivery of formal legal education, with the nature and quality of teaching in these institutions being increasingly focused on grooming students for recruitments by commercial law firms and large corporations. It can be safely said that the elite Indian law schools seem to be tying their educational goals to the demands of the legal market. This has led to a visible declining in interest for pursuing careers in teaching or research.

Survey Design: Needless to say, we should make significant efforts to get the best law graduates and professionals to contribute to the academic spaces, both through full-time and visiting positions. Keeping this objective in mind, one of our research assistants administered a survey to gauge law student attitudes towards the possibility of becoming full-time teachers in the long-run.[154] The survey had two layers, the first one directed at present law students and the second one meant for law graduates who had accumulated a few years of work experience. The questions asked in these two surveys are listed at the end of this paragraph. (See Survey A and Survey B below). These surveys included both 'input' and 'output' based questions. The 'input' based questions were related to the respondents' own interests and activities in law school (like the value they assigned to research work, the kind of internships they pursued, the role of their law school in facilitating their engagement with the legal academia). The 'output' based questions were meant to record the respondents' perceptions about Indian legal academia at large and the career opportunities that are available.

Survey A: To assess the professional interest of Indian law students in the legal academia

Q.1. Name

Q.2. Which law college or university are you in the process of receiving your undergraduate degree from? Additionally, do you intend on pursuing a post-graduate/doctoral degree in law?

Q.3. How much value do you give to independent research (i.e. research undertaken for

154 This particular survey was conducted by Tanisha Pande (B.A.,LL.B. 2017). We are grateful to her for contributing to this project.

purposes other than mandatory coursework) in its own right? (Please mention if you have published/intend to publish any papers and on what basis would you chose the journals you submit the papers to). Do you think that legal academic literature contributes to the development and practice of law in India or are you of the opinion that legal academic literature has had little impact on the same?

Q.4. Have you pursued or intend to pursue a clerkship under a judge or serve on/want to serve on an editorial board? Additionally, how much importance do you attribute to building an in-depth intellectual and research relationship with your professors?

Q.5. Does your law school offer the option of teaching assistantship to undergraduate students? If yes, would you/did you avail of this opportunity and why?

Q.6. During your time at law school so far, have you developed any interest in contributing to/joining the legal academia (this could include contributing to the academic literature on your future practice area/teaching/teaching short, credit course as 'visiting faculty' while pursuing a separate career etc.)? If yes, could you highlight the reasons for the same?

Q.7. Were there/are there any initiatives that your law school administration or student body undertook/could undertake which impacted/would impact your answer to Q6? (For example, adequate representation of career opportunities in the legal academia.)

Q.8. If your answer to either/both Q.6. and Q.7. was 'no', could you highlight the reasons for the same?

Q.9. If your answer to Q.6. was 'yes', are you planning on pursuing your interest in contributing to the legal academia? (Mention if you wish to do so immediately after law school or after a few years of work experience outside the legal academia) If yes, in what capacity and what do you think are the challenges faced by a fresh law graduate who wants to enter this field?

Q.10. If your answer to Q.9. was 'no', could you please highlight your reasons for the same? (For example, is it because of personal/monetary reasons or because of any structural roadblocks peculiar to this field.)

Survey B: To assess the engagement of Indian law graduates with the legal academia

Q.1. Name:

Q.2. Which law college or university did you receive your undergraduate degree from? Additionally, do you hold/are in the process of receiving a postgraduate degree in law? If yes, what is your area of specialization and if not, do you plan on pursuing postgraduate studies?

Q.3. Are you currently working and if yes, where and in what capacity?

Q.4. How much value did you give to independent research (i.e. research undertaken for purposes other than for required courses) during your time at law school (post-graduate degree included, if applicable)? (Please mention if you published any papers and on what basis you chose the journals you submitted the papers to).

Q.5. Did you pursue a clerkship under a judge or serve on an editorial board during your time at law school or after? Additionally, during your time at law school (post-graduate degree included), how much importance did you attribute to building an in-depth intellectual and research relationship with your professors?

Q.6. Did your law school offer the option of teaching assistantship to undergraduate students? If yes, did you avail of this opportunity and why? If you have pursued a post-graduate degree, did your course offer the option of teaching assistantship? If yes, did you avail of this opportunity and why?

Q.7. During your time at law school and after, did you think that legal academic literature contributes to the development and practice of law in India or are you of the opinion that legal academic literature has had little impact on the same?

Q.8. During your time at law school or after, did you develop any interest in contributing to legal academia? Are you currently pursuing or planning to pursue this interest? (This could include contributing to the academic literature on your practice area OR through teaching on a part-time/visiting basis) Were there any initiatives that your law school administration or student body undertook, which would have affected your answer to this question?

Q.9. If your answer to Q.8. was 'no', could you please highlight the reasons for the same? (for example, did you think that the opportunity costs would be too high)

Q.10. If your answer to Q.8. was 'yes', in what capacity are you pursuing or intend to pursue such an interest? What do you think are the roadblocks facing lawyers from entering the legal academia, especially for those with a few years of work experience

outside the academia? What do you think can be improved (with respect to the applicable UGC Regulations and prevailing service-conditions) to encourage more legal professionals to contribute to the academic spaces?

Analysis of Survey Responses: All the respondents attributed a high value to pursuing independent research as an end in itself. This could be because most of the institutions covered by our surveys require their full-time students to prepare research papers as essential components of the coursework. However, outside of their own belief in the importance of independent academic writing, most respondents were of the opinion that legal academic literature has had little impact on the development of law in India. Out of the few student-respondents who believed that it has indeed had some impact, two spoke of the impact only with respect to the fields of public policy and social work while one mentioned citations of law review articles in judgments. Among the graduate-respondents, almost all were of the opinion that Indian legal academic literature has had little to no impact on the development and practice of law in India. One of the reasons attributed to this was the lack of relevant or good quality articles produced by Indian academicians. Those who were of the opinion that academic literature does contribute to the development and practice of law felt that it was largely academic contributions made by legal practitioners (in their respective fields of expertise) which had some utility.

