

Addressing the Different Forms of Discriminations in Indian Law Schools

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Abstract

This article is a compilation of various surveys conducted by different law schools and organizations like IDIA, which capture the level of diversity in Indian Law Schools. It is witnessed that discrimination in legal institutions is continuously increasing and is severely affecting the mental health of many students. The law schools are witnessing various needs and changes of students based on the societal trends. Legal institutions are in a dire need of reforms, the institutions need a new educational model which is devoid of all kinds of discrimination. This article focuses on various kinds of discrimination faced by students in law schools and the reforms schools can bring to make an inclusive environment. Discrimination is a plague in the society. This article contends, that often control the possibility and substance of prohibitions against discrimination, as in disputes over liability for unequal impact, analysis of additional grounds of discrimination, and strives to reduce absolute bias.

Keywords: *India, discrimination, National Law Universities, legal education*

I. Introduction

The legal education prepares a student to become a lawyer, judge, legal practitioners and legal scholars for the future. The quality of the lawyers and the judgments completely depend upon the quality of education schools and the fair opportunities provided to each student by the law schools. National Law Universities were established to provide inclusive legal knowledge, promoting cultural, ethical, legal values and to nurture the rule of law in India.¹ Madhav Menon had a vision of endorsing social and economic justice to improve the ability of public to analyse the situation in the country and appreciate their rights and implications.² But discrimination is still prevalent in these novel institutions. It is ironic to witness discrimination in legal education institutions. Discrimination in Indian society is often based on religion, caste, language, region, education background, gender, sex etc. Discrimination occupies a middle ground between the abstract values like liberty, justice, equality and aims of the legal system details of legal doctrine and the realities of implementation, supervision, and defiance. It serves as a general tag in legal institutions, but its operative consequences turn out to be far more unsuitable and obscure.³

The article captures the diversity in top-five Indian national law school and records the heart-wrenching accounts of students facing discrimination in their campus. The article also highlights some of the reform institutions can bring to make the environment more inclusive. Most people who face discrimination come from the rural areas or are different from others. The attitude of the Indian state towards them is very saddening and unsupportive. The failure of our Indian society to perceive marginalized people as equal members of society is to be worked upon.⁴ They are

¹ Faizan Mustafa, "Madhava Menon Has Demonstrated That Every Single Individual Matters, Can Bring about Change," Indian Express, May 9, 2019).

² Alok Kumar, "Madhava Menon and Legal Education" 20 Economic and Political Weekly 10 (2019).

³ Sumit Baudh, "Roll Call of Shame," Indian Express, January 25, (2016).

⁴ Nilika Mehrotra, "Disability Rights Movements in India: Politics and Practice" 46 Economic and Political Weekly 65 (2011).

subject to pity and alienation making them less confident. People blame their condition on karma, religious reasons and many orthodox reasons and are unhelpful towards them. It is time for legal institutions to step up and work against such discriminatory practices.

II. Affirmative Action: A Facet of Equality and not an Exception of Equality

Article 15(4) and Article 16(4) of the Indian Constitution provides reservation in educational institutions and government jobs to certain castes and communities. It is largely seen as an exception to equality, but the Supreme Court, in various judgments, held it as a facet of equality and not an exception to equality.

Reservation has been a deeply contested issue since decades and is argued by some of the scholars that instead of bridging the gap, reservation has further perpetuated the divide between upper castes and other communities availing reservation. It was believed that reservation would do wonders in terms of uplifting minorities, but not much has changed since then. One of the main reasons is disregard for unconventional forms of discrimination, which students continue to face even after securing admission in an educational institution.

Most of the societies/committees in law school select students based on Statement of Purposes or interview, and therefore, the students with better communication and language skills easily get through. It works as a vicious circle of improvement. Reservation in various committees of law schools can further ensure diversity in true sense. It will improve confidence, ability to lead and help in the overall growth of the students apart from the main objective of ensuring diversity in activities undertaken by the group. The method has been used by one of the committees at NALSAR and proved to be effective.

III. Unconventional Forms of Discrimination: Barrier in performance of every student

The unconventional forms of discrimination are largely based on language, communication skills, ability to socialize, cultural and economic background etc., and all such factors act as a huge hindrance in the performance of the affected students even after their entry into law schools.