In terms of institutional support for independent legal research, the only indigenous institution of any repute has been the Indian Law Institute (ILI). ILI was founded in 1956, initially to examine the role of public law in the governance of a regulatory state like India but was constrained by lack of funding to keep its momentum going.[155] Among foreign institutions, the Ford Foundation has frequently supported projects involving legal research in India, beginning with its monetary support for the establishment of the ILI.[156] As noted in our previous report on the NLUs, the Ford Foundation also made a

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

156 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).

substantial financial contribution in the late 1980s to support the construction of the NLSIU campus in Bangalore. However, most of the legal research which has had some practical any impact has been the monopoly of the government, either under the aegis of the Law Commission of India (LCI) or the Planning Commission. It is only in recent years that we have seen the private sector supporting some independent think-tanks that are generating evidence-based research that is centered on the design and enforcement of laws. Some examples of this trend include organisations such as the Centre for Social Justice (CSJ) in Ahmedabad, the Centre for Law and Policy Research (CLPR) in Bangalore and the Vidhi Centre for Legal Policy (VCLP) which now has offices in Delhi, Bangalore and Mumbai. However, this conscious shift towards producing meaningful socio-legal research has not yet become prominent in the large number of higher educational institutions that are delivering legal education. Barring a few faculty-led research centres at some of the better funded institutions such as the National Law University Delhi (NLUD), the Gujarat National Law University (GNLU) in Gandhinagar and the privately-run Jindal Global Law School (JGLS) in Sonepat, the overall picture is still quite dismal. We still have miles to go before we can confidently state that legal education in India has an ecosystem that nurtures independent legal research that meets international standards. At the same time, it must be said that the visible growth of commercial law publishers has given a limited stimulus to the research efforts of those trying to pursue it as a career option. From the perspective of law students (be it at the undergraduate, postgraduate or doctoral stage), it has become a little easier to get initial support for their research journeys owing to the proliferation of student-run law journals, especially over the last two decades. However, from the perspective of the early-career legal professionals who were surveyed, there appeared to be limited space for bridging the gap between legal academia and the needs of the profession, which are still seen by many as separate spheres.

Among the law students who participated in the survey, it was observed that those who had either planned to pursue a judicial clerkship, served on the editorial board of student-

run journals, developed research-oriented relationships with faculty members and where possible, acted as teaching assistants, were more likely to want to join academic careers in the long-run. Out of the law graduates surveyed, a similar trend was visible, thereby demonstrating a certain degree of path-dependency. Almost all the respondents who expressed no interest in contributing to the legal academia, did not provide any reasons for their choices. Some did mention monetary reasons or lack of interest, but none of them went on to explain the causes of their disinclination. Quite worryingly, most respondents were not aware of the content of the UGC Regulations that deal with recruitments for academic positions in Indian Universities. Almost all of them observed that their respective law school did little to encourage their students to take up careers in full-time teaching or to even contribute through short-term courses offered in visiting roles.

Typically, careers within the Indian legal academia give relatively low monetary income when compared to other branches of legal practice, especially the opportunities in the corporate legal sector and the remuneration that can be earned by experienced advocates. The perception of careers in this field can change if there is greater government willingness to finance law schools and improve faculty salaries. Another reason for the reluctance in this direction becomes evident if one looks at the points of entry and exit of the newer law schools that are largely dependent on student-fees. Fee-structures increase over time and many students often feel compelled to take up high paying jobs to recover their costs of education and to contribute to their families. Another factor is the insufficient representation of the legal academia as a professional space, especially when it comes to the on-campus experiences of students. These realities need to be considered alongside the persistent realities of poor teaching standards which usually do not create role-models for impressionable students, outdated or inappropriate curriculum design and lack of close attention given to the sequencing of subjects in the curriculum.

The only respondents who seemed to be aware of the structural roadblocks in pursuing teaching careers were those law graduates who expressed an interest in doing so in the future. Most of them wanted to take on teaching positions in visiting roles alongside their

regular practice, chiefly to engage with current law students so as to help them grasp how the law translates into practice. These responses show that Indian Law Schools can get access to a high caliber of teaching staff, if the applicable UGC Regulations are amended to allow easier forms of lateral entry into academic positions. As per the most recent UGC Regulations notified in July 2018,[157] law graduates with a master's degree and the UGC-NET qualification can join the entry-level position of Assistant Professor. Direct recruitment to the intermediate rank of Associate Professor requires at least 8 years of full-time teaching or research experience, a Ph.D. degree and having produced at least seven peer-reviewed publications. Direct recruitment at the rank of Professor requires at least 10 years of full-time teaching or research experience, a Ph.D. degree, having produced at least ten peer-reviewed publications and meeting a threshold for research supervision. There is of course a provision for career progression through a time-bound scale for those who join as Assistant Professors, with promotions to the rank of Associate Professor becoming available after 12-13 years of service and those to the rank of Professor becoming available after 16 years of service. While there is a provision for lateral entry at the level of Professor (for those who have demonstrated professional excellence or producing outstanding scholarship), it is seldom used and has been deeply controversial when it has in fact been invoked.

The usual requirements for entering full-time teaching roles deter applicants who may have gained a few years of professional experience in other fields of legal practice. For example, a law graduate with a master's degree who has accumulated 6-7 years of experience in litigation, commercial law or advisory roles will usually have no incentive to join at the entry-level of Assistant Professor. It would become a viable choice if applicants can be considered for the positions of Assistant Professor (for those with LL.M. degrees) and Associate Professor (for those with Ph.D. degrees) with pay-scales that recognise the length of their professional experience in other fields. The quality of the applicants and their capacity for teaching and research can anyway be assessed through the ordinary processes of selection that are followed by public universities in India. The introduction of such flexibility in the appointment processes could make the

157 UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges, 2018 (University Grants Commission).

teaching profession a more tractable choice for a larger group of competent law graduates who have started their careers in other areas of legal practice. The structure of the law schools should also encourage the involvement of practitioners in visiting roles, who can thereby teach short-duration courses or add value to the delivery of existing courses. Very often, it is found that the incumbent faculty members actively discourage the involvement of practitioners on a part-time basis, sometimes on account of budgetary concerns and on other occasions due to a misplaced sense of self-preservation.

Findings: The legal education sector in our country has not been very effective in motivating the brightest law graduates to take up careers in teaching and research. This is a serious deficiency that needs to be remedied, since it is imperative that we have the best available talent moving into academic roles. This is needed so that we do not just passively deliver vocational education, but also to actively examine, question and reform the contours of our legal system. It is also vital that we enhance both the volume and quality of interactions between the legal profession and the academic institutions, specifically by allowing easier transitions into teaching roles. As discussed earlier, one possible path is the expansion of the scope for lateral entry into full-time academic positions, especially by recognizing previous professional experience and ensuring proportionate pay-protection for those who join as Assistant Professors and Associate Professors. Another practical strategy is to encourage and refine the involvement of practitioners (who are well versed in different areas of practice) in the delivery of the curriculum, both through short-duration courses and contributions to existing courses. In an encouraging development, this latter strategy has been adopted by many Indian law schools, especially through the 2010s.

We also need to pay serious attention to the need for true academic autonomy, both at the level of the educational institution and the respective faculty members. Under the status quo, the Advocates Act, 1961 has conferred a conjoint power on the Bar Council of India (BCI) and the respective Universities to design the curriculum for the respective law programmes. As mentioned in the introductory chapter, the UGC Curriculum Development Committees for Law had published their recommendations first in 1990

and then revised them in 2001. In 2010, the Bar Council of India (BCI) had also circulated a draft curriculum for the taught programmes. The creation and circulation of these documents was justified in the name of ensuring minimum qualitative standards in the delivery of legal education. However, the mere production of a draft syllabus cannot be translated into meaningful delivery inside the classrooms, unless we have a pool of thousands of well-trained, motivated and open-minded law teachers. For that, far more importance needs to be given not just to the question of service-conditions but also to whether our Universities and Colleges can provide a conductive environment for meaningful instruction and inquiry? This is of course a much larger issue that affects the working of our academic institutions across different fields of study. For now, it would suffice to say that a top-down approach towards curriculum design and review may not fairly reflect the diverse needs and potential of legal education in different parts of our country. While a certain degree of standardisation is needed to meet the basic expectations of the professional regulator (in this case the BCI), the curriculum must also engage with the needs of local and regional communities that will depend upon the expertise of our law graduates. We must especially guard against the tendency to equate qualitative claims about education with whatever might be the fashionable trends in the polity, economy or society at a given point of time.

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4.2 Postgraduate and Research Programmes

It goes without saying that 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. The transition towards the one-year LL.M. programme had commenced during the academic year 2013-2014. This has led to a considerable increase in the number of applicants for postgraduate law programmes. 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 Postgraduate Common Law

Aptitude Test (PG CLAT) scores are being used by several Public Sector Undertakings (PSUs) to shortlist candidates for their recruitment cycles. 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 National Law Universities (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 well- known law schools often 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 earlier, 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 newly established law schools 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 specializations. 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 contributions to credible peer-reviewed journals. 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 or Professors) 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. One step could be to introduce 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 a nation-wide entrance examination such as the PG CLAT which consists of Multiple-Choice Questions (MCQs). 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 Universities on their own. 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 a standardised entrance examination 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 Universities 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 in law on a full-time basis. 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.[158] 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.

158 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 at various Indian Universities are already in teaching positions.

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. This is in sharp contrast to the position at some foreign universities which have acquired a reputation for a serious commitment to research by providing fellowships to their Ph.D. candidates across most academic and professional disciplines. Many Universities are using an intermediate method for supporting their Ph.D. candidates by recruiting them as 'Research Associates' for sponsored research projects or as 'Teaching Assistants' who help in the delivery of undergraduate teaching.

Survey on Career Preferences Among LL.M. Students (April 2016)

It is generally understood that the LL.M. program is primarily meant to prepare the candidates for starting careers in teaching and research. Some may see it as an opportunity to gain specialised knowledge in a chosen sub-field within legal studies. In spite of this understanding, many students enrolled in these postgraduate programmes are ambivalent about their subsequent career choices. It might be worthwhile to ask why is there so much uncertainty in their minds, despite having consciously decided to pursue a masters' degree in law. One of our postgraduate students administered a questionnaire that explored this question.[159] His questionnaire drew responses from a controlled sample of postgraduate students across four institutions, namely NLSIU Bangalore, NALSAR Hyderabad, NLIU Bhopal and HNLU Raipur. The text of the questionnaire is copied below: -

QUESTIONNAIRE FOR LL.M. STUDENTS ON CAREER AMBIVALENCE

159 We are grateful to Ashutosh Singh (LL.M. 2015-2016) for his contribution to Section 4.2 of this Report.

NAME OF THE CANDIDATE:

NAME OF INSTITUTION:

SPECIALIZATION CHOSEN (IF APPLICABLE):

Q.1. What was the reason for applying to the LL.M. Program?

Q.2. What was the reason behind choosing your area of specialization?

Q.3. What were your expectations from the Institution which you joined before the time of admission and also in the initial few weeks when you joined the LL.M. program?

Q.4. Have you finally decided as to what would be your career choice (definitively) post the completion of the LL.M. programme?

Q.5. Were you certain enough that you are going to undertake *'x'* career pathway at the time of your entry into LL.M. program and if you were not clear about it, then, what reason would you accord to such uncertainty?

Q.6. Do you think that your Institution has contributed to the career indecisiveness during this stage of study and if so, why do you think so?

Q.7. Is there a 'Teaching Assistant' programme running in your university? If there is, do you think that there are considerable benefits derived from such program in terms of making determinative career choices?

Q.8. Has your institution of postgraduate study created meaningful pathways for deserving candidates to pursue a Ph.D. programme at the same institution, either in terms of, a) preference in admission, and b) full or partial funding of Doctoral program?

Q.9. Did you ever think of pursuing the LL.M. programme as a casual choice? ('Casual' implying that you pursued it as you were not certain about your career choices and you wanted to add a postgraduate degree to your academic record)

Q.10. Was your institution of postgraduate study clear enough in pointing out the career choices that you can explore after the completion of the LL.M. programme and the formal objectives of the same? Elaborate upon the institutional efforts.

Q.11. Have the economic and family related matters contributed towards the indecisiveness in forming career choices?

Q.12. Did you opt for a LL.M. programme as a first choice, or did you appear for the PG CLAT to get a job at a Public Sector Undertaking (PSU), and later opted for the LL.M. as

a second choice?

ANALYSIS OF RESPONSES

To achieve the goals of academic and professional excellence, the One-Year LL.M. programme aims to bring reforms in postgraduate legal education, just as the Five-Year Integrated Law Programmes had done in the undergraduate space. The stated aims were to bring postgraduate legal education on par with programmes offered by the best known international universities and also to incentivise more law graduates to opt for it, given the shorter duration in comparison to the prevalent Two-Year model for LL.M. programmes.[160] While one line of thought says that the LL.M. programmes will stay concentrated on the individuals who are look to begin with scholastic pursuits related to the law, the other recognizes that the LL.M. programmes could also be a bridge that prepares recent law graduates for acquiring specialised knowledge in their intended areas of subsequent practice.[161]

Diverse Reasons for pursuing LL.M. programmes: The responses to this question were quite varied. They range from a loose inclination towards academics to a strong will to be an academician. Furthermore, the prospects of jobs in the corporate legal sector are seen as a prominent factor owing to which candidates pursued LL.M. Interestingly, some respondents gave reasons such as extending their student life for one more year. The preference for a teaching job was also cited by several female respondents, perhaps in anticipation of societal expectations based on gender roles. Some respondents cited the significance of holding a master's degree which would carry additional weightage when they would join in-house legal departments in large businesses or public sector corporations. As expected, the shorter duration of the One-Year Programme was also invoked as a significant reason.