We have looked at the NUJS Diversity Survey to analyze certain factors. The respondents of the survey were asked the extent to which academics are important in their law school life and the factors that influence academic performance. Nearly 67% of respondents rated the importance of academics as High/Very High. Nearly 50% of the total respondents feel that place of residence has High/Very High influence upon CGPA. This figure is higher for those from Villages and Towns respectively. About 78% of total respondents feel schooling has High/Very High influence upon CGPA. This number is greater for those from Government Schools and Other Schools as against those from Private and Top Private Schools. About three-fourths of the total respondents feel fluency in English has a High/ Very High influence upon CGPA.

NUJS follows a 7-point grade value system ('GPA') for every subject. Among those with CGPA above 6, 93.1% of the students are from Cities, while the remaining 6.9% are from Towns. Nobody from Villages has a CGPA above 4. Less proportion of respondents belonging to City have a CGPA less than 3 as compared to those from Towns and Villages. Among those with Above 6 CGPA, the highest proportion studied in Government School, followed by Top Private and Private Schools. However, among those with CGPA below 3, those from Government School form the largest proportion, followed by Private and Top Private School. Overall, those who studied from Top Private Schools seem to be performing better than others. Nearly 70% of respondents from who finished high school in cities have mooted, while the number is 62% and 43% for those from towns and villages respectively. While no person from a village has done an international moot, about 10% of town respondents have. Nearly a quarter of the respondents from cities have mooted internationally.

It is clear from the results of the survey that language, cultural, social and economic background play a vital role in every student's life, but these factors need to be acknowledged, and measures need to be taken to mitigate the effect of discrimination caused from such factors.

Persons with Disabilities: Continue to Face Institutional and Other Discrimination

Section 32 of the Rights to Persons with Disabilities Act, 2016 creates a mandatory obligation for all government higher educational institutions to reserve at least 5% of seats for "persons with benchmark disabilities" and Section 16 of the Act requires these educational institutions to make their campuses accessible. Unfortunately, due to non-compliance, both these measures have failed to address the systemic and structural exclusion of disabled persons from higher education.

Even if disabled students get admission in higher educational institutions, they have to struggle and face accessibility barriers, including bad roads, no provision for ramps to help with wheelchair mobility, and inaccessible washrooms. In places where these facilities are provided, they are not in good condition. The failure to provide barrier-free infrastructure, the unavailability of lifts and the lack of a special transport system make it extremely difficult for disabled students to survive life on campus. In addition, the failure to provide adequate and accessible accommodation and transportation increases the financial burden on disabled students and their families forcing them to drop out of the institution.

Educational institutions argue that there is no need to make their institutions accessible if there are no disabled students enrolled. This argument is problematic because disabled students will not apply to institutions which do not have adequate and accessible infrastructure. Thus, even with the 5% reservation, the enrollment rate of disabled students remains low. To attract disabled students, higher education institutions must provide adequate and accessible facilities. We have witnessed first-hand instances where a student with a locomotive disability had to drop out of a reputed law school due to inaccessible campus.

Educational institutions should be inclusive for students with disabilities. Three interventions can be made in this regard. First, adequate and accessible infrastructure must be there; Second, regular sensitization of academic and non-academic staff and students to understand the requirements of disabled students; Third, better monitoring and implementation of obligations under the RPWD Act. The Chief Commissioner of Persons with Disabilities and State Commissioner have a duty to monitor the implementation of the Act and review its safeguards, but they have not been effective in this task so far. This has reduced the benefit of the 5% reservation to disabled students, leaving the promise of social inclusion and equality for disabled person's hollow.

Failure of the Indian Law with regards to the disabled students

The Indian Constitution does not include a fundamental right stating that no person shall be discriminated or be disadvantaged on the basis of disability. In India, the persons with disabilities are the most ignored and disadvantaged strata of the society.⁵ The root causes of disability in this country are poverty, ignorance, superstition, poor housing, lack of health care, low educational level and lack of political support. The Persons with Disabilities Act was passed in 1995. The Act affirm that every child with disability should be provided free education till the age of 18 and make arrangement for setting up a special school with special requirements for them.