160 See generally: Guidelines for Introduction of One-Year LL.M. Degree Programme, 2013 (University Grants Commission).

161 See generally: Sudhir Krishnaswamy & Dharmendra Chatur, 'Recasting the LL.M.: Course Design and Pedagogy', 9(1) *Socio-Legal Review* 101-120 (2013).

Specializations on Offer and Expectations from the University: A majority of the respondents had opted for the specialization in 'Corporate and Commercial Laws'. Other specializations such as Public Law, Criminal Law, and Intellectual Property Rights were not as popular. It is not clear whether this choice of specialization is always made in an informed and truly voluntary manner. In some law schools, admitted LL.M. students are allotted to specializations (with a fixed number of seats) based on their rank in the entrance examination. In few others, the admitted LL.M. students are not immediately boxed into a specialization, but are instead given the freedom to work towards a preferred concentration by choosing among the elective courses that are on offer to the postgraduate students. The latter model seems to be far more receptive to the student's needs in the long-run and should be considered by all law schools that offer postgraduate programmes. The expectations from students were quite high in terms of time spent on scholastic activity, the quality of teaching delivered, the depth and range of research supervision made available to them, access to external experts (working professionals and academics from other Universities) and effective training in doctrinal as well as empirical legal research. Apart from these academic inputs, there were a few respondents who had expected institutional support for recruitments in the corporate legal sector and expressed disappointment at the same not being provided to the postgraduate students.

Decisiveness about career choices: 60% of the respondents claimed that they were fairly certain about their respective career choices after the completion of the LL.M programme. However, it is interesting to note that only half of these respondents had concrete plans in place to start their careers as full-time teachers or researchers. Another 25% of respondents admitted that they had been casual in deciding to study at the postgraduate level, with limited clarity about their prospective career paths. An intersecting proportion of 20% of the respondents stated that they had appeared for the PG CLAT with the intent of securing a job at a PSU and on being unable to do so, they had joined the LL.M. programme as a backup option. Only 5% of the surveyed students said that the desire to earn more income had drawn them towards postgraduate legal studies.

Institution's role in creating or enhancing Career Indecisiveness: It was worth asking whether the institution has in any sense perpetuated the career indecisiveness among candidates, whether knowingly or unknowingly. 70% of our respondents said that their institution of postgraduate study was not responsible for career indecisiveness. However, the other 30% believed the opposite to be true, thereby holding the institutions somewhat responsible for adding to their career ambivalence (which may not necessarily be a negative attribute as explained in Section 3.3. of this Report). 5% of them stated that their own indecisiveness has arisen in a constructive way owing to the multi-faceted opportunities provided by their institution of postgraduate study. One response that came to the fore was that the respective institution could have been clear in terms of its support for certain kinds of career paths and its relative indifference towards others.

Institutional efforts to promote Ph.D. enrollments: At the time that this survey was conducted (April-May 2016), none of the institutions that were covered by it were providing any internal sources of funding for their Ph.D. candidates. As noted in the previous section, most of the Ph.D. candidates were enrolled on a part-time basis, which means that they were earning their livelihood through regular forms of employment such as litigation, teaching, government jobs and law firms. A few full-time Ph.D. candidates had secured funding through the Junior Research Fellowship (JRF) provided by the University Grants Commission (UGC) while a miniscule number had succeeded in obtaining support from the Indian Council for Social Science Research (ICSSR). In the larger analysis, the numbers of Ph.D. candidates with such external forms of support appeared to be quite insignificant. However, when it came to admission decisions for Ph.D. programmes, there appeared to be no strong correlation between the applicant's location of postgraduate study and the chances of admission. This showed a relatively healthy trend that there was no systemic preference for in-house candidates.

Highlighting career choices and institution's role: The role of an institution is to clearly communicate the objectives of the programme to the candidates as well as to point out the career choices that are closely related to these objectives. The responses on this count

were quite mixed. 45% of the respondents believed that their respective institution of postgraduate study had not paid sufficient attention to this aspect. However, another 20% of respondents believed that at an individual level, they had access to several faculty members who are helpful and willing to guide postgraduate students when it comes to their career choices.

The Teaching Assistant Program and Career Progression: The Teaching Assistant (TA) programme is designed to develop capacities for classroom teaching and research supervision among late-stage undergraduate students and more significantly at the LL.M. and Ph.D. levels. It is meant to enhance skills, both in the managerial aspects of handling younger students and the methodology of teaching. A few of our respondents had the opportunity to work as Teaching Assistants, while a majority had not gone through the same. Performing this role (usually for a semester) visibly improves the postgraduate student's subject-knowledge as well as confidence in communication. In some cases, the Teaching Assistants also got to deliver a few regular classes apart from smaller tutorial sessions, to evaluate term-papers and other forms of assignments. This gives a good sense of the expectations from a full-time teaching role and can help interested candidates to secure academic positions in the future. However, it must be stressed that usually only a small proportion of the LL.M. cohort at a particular law school will get the benefits of such an opportunity. It goes without saying that the quality of the experience will also depend on the attitude of the faculty member to whom the TA is assigned as well as the postgraduate student's own levels of interest in the chosen subject-matter.

Impact of opportunities at PSUs and Career Ambivalence: In the academic year 2013-2014 which is when the One-Year LL.M. programme was introduced, around 1,385 candidates appeared for the PG CLAT. This number increased to 2,260 candidates for AY 2014-2015 and in the subsequent year (AY 2015-2016) the applicant pool rose to 5,500 candidates. In the most recent PG CLAT held for AY 2021-2022 (at the time of finalization of this Report), the pool of applicants has crossed 10,000. It is seen that after Public Sector Undertakings (PSUs) decided to use PG CLAT scores as initial filters for their recruitments, there has been a continuous increase in the number of applicants. As

mentioned above, 20% of our respondents acknowledged the fact that they had appeared for the entrance examination primarily to get a job at a PSU and then opted for the LL.M. as a second option. This empirical reality shows a digression from the goal of attracting more law graduates into postgraduate studies and eventually into academic careers.