There are numerous disability friendly schemes envisaged under the Act which will be accomplished within the limits of economic capacity and development of the state. For example, measures to be taken by the government for prevention and early detection of disabilities, for adaptation of rail compartments, buses, vessels, air crafts to make them accessible to wheel chair users, for installation of auditory signals at red lights on the roads for the visually handicapped people will be subject to the economic capacity and development of the state. Similarly, the ramps in public buildings, adaptation of toilets to wheelchair users, braille symbols and auditory signals in elevators and lifts, ramps in hospitals etc. shall be subject to the economic resources. The arguments of economic constraints will always be available with the government for denying reasonable accommodation to the people with disabilities.

The Calcutta High Court in Deputy Secretary (Mart), Dept. of H & F Welfare v. Sanchita Biswas 120 has also held that the state is bound to. provide three percent of the total seats in an educational institution for the handicapped candidates. In the author's view the approach taken by Rajasthan and Calcutta High Courts is more convincing than the view taken by Delhi and Gauhati High Courts. Merely because a chapter's heading is 'Employment' it cannot change the legislative intent. The title of a chapter cannot be used to restrict the plain meaning of an enactment.

The Indian disability law does not offer any hope of constituting a shift from charity and welfarism to civil rights and social integration of people with disabilities. The Act suffers from some major flaws. Firstly, unlike German, American and United Kingdom's laws, it does not cover employment in private sector. Secondly, there is no enforcement of the rights of the disabled people through any disability tribunal or special disability court to provide relief to the individuals against disability discrimination. Thirdly, there is no provision in the Act for imposing sanctions or fine for non-compliance of the provisions of the Act. Fourthly, it is not mandatory for the government to remove structural and environmental barriers for the integration of the disabled people.

⁵ Ibid.

Personal Narrative by Anchal Bhateja- first 100% visually impaired student in NLSIU.⁶

National Law University of Bangalore takes first step towards empowering disabled students. Championing disability rights is still a little sapling in the National Law Universities of India. The chief issue being the infrastructure in the institutions.⁷ The largest minority in the country or the world is devoid of most basic rights such as education and dignity. She shares some statistics that, nearly 50% of the 2.68 crore of the disabled persons are below the age of 25.

The institutions give reasons that no special infrastructure is required for the disabled because they are very few. But the question is, can the institutions deny the legal duty to provide accessible or reasonable accommodation to person with disability. The issue is not that very few people have disabilities. The elephant in the room is the justification provided by the institutions and because of this justification not many (students, teachers, employees or workers) join such institutions.

She states that the infrastructure in NLSIU or other NLUs the infrastructure is not very promising. There are reservations for the disabled, but the help or support provided is not enough. In NLSIU, four seats were reserved for the disabled out of the batch of 80 or 85 students. This was due to the Disabilities Act passed by the parliament in 2016. This Act also includes that it is the duty of the institution to provide accessible building, suitable accommodation, and inclusive environment for studying. She states that “reasonable accommodation” has a legal effect, and thus, it is a non-negotiable part of the Act because the reservations are useless without it.

NLUs have started the process of making the institution more disabled-friendly but there is long way to go. For example, “they have opened a special room for visually impaired students in the library, they have procured assistive technology, they have made some classrooms sound-proof for the benefit of students with hearing impairment and staff and student bodies have initiated programmes and workshops to promote sensitisation pertaining to disability.”

“Yet, the NLUs, including NLSIU, have not conducted a disability audit (a requirement under Section 48 of the Act). Nor do the NLUs have a disability policy, another requirement by law. Many places in law colleges are not accessible for wheelchairs, all the reading material is not available in a readable format and structures and evaluation patterns of many courses do not account for the challenges faced by the PWDs. Many a times, the professors and administration are unable to gauge the requirements of students with disabilities. This lack of understanding coupled with an extremely rigorous curriculum leads to alienation and exclusion. The lack of accessible reading material, inaccessible infrastructure and insensitivity and non-cooperation on part of faculty and administration have become part and parcel of the lives of many budding lawyers with disability.”

IV. Discrimination in Legal Education in India

The examination of legal education in a society provides a window on its legal system. Here, one sees the expression of basic attitude about the law: what law is, what lawyers do, how the system operates or how it should operate.⁸ A legal system is a subsystem of a social system, and the system of legal education is a subsystem of the legal system.⁹ Each country has its own set of biases and resulting weakness in the legal education system. Most countries are continuously struggling to remove major discriminatory practices; however, there are many subtle ones out there lurking like termites quietly chewing the system hollow.¹⁰ The Constitution of India grants equality to all its citizens. It was the euphoria of time when the British empire was overthrown, and powers were brought in the hands Indian rulers who promised of a free India through law. Moreover, Dr Ambedkar, the maker of India’s Constitution, was also the leader of the untouchables, the lowest in the caste hierarchy, and was fervently committed to employing law as the tool of justice.¹¹ Today, after 73 years of independence, yet the legal machinery still has to imbue the constitutional principles. It is more of an irony how you can find discrimination within the legal education system as well. Discrimination in India is often based on language, region, caste, outer appearances, financial disparity, family

⁶ Ancha Bhateja, A Law Student Explains Why Law Schools Fail the Differently Abled, News Click, Aug 26, (2019).

⁷ Sakshi Broota Hosamane, "Developing the Gender Dimension in India in Disability Rights Movement", Iris International, May 30, (2007).

⁸ John Henry Merryman, "Legal Education There and Here: A Comparison" 27 Stanford Law Review 859, 1975

⁹ Ibid.

¹⁰ Ibid.

¹¹ Sameena Dalwai, "Caste in Legal Education: A Survey of Law Schools in Delhi" 5 Asia Journal of Legal Education (2017).

background, etc. The discriminatory action can be perpetrated by teachers, administrators or students and the victims are not only students but at times staff and faculty too. Concern about the increasing discrimination in the culture of legal education and profession has certainly driven an urge to curb this social injustice. Therefore, the legal educators and bar leaders are devoting a considerable amount of time with a vision to eradicate this malpractice. However, a mere enactment of laws against discrimination is not enough; the legal education system must be modified and planned in a manner to produce generations of competent law professionals. A Legal Education Model should be structured in a manner that it can easily deal with the myriad instances of discrimination prevalent in legal education in India. Specific instances of such discrimination are:

Discrimination before and after entering the Law School

Hon'ble Justice D.Y. Chandrachud spoke at an event launched by CEDE (Community for the Eradication of Discrimination in Education and Employment) which aimed at 'Envisioning an exclusive legal system' Mr. Justice quoted the words of Marc Galanter with regards to the three broad factors which qualify as indicators of merit and are necessary to produce results in competitive examinations which are as follows:

(a) Financial resources, (b) Socio-cultural resources, (c) Intrinsic ability and hardwork

The first two factors are out of ones control and the only way to cure the negative effects of Reservation is to first acknowledge it.¹²

The legal fraternity thrives on the ability of the student to network, capitalise on the existing social contacts of the family. Hon'ble Mr. Justice states that 'The rate of success of an individual in this profession is invariably defined by informal structure ranging right from receiving quality mentorship, obtaining referrals, being designated as Senior Advocates or getting collegium's approval on being elevated to the Supreme Court etc'. To understand this it is important to know that this profession creates gradation between individuals, and they witness the very first gradation even before entering the law schools which is done by sitting for the CLAT (Common Law Admission Test) and is only offered in the English language, which automatically favors the upper caste, who have the access to high quality english medium education and even ; therefore automatically depriving the students belonging to the marginalised communities by lowering their chances to bag a seat in a top National Law University, which churns out top placement at foreign law firms. Apart from that, earlier the CLAT examination used to check the logical reasoning capabilities of students which required sight, depriving the visually challenged students a fair chance to compete. However this practice has been recently done away with.

The second gradation is discrimination within the law schools as it is usually the Top 5 National Law Universities versus the other lower NLU's as the students belonging to the top 5 NLU's boast about their tales of superiority mainly because of better alumni base, placement oppotunities and other affiliations.

The third gradation is the cultural divide amongst the students irrespective of sharing similar marks in the scorecard there lies a bias and people belonging to backward/marginalized communities face discrimination, which can be very well understood by their acts and omissions such as refraining from being an active member of the college committees, moot court/debates competitions or badging reputed internships. Others justify this by claiming that these students are simply unable to cope up with the pressure, but in reality they fight several uphill battles on a daily basis against the privileged sections. Mr Justice states that 'The privileged of such upper caste/class students could be ascertained from possessing membership of networks that manifest within the law schools ironically provide most help to those students who arguably need it the least, social circles formed on relatability which are influenced by gender or caste linkages and depends on ones socio-economic conditions. He added that 'Good internships are situated in Tier-1 cities, which do not provide a living stipend to their interns, compelling them to dismiss these opportunities as a viable option'