FINDINGS:

Thus, it is seen that the formal objective of the LL.M. programme, that is to attract young law graduates into academic careers, is not consistently shared from the perspective of enrolled postgraduate law students. Most of our respondents were not sure about pursuing this path and many had not even seriously considered it as an option, confirming the trends reported in Section 4.1 of this Report. Similarly, the relatively low rate of involvement in TA programmes (where available), the lack of financial support for Ph.D. candidates and inadequate resources devoted to postgraduate programmes (especially in terms of faculty expertise for specialised teaching and research supervision) are some of the reasons which undercut the pursuit of the stated goals of postgraduate legal studies.

So how should we address both the causes and symptoms of these forms of career ambivalence? The respective institution should from the very start of the postgraduate programme, highlight the larger societal role of the LL.M. programmes and the consequent career pathways. The admission brochures must contain details about the preferred career choices and give an honest description of the institution's resources to support the same, be it in the form of the available faculty expertise, the areas of specialization on offer or the sources of funding for socio-legal research. A Teaching Assistant (TA) programme must be put in place and made more elaborate with time (just as the common law is supposed to work itself pure through the accumulation of experiences), so that postgraduate and doctoral students receive effective mentoring and exposure that would prepare them for full-time academic appointments in the future. Given the large number of vacant academic positions in our universities, it may also make sense for PhD. Admission Committees to actually start admitting more of their internal candidates, of course after satisfying themselves that the research proposals address a knowledge-gap in the chosen field of study. Needless to say, an active culture

of academic exchanges and open debates (through the regular hosting of seminars, conferences and guest lectures involving noted scholars and practitioners) is necessary to encourage more postgraduate students to subsequently pursue doctoral studies.

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4.3 Extension Activities

Apart from offering taught programmes and facilitating meaningful socio-legal research, law schools need to prioritize activities that enable them to reach out to the wider public. One such route is that of 'Clinical Legal Education', which in turn has two distinct forms. The first of these 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 and more proper form of Clinical Legal Education 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 educational institutions 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 campuses also makes it difficult to regularly work with State and District Legal Services Authorities that are usually located inside urban centres. However, there are institutions such as the Campus Law Centre (CLC), Delhi University and the West Bengal National University of Juridical Sciences (WBNUJS) located in Kolkata that have been running their Clinical Programmes quite effectively for several years. In this section, we present a descriptive overview of how Clinical Legal Education has been imagined and practiced at several law colleges.[162] Since the Department of Justice (DoJ), Ministry of Law and

162 We acknowledge the contributions made by Shrishti Trivedi (LL.M. 2015-2016) and Aayush Malik (BA,LL.B. 2018) in preparing Section 4.3 of this Report.

Justice, has already supported several research projects on Clinical Legal Education, our discussion here is quite cursory.

Descriptive Study on Clinical Legal Education

Clinical Legal Education (Hereinafter 'CLE') attempts to bridge the gap between legal theory that is taught in universities and the practice of law. The idea is to promote experiential learning so that students can practice law effectively once they enter the profession. Over the last few decades, CLE has been successful around the world. In Indian universities, CLE is a part of the syllabus mandated by the Bar Council of India (BCI), besides being delivered through legal aid cells that are supposed to extend legal services to the needy persons and communities. This is done with a view to help students develop their skills in fact-finding, investigation, interviewing, and legal research and writing. One could even argue that the older casebook method of teaching should lose its central status, and the focus should turn towards the first-hand experiences. Several instances of citizen participation clinics have been found to be successful in the Indian context, especially where the student volunteers collaborate with community-based NGOs to provide access to legal services to communities. Such a system benefits the civil society organisations too as they are able to build their capacity to use political process and legal mechanisms. Students are able to get a grasp of basic lawyering skills and also get to reflect on how the Indian legal system renders invisible or perpetuates social and economic injustices.

Clinics have been conducted in three modes. A simulation clinic is where students act out cases in a simulated environment. They interview clients, negotiate settlements and act out court hearings among other steps. In an 'in-house client' clinic, real problems of people are addressed and opinions are given. The clinic is based in the law school, where it is monitored and controlled by faculty members or senior students. The service can be in the form of only advice, or it can be coupled with assistance. In an 'out-house client' clinic, students perform legal work outside the law school environment. Such a clinic requires students to give advice only, and could be run by other civil society organisations such as NGOs, Trade Unions, Cooperatives or Self-Help Groups.

The focus of legal education, which was to solely produce law clerks in the British period, saw a paradigm shift after independence when lawyers were expected to help materialize the social, economic and political aspirations of India. However, clinical programs were initiated only later, and till then, legal education had little to do with skill-development and social justice action. With traditional lectures taking the central space, practical training in law school was not given much importance, and the idea was that students would learn on the job once they enter the profession. It was only in 1960 that CLE was formally introduced in India, rooted in the Legal Aid and Legal Education Reform Movements.[163] In 1949, The Bombay Legal Education Committee had recommended the inclusion of practical courses involving seminars, group discussions and moot court exercises. The 14th Report of the Law Commission of India, published in 1958, also emphasized upon the significance of a professional course for providing effective vocational training. With the elimination of apprenticeship requirements, the question of maintaining quality of law practice surfaced. In 1977, the Bar Council of India (BCI) recommended practical training for students in the curriculum.[164] Reports of the UGC were also instrumental as they outlined the objectives of practical courses, the need to develop a variety of skills and sensibilities.

Another early mover in Clinical Legal Education was the Law School at the Banaras Hindu University (BHU) which started offering an optional course in this area to a limited number of students in the early 1970s. This course included court visits, participation in a Legal Aid Clinic (established by the institution) and the completion of an internship in a lawyer's chamber. The Legal Aid Clinic was supervised by a retired judge. Initially it was just court visits once a week but eventually students and teachers associated with the Clinic were required to go to nearby villages and undertake programmes for spreading legal literacy, to conduct social surveys for assessing the implementation of welfare programmes and also to facilitate the settlement of minor property disputes through Legal Aid Camps. Another initiative was taken at the

163 Archana K., 'Practicability of Clinical Legal Education in India: An Overview', 4(26) *Journal of Education and Practice* (2013).

164 Sital Kalantry, 'Promoting Clinical Legal Education and Democracy in India', 8 *NUJS Law Review* 1-12 (2015).

Department of Law, Aligarh Muslim University (AMU) in the 1980s. It emphasized upon making students learn factual investigation, legal research, writing and litigation strategies.