The fourth gradation is discrimination at workplace as Tier-1 law firms tend to pick students from top National Law Universities. Justice Chandrachud also addressed this issue of 'Elitism' at the Harvard Law School Center on the Legal Profession and highlighted how law firms don't look beyond the top 10 colleges, depriving meritorious students of opportunities and corporate legal structure of the talented legal minds. They also negotiate salaries based

¹² Satish Deshpande, "Inclusion versus excellence : Caste and the framing of fair access in Indian higher education" 40 South African Review of Sociology 127 (2009).

on the grades the candidates got during their law schools. In the age of globalization, Merit is not restricted to and is much more than just academic grades.

Being knocked down by four gradations through peers without no fault of their own. These accumulated road blocks will continue to effect them in the future and they will only snowball over the years.

Discrimination on the basis of Caste:

Around 16 percent of India's population stems from untouchable castes, also called Dalits. Despite a flattering growth in civilization, technology, and modernization the grim reality is that the Indian society is still chained to caste discrimination. Dalits are relegated to districts, they have minimal exposure to education and experience regular abuse by the authorities, in the form of police, as well as the people from the upper castes. Discrimination varies from physical isolation to denial of a position of privilege or even education. The Caste system, which goes back to the ancient Vedic period, has taken a toll over the society by its own people. The caste-based practice has sadly become a common practice in many law schools. The right against 'untouchability': The Indian constitution outlaws caste discrimination and the practice of 'untouchability' A law enacted in 1989 to protect Dalits against discrimination makes it a punishable offence for non-dalits to entice Dalits to do forced or bonded labor for public purposes. It also prohibits non-dalits from insulting or humiliating Dalits. International human rights law forbids caste-based discrimination and obliges India to prevent, prohibit and eliminate such discrimination. Nevertheless, many Dalit children are treated as 'untouchable' by teachers and other students. This includes segregation in class rooms, exclusion from school ceremonies and denial of access to school water supplies.

As per IDIA's (Increasing Diversity by Increasing Access to Legal Education) Survey of various National Law Schools, around 20 percent of the surveyed students faced harassment or bullying because of various factors such as their family background, poor English language skills, dressing sense, knowledge of popular culture, caste, or financial status. Also, 35 percent of those surveyed had trouble fitting into the student community in their college because of their background. Lack of fluency in English has become a very common factor of discrimination among students. This practice has an adverse effect on the performance of these students in activities such as debates and moot court competition which are considered crucial to the course thereby also affecting their overall grades.

This grave discrimination has suffocated the lives and hindered the education of many Other Backward Class (OBC) Schedule Caste and Schedule Tribes (SC/ST) students in India.

The high rate of suicides in these institutions is only the tip of the iceberg, reflecting only a fraction of the harassment and hostile environment around them.

Discrimination on the basis of Language, Region and culture:

India is a country with vast linguistic and cultural diversification. However, instead of being celebrated, these characteristics have become the basis of widespread discrimination in law schools. The ancient, preconceived notion about status differences between various cultures has influenced the current legal education system, with the result that discrimination is experienced by the victim from both classmates and teachers. Culture and education are interdependent. The educational pattern of an institute is highly influenced by the language and cultural patterns of its majority section. This often results in a feeling of superiority amongst the majority and favoritism shown by the teachers towards the segment. The minority experience neglect and isolation while there is no strict actions or condonation taken against students who perpetrate such discriminatory behavior.

Discrimination on the Basis of Language:

Language classes or legal education in various languages can be proposed in law schools for the purpose of eliminating discrimination. Potentially providing education in some of the National Languages as well as the dominant Regional languages can attempt to eliminate isolation and promote cultural harmony in the nation. Language learning whether regional or international should be an important part of the curriculum in law schools. This education methodology in law school would assist in eliminating discrimination based on culture - as students while learning other regional or international languages will start respecting the native language of other students which will enable harmony in global law institutes, wherein law faculty are engaged in academia from and around the world. The Indian Legal Education System should be modified in such a way that the essence of every culture and language is maintained. The education pattern, grading system and selection system should be common throughout the country.