Further, a network of legal aid initiatives in various spaces of law practice was recommended by the Expert Committee on Legal Aid of the Ministry of Law and Justice. The Committee was chaired by Justice V. R. Krishna Iyer and published the report "Legal Aid Programme in India- An Experiment in Reforming Legal Education" in 1973. The network was supposed to be spread across court houses, bar associations, local government institutions, NGOs and law schools among other entities. The 1973 Report looked at students as an inexpensive resource for providing legal services such as interviewing clients, drafting documents and appearing in petty cases. The 1977 Juridicare Committee report recommended law schools to be more instrumental in running legal aid programmes. It also focused on developing clinical teachers, and developing interdisciplinary courses on themes such as 'Law, Poverty and Development' and 'Protection of Human Rights'. The Bhagwati Committee report also discussed the importance of legal literacy and class action through public interest litigation.

The BCI being the professional regulator has, hence, instructed law schools to introduce a variety of clinical courses to ensure the development of advocacy skills on part of students. Students are required to complete four clinical papers during the course of a bachelors' degree in law. As per the BCI Rules on Legal Education, 2008 these are: -

1. Drafting, Pleading and Conveyancing**:** Involves teaching of general principles of drafting and relevant substantive rules. It is prescribed that the course is to be conducted through class instructions and simulation exercises, preferably with assistance of practicing lawyers or retired judges.
2. Professional Ethics & Professional Accounting System**:** This course requires collaboration with practicing lawyers to understand bar-bench relations, through material prescribed such as Bar Council Code of Ethics, Contempt Law and Practice, opinions of Disciplinary Committees of Bar Councils and relevant Supreme Court judgments.
3. Alternate Dispute Resolution: Instruction and simulation programmes on

negotiation, conciliation and arbitration by senior legal practitioners.

4. Moot Court Exercises and Internship**:** Includes moot court activity, observations of trials in civil and criminal cases, interviewing techniques, pre-trial preparations and maintaining an internship diary.

The BCI Rules on Legal Education, 2008 also mandate the establishment of a Legal Aid Clinic, supervised by a senior faculty member, in cooperation with the respective State and District Legal Services Authorities. Typically, clinical courses have focused on student involvement in real life cases through social justice activities like legal aid. These courses are expected to help students develop skills such as communication, interviewing, negotiating, drafting and effective client counseling. Such interaction also helps them understand the position of others as they learn about legal issues faced by them and constraints in seeking a solution, develop empathy, and help them treat clients in a dignified manner.

Legal Aid initiatives at Indian Law Schools

This part attempts to document the practice of legal aid clinics in some of India's well-known law schools. The aim is to look at specific strategies adopted by them and the nature of their programmes.

NLSIU Bangalore: The NLSIU Legal Services Committee (Hereinafter 'LSC') was constituted in 1995 as a student initiative with support from senior faculty, and was meant to encourage a hands-on approach to applying the law learnt in the classroom. It was officially recognized in 1997. The clinic in campus has been operational since August 2005, which besides providing legal aid, has also helped in mediating issues. The clinic works to promote legal aid and awareness on criminal civil, consumer, juvenile justice and a host of other matters. Members have helped clients to draft wills and get them registered. One of the main functions that LSC carries on is the clinical task of handling cases that marginalized and disadvantaged people face, often connecting them to pro-bono lawyers. To take knowledge of the law far and wide, LSC conducts legal literacy programmes and street plays to inform the people about their legal rights and

remedies and bring about systematic change in the society. Under the initiatives of the Legal Services Clinic, numerous PILs have been successfully filed leading to meaningful orders being issued to corporations and public agencies. The Clinic also focuses on social action mobilization camps, conducts socio-legal surveys relating to impoverished people.

The clinic helps students practice skills learnt in class, while being exposed to social action initiatives. Members get to cultivate their practical and professional skills. It aims to expand the pro-bono legal services it offers to the community, drafting guidelines for carrying out the pro-bono work, re-shaping the legal aid policy of Karnataka, and spreading awareness and legal literacy. Some of the significant works of the LSC include publication of a handbook on consumer law, evaluating the implementation of the Juvenile Justice Act in Karnataka, the publication of Frequently Asked Questions (FAQs) that address common queries on law as well as organising legal and financial literacy programmes for prison inmates, security guards, school children and the Hijra (Transgender) Community. Under its Prison Project, the LSC provided legal representation to women under-trials in the Central Prison near Bangalore, many of whom had been languishing there without having any representation in the court. The LSC has a panel of lawyers in Bangalore dedicated to the task of representing these clients. Obtaining bail for the prisoners who are from Nepal and Bangladesh, duped by passport agents with fake passports, has been a challenging task, besides those prisoners who do not have sufficient money to provide as surety. The Outreach Project targets the underdeveloped districts of Karnataka such as Raichur, Bidar, Gulbarga and Hubli-Dharwad, providing law colleges there with basic resources such as guide on how to set up the clinic, conducting legal literacy programmes, putting up posters and distributing bookmarks. Initial hesitation on part of other colleges was later overcome and the network has been growing ever since.

Campus Law Centre (CLC), Delhi University: The Legal Services Society at the Faculty of Law, University of Delhi seeks to utilize social spaces for learning experience, and to make students aware of the empowering or oppressing nature of law. This helps them reach out to the deprived and marginalized communities under Section 12 of the Legal

Services Authority Act, 1987, and make access to justice easier for them. The idea is to equip them with practical knowledge, while also preparing socially responsible law officers. The Society has noted that many people in India are unaware of rights and remedies available to them, which is also caused by low level of literacy and education, or constrained financial resources. In the Campus Law Centre, students have been given paralegal training in Tis Hazari Court. The Legal Aid Society here runs a Legal Aid Clinic to provide people with legal counsel and advice. Orientation programs, legal awareness drives, field visits to observation homes, Tihar jail visits, poster making competitions are among the various activities that have been conducted. The Society has also done research on 'Forensic Medical Jurisprudence' and a Pilot Project to Foster Traffic Discipline in Delhi. Legal Awareness Drives in various parts of Delhi have made volunteers target issues such as sewage-management problems, access to pension funds for retired persons, marriage disputes and localised drug de-addiction programmes.

West Bengal National University of Juridical Sciences (WBNUJS) Kolkata: The aim of the Legal Aid Society at NUJS is to spread legal awareness among students and the masses. The Society seeks to accomplish this through various activities like seminars, awareness camps, legal counseling, street plays, combined with co-curricular activities such as poster making and public speaking. It inducts law students to utilize their legal knowledge to provide free legal aid to the needful through various channels, focusing on preventive, remedial, activist and reformative action. The Society also actively spearheads the Coordinating Committee for Intra-State Networking of Law Schools. The programme has members from 13 law colleges of West Bengal.

The Legal Aid initiative is a student-run extra-curricular activity. The programme does not award any academic credits. The legal aid cell is a wing of the legal aid society. It entails two operations: a sit-in clinic and a mobile online clinic. In the sit-in clinic, one Legal Aid Society member, one Bengali speaker, one senior member, and two to three volunteers from the general body sit in the legal aid room in rotation, thrice a week. The Society advertises around the college through flyers and word of mouth announcements, through awareness camps and skits. In this manner, the clinic is able to obtain clients. It

also gets clients through alumni, students and teachers. For instance, someone who is aware of a land dispute in their maid's house, can refer her to the legal aid clinic. Students in the clinic try obtaining information from the clients through interviews and try to provide a relevant legal opinion. The client is then put in touch with a pool of volunteers which includes lawyers, law teachers, alumni and NGO workers for further action if required. The mobile online clinic was set up by a former faculty advisor, where the Society collaborates with a non-governmental organization in Delhi.

Legal Aid activity in NUJS is completely voluntary and open to the general body of students, with a new call for volunteers sent out each year. The Legal Aid Society deals with organizational aspects of the clinic and also provides training to volunteers. It is mandatory for each member of the Legal Aid Society to sit in the clinic, on a rotational basis. Each session is of four hours. The Society also strives to work around issues within the legal education community before taking ideas to the outer circles. The aim is to tap the increased inclination toward greater social responsibility with the surfacing of initiatives and build a strong network between law schools, in order to pursue legal aid as a tangible goal in the coming years. WBNUJS had drafted and implemented the first Trans-Inclusivity policy for an Indian Law School. The Legal Aid Society had also helped in drafting an anti-sexual harassment policy and held gender sensitization workshops for different target groups such as Students, Faculty, Administrative Staff and Contract Workers.

Gujarat National Law University (GNLU) Gandhinagar Under Section 4(k) of the Legal Service Authorities Act, 1987, GNLU has set up its Legal Services Committee. It provides legal assistance through traditional casework, summary advice, self-help, community legal education, community development and policy reform initiatives. One of the most successful initiatives of the Committee has been the four free legal aid clinics it runs in four villages of Gandhinagar district: namely those of Raysan, Kudasan, Koba and Shahpur. These clinics are run three days a week, besides conducting legal literacy camps.

The GNLU LSC had also attempted to analyse the implementation of Section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009, leading to the setting up of an RTE resource centre. The Committee conducted surveys at some primary schools in Gandhinagar to assess how well the legislative intent has materialized. The Committee has conducted research in the area of woman trafficking in Gujarat, and has prepared a model to prevent it. A noteworthy project of the LSC was the redrafting of the manual scavenging law, which has been in place since 1992 but the abominable practice has still continued.

Challenges for Clinical Legal Education in India

One of the most critical stances on Indian legal education has been that it has not provided a strong clinical education system. There is a wide gap between the theory and practice of law. Various reasons have been pointed out for the failure of CLE in India, including lack of forethought, resources and trained faculty. It is often argued that legal aid has remained confined to extracurricular activities in law schools, with negligible efforts made to integrate it within curriculum. However, even Universities that do give academic credits to students for participating in the legal aid programmes have not shown compelling evidence in favour of such integration. Questions have also been raised about the physical, financial and professional capabilities of institutions to run the legal services programme from scratch. According to Prof. I. P. Massey, law teachers are not equipped with practical knowledge to conduct such a programme, as full-time teachers are prohibited from practicing law under the Advocates Act. Students also do not have any mechanism to obtain license and practice.

In light of this, it would be prudent to look at clinical legal education through the lens of the purpose that it was supposed to achieve. A number of reforms have been suggested such as reducing the teaching hours of teachers who conduct such programmes, amending the BCI Rules to permit full-time teachers to practice law, offering credits to students who contribute to clinical programmes, maintaining low student-teacher ratio to ensure proper supervision, allocation of financial resources so that institutions can hire trained clinical faculty as well as collaborations between NGOs and legal aid societies in

law schools. Various Universities have adopted creative techniques in order to integrate clinical methodology in the delivery of formal legal studies. A shining example is that of Prof. B. B. Pande who taught for most of his career at the Faculty of Law, University of Delhi, where he played an instrumental role in teaching Criminal Law courses through the clinical method. As a part of his clinical teaching efforts in the early 1980s, he initiated the Legal Service Project at local Beggars Courts and a Pilot Project for Law Students' Voluntary Prison Services.

The solution for improving the overall condition of CLE probably lies in preparing teachers who have the relevant knowledge and experience. Integration of legal aid activities into the coursework requirements could be a good mechanism to incentivise student involvement, however, it cannot stand solely as a solution as there could be a tendency among students to opt for the activity merely for the rewards rather than the learning. Such an integration of clinic into curriculum needs to be necessarily accompanied by augmenting resources for running the clinic, establishing a structure where the community is aware of the availability of such assistance, and there is a system by which the members of the clinic provide opinion and assistance to the clients. Lastly, clinics need to develop strong outreach, and not depend merely on in-house methods, but reach out to the society at large through legal literacy programmes.

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Distance Education Programmes

'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.

Continuing Legal Education

We must also take note of the constructive role that can be played by 'Continuing Legal Education' 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 law schools 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) founded by the Late Dr. N.R. Madhava Menon, which conducts a large number of training programmes all over India.

Online Education

Our Law Schools 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, NLU Delhi and NALSAR Hyderabad have been regularly uploading the content of guest lectures and conferences hosted by them on their respective 'YouTube' channels. Recorded content can also be publicly disseminated through portals such as the 'E-Pathshala' and the 'SwayamPrabha', both of which are ongoing projects under the aegis of the Ministry of Human Resource Development (MHRD) as part of the National Mission on Education through Information and Communication Technology (NME-ICT).[165] As it is, there has been a large-scale shift towards online and hybrid modes of learning owing to the COVID-19 pandemic. However, there are concerns about the lack of equitable access to digital infrastructure (functional devices such as smartphones, tablets or laptops; internet connectivity), no guarantee of effective learning and assessment and adverse health consequences due to extended periods of online education. It may be the way forward for distance and continuing forms of education, but it cannot a substitute for in-person learning, especially at the foundational stages where social interaction and peer-learning is as important as gaining subject-knowledge.