The Report on Discrimination by NLSIU

National Law School of India University, Bengaluru has raised the topic of discrimination faced by students in law school. The mindset of college students needs to change towards their fellow classmates who belong to different, marginalized communities or if they represent themselves as different from the others. The report termed NLSIU as “another university overwhelmed with realities of its time where the marginalized are seeking to eke out a piece of history and the privileged incapable of letting go of their monopoly”. The report describes marginalized communities as a student with disabilities, student belonging to schedule castes and tribes and the other backward classes. The committee demands a structural change by introducing punitive code would only suppress the insensitive behavior. Most students in National Law Schools belong to the metropolitan, semi-urban or urban backgrounds. Very few belong to the marginalized communities. Considering the above fact, committee demands that English subject should be added to the LLB curriculum since the students from marginalized communities have lower social capital comparatively. These English classes will also help students to perform better in academic and non-academic sector. Students who have higher proficiency in English tend to overpower the once from the marginalized communities who did not have a chance to learn professional English. Thus, training marginalized students in English will give them a levelled playing field to compete.

Concept of Rank Family:

According to the report, the chief factor that alienated marginalized students is a factor called “rank family”. The concept is such that, a student who scores a certain rank in Common Law Entrance State (CLAT) is assigned a senior with the similar rank. The senior provided the junior with notes, readings and introduces the junior to extra-curricular activities. But the students from marginalized community do not have a senior with corresponding rank and thus, they get excluded. NLSIU has tried to discontinue the practice but it is still practiced as stated by Divyanshu Bhole, vice president of Student Bar Association.

Another such practice which needs to be abolished is the publishing of allotment list in rank order. This discloses the identity of the student from marginalized communities. This action needs to be taken by the higher authorities.

Discrimination on the basis of individual’s appearance, gender, behavior and background:

"Lookism" is a phrase which is generally not talked about or discussed but has a huge social value. It is defined as discrimination based on physical appearance. It is one of the most extensive prejudices in our society. The conclusions drawn on basis of one’s physical appearance overshadows the intellectuality, technique and skills of a person. The victims are subjected to constant public harassments and insult. Young people especially are prone to discrimination from educational authorities and fellow classmates because of their sexual orientation or gender expression. They have often been declined admission or expelled from the institute.¹³ Also, extremely prevalent is the practice of favoritism based on gender and appearances among professors and job selectors in law schools.

Another factor is the discrimination perpetrated by the faculty to the students based on class presence, grades and the attitude they have towards him/her. Confronting such types of discrimination is very difficult as acceptance of critique of the faculty is rare. Consequently, such outlier students are awarded lower grades which subsequently impacts their future career graph as most hiring firms use a student's overall grade to provide an indication of his/her potential as a law professional.

Discrimination due to high fees:

The drastic increase in the fee structures of private and national Law Schools in India is a pressing issue in India. With several opportunities and dreams at stake, coining the issue as “budgetary constraint” does not do justice. The important issue being the unequal access to the educational capital because of the multiplying socio-economic differences among different tiers of the society. The Jawaharlal Nehru University (JNU) college student’s protest is one such example which draws attention to this pressing issue (Waldner).

Most underprivileged or with low economic students are uneducated because such high cost of higher education is not just worth it. A lot of ink has been spilled on this issue but as a country we still are not looking into the matter. Looking at their finances and economic status, the families have to make tough decision and the children’s dream

¹³ Satarupa Sen Bhattacharya, “Labelled, bullied, humiliated: What LGBT student in our school go through”, *Citizen Matter*, June 11, (2018).

are crushed. The fact is that good private law colleges and National Law schools are on the train to increase the fees without thinking of the average family's economic status (Singh). A few colleges have financial aid but the rules and regulation binding to it just show that the college does not care. For years higher education has operated with a philosophy that if it costs more, it must be better or more valuable, and it must also be in short supply. This philosophy has had parents and students buying into the notion that they get a real deal at expensive private colleges. However, in a tight economy they end up writing off a private college education, with its huge fees, and opting instead for overcrowded, underfunded but less expensive state institutions.