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165 For accessing the content made available under the 'E-Pathshala' project, see the following link: <epgp.inflibnet.ac.in>. For accessing the content made available under the 'SwayamPrabha' project, see this link: <https://www.swayamprabha.gov.in>.

CHAPTER 5: 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 can only be construed as incremental steps that need to be taken as part of a continuing journey to make higher education in India both globally competitive and locally relevant.

5.1 Actionable Recommendations for improving Access

1. 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 different institutions that offer legal education. 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 law schools by a publicly reliable source. Beginning in 2018, the National Institutional Ranking Framework (NIRF) administered by the Ministry of Education, Government of India has been including a separate sub-category for 'Law'. However, only a small proportion of the respective law colleges and departments are submitting the data required for inclusion in the NIRF Rankings. It is in the interest of the applicants and the general public that all educational institutions located within India (be it Public or Private) are required to participate in the NIRF Rankings, which are far more reliable and trustworthy when compared to claims made by private news-magazines and websites, the latter being highly susceptible to the pressures of advertising and corrupt practices. In this context, we welcome the steps taken by the Ministry of Education, Government of India as well as the National Assessment and Accreditation Council (NAAC) for developing a unique criterion that will be used to assess law schools from the Academic Year 2021-2022 onwards. However, much more needs to be done to build

awareness among educational institutions about the need to participate in the NIRF ranking process, since the prescribed parameters also create a pathway for institutional growth in the long-run.

2. Even though the applicant pool for formal legal studies has grown considerably over the last two decades, it is still quite small when compared with the corresponding numbers for entrance examinations in other professional disciplines such as medicine, engineering and management studies. The main reason for this is that most of the law entrance exams (CLAT, AILET, LSAT-India) are conducted in the English language. The reach of formal legal education can be expanded considerably if the various entrance examinations are conducted in all the languages that are listed in the Eighth Schedule of the Indian Constitution. There might be practical objections to this proposal, citing the organizational 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 courses (LL.B.) after completing undergraduate programmes in other disciplines. Our law colleges and departments will be able to attract a far more socially diverse student body if the entrance exam is conducted in all the Scheduled Languages. This will improve the prospects for students from rural and backward areas to gain admission to the highly selective institutions as well. After all, this is being done for the entrance examinations being conducted by many of our Central Universities when they admit students to their respective taught programmes at the undergraduate, postgraduate and doctoral levels. This suggestion is directed both at the Legal Education Committee that is part of the Bar Council of India (BCI) and the Governing Bodies of the respective Central, State and Private Universities that offer full-time programmes in Law. Being a pan-national body, the Legal Education Committee of the Bar Council of India (BCI) can play a leading role in reorienting legal education so as to open the doors for many more applicants who would be more comfortable with studying in their respective first

languages. This transition would also be in line with a specific observation that has been made in the National Education Policy (NEP) published by the Government of India in 2020.

3. Coming to the modalities of entrance examinations such as the Common Law Aptitude Test (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 such as medicine, engineering and management. Therefore, there is a good argument to reduce the fee by half, especially for candidates who come from disadvantaged backgrounds. The higher education institutions should not treat entrance examinations as a source of revenue. Transitioning to a computer-based test has obvious exclusionary effects, especially for those who have not used computers earlier. While the COVID-19 pandemic has compelled a large-scale shift towards online testing, the socio-economic realities of India should compel us to think about the exclusionary consequences of computer-based testing. As we recover from this pandemic, it would be more prudent to return towards 'pen and paper' based tests, that ensure access for applicants from socially and educational disadvantaged backgrounds. These suggestions can be taken on board by bodies such as the Consortium of National Law Universities which administers the CLAT as well as the various educational departments at the State-level which conduct common entrance examinations for law programmes offered within the respective States.

4. Given the gradually expanding applicant pool for entrance examinations to admit students to law programmes, 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 secures 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. This suggestion can be incorporated both by public and private organisers of entrance tests as well as the managements of particular educational institutions.

5. Changes should also be considered for the format of the entrance examinations used for admission to postgraduate legal studies, specifically at the LL.M. and Ph.D. levels. 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 postgraduate programmes, it should be feasible to include some essay-type questions and evaluate them in a timely manner. This issue should be carefully considered by educational institutions (both public and private) that offer postgraduate programmes which are meant to produce the teachers and researchers who will drive the future growth of legal studies as an academic discipline.

6. 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.

5.2 Actionable Recommendations for improving Curricular Practices and Student Experiences

The recommendations enumerated below (Nos. 7 to 15) are specifically directed at the respective Central, State and Private Universities that are offering programmes in law, be it at the undergraduate, postgraduate or doctoral stages. These are more in the nature of

structural suggestions that need to be incorporated through a gradual refinement of the academic culture that prevails inside our institutions. In that sense, they are directed at both the institutions at large and the faculty members who serve inside them and shape their respective paths.

7. While some Universities 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 specializations to the students during the advanced years of their studies. 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.

8. 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.

9. Some law schools 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 a few institutions, 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.

10. 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 law colleges and departments 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.

11. In our previous report on the working of the NLUs, we had touched on several steps that can be taken to make project assignments more meaningful. We are reiterating our suggestions here since an emphasis on independent writing is extremely important for law programmes across the entire breadth of our country. 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 the intensive research and writing requirements have been the main reason for the subsequent

professional success of graduates from the well-known law schools. The institutional knowledge should now be disseminated across all educational institutions involved in the delivery of legal education. 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.

12. If law schools 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 and progressively improve their performance. 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 teachers. 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 and will lead to the production of graduates who cannot meet the needs of the profession.

13. 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 institutions 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.

14. 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.

15. Indian Universities have been benefiting from the Global Initiative for Academic Networks (GIAN) since 2016. Under this programme, the Ministry of Education, 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 institutions 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.

5.3. Actionable Recommendations for improving Faculty Development, Research and Extension Activities

16. 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 bright law graduates 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 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 proposal that can be considered is to organize a separate 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.

17. It is important for all law schools 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

different institutions 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.

18. There has to be a conscious effort on part of the various law schools to meaningfully 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.

19. Most of the higher educational institutions 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. In this respect, 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.

20. If we turn to the state of the LL.M. programmes in Indian law schools, we are faced with a complex situation. While the number of applicants 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 entrance examinations such as 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 education institution which can better judge how many students it can handle in terms of the available capacity for teaching and research supervision. In keeping with global norms, the aggregate number of LL.M. students admitted by each institution should not exceed one-third of the aggregate intake in the respective undergraduate law programmes. 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.

21. Most of the Ph.D. candidates enrolled in Indian Law Schools 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 relatively better-funded law schools 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.

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