The Government looks towards a market-oriented approach in higher-studies, but this will exclude deserving students due to the sect they are born in. The economic survey notes that high fees push the underprivileged out of the education system. This will have a drastic effect, in the long run, not only on students but also on the society.¹⁴ As a society it is very necessary for us to promote children from all walks of the society and give them an equal opportunity to pursue their dream. A few scholars have brought up the following questions with respect to this issue; Should the delivery of public goods such as education be treated like commercial services? Would that not reproduce existing patterns of status-based hierarchies instead of gradually dismantling them?

The very common notion in India is that the education system, so called "industry", does not require financial support from the Government.¹⁵ Thus, they believe that it should be done away with or scaled down. Legal education is severely affected by this presumption, causing a severe damage to the society and the education system. In last few years there has been a significant rise the new age National Law Universities and on the other hand the new private institutes charge even higher fees than the NLUs. The considerably higher fee structure has contributed to the ambivalence about the broader social role of these institutions. Should they be sites of enabling higher learning or simply providing training for the workplace? What is the right balance between the inculcation of liberal values and imparting of skills needed for professional success?

NAME	5-YEAR LLB	LLM COURSE
NLSIU Bangalore	13,10,000 (OPEN) 12,94,375 (SC, ST)	3,79,000 (OPEN) 3,72,750 (SC, ST)
NALSAR, Hyderabad	12,10,000	3,50,000
NUJS	7,25,000	2,62,000
NLU Bhopal	11,76,250	2,80,000
GNTU	11,85,000	4,14,000

The above table depicts the skyrocketing fees of National Law Schools that is not possible for an average person to pay for higher education. Most of the problems are related to the support that is not provided by the state. If the state provides enough support to the institutions, then most problems will be solved.

V. Reforms:

College education does not only include tuition fees but the fees for living expenses, extra-curricular expenses and the list does not stop. This is why scholarship opportunities are so important, especially for minority students. Scholarships usually only the tuition fees but it surely helps to reduce the stress. The great thing about scholarship funds is that unlike loans, they do not need to be repaid. The motive of providing scholarship is to help students have access to education and to increase diversity in educational institutions.¹⁶ Indian law schools are working towards an inclusive environment and to provide a fair chance to students from all walks of life. Many private institutions,

¹⁴ Unnati Sharma, "It's not Just JNU, Several Institutes across India are Witnessing Student Protest" The Print, November, 20, (2019).

¹⁵ Ankita Diwedi, "Not just JNU: How India's public universities becoming costlier hurts the most vulnerable" Indian Express, December 1, (2019).

¹⁶ "Racism at university: Inquiry launched by UK's equality body", BBC, December 4, (2018) available at <https://www.bbc.com/news/newsbeat-46432710>

private law schools, corporates, and government are providing students with scholarships who cannot afford to pay such high fees.

- IDIA scholarship- IDIA (Increasing Diversity by Increasing Access to Legal Education) is a pan India project that seeks to empower underprivileged and marginalized communities by creating lawyers and community leaders from within such communities. It does this by sensitizing underprivileged children to law as a viable career option, selecting those with an aptitude for the study of law, and then rigorously training them to enter the best law schools in the country. Through this, IDIA promotes access to the leading law schools, which have over the years become bastions of elitism and homogeneity. Hence the name: “Increasing Diversity by Increasing Access” (IDIA Report) One IDIA trainee is admitted to one government law schools and they help in arranging scholarships for the needy. It does so by asking for donations and they have managed to fund more than 500 students.
- Top Class Education Scheme- A scheme provided by Ministry of Social Justice and Empowerment for Schedule caste students. The SC students, who secure admission in the notified institutions, will be awarded scholarship to meet the requirements for (i) full tuition fee and non-refundable charges, (up to 200000 for private institutions) (ii) living expenses to the beneficiary @ Rs. 2220/- per month per student. (iii) books and stationery @ Rs. 3000/- per annum per student and (iv) a latest computer with accessories like UPS, Printer, Multi-media limited to Rs. 45000/- per student as one time assistance during the course.
- Colive Scholarship- Colive provides scholarships for First Year students. The scholarship covers half a year of accommodation/hostel charges except for food, laundry and electricity charges. The eligibility criteria for the scholarship are is that parent’s income must be less than 600000. Student must have scored more than 60% in class 12. Also, a student needs to provide a convincing “statement of purpose”.
- Post Matric Scholarship for Disabled Students- Have passed matriculation or higher secondary or any higher exam of a recognised Board of Secondary Education or University and the student must have more than 40% disability certified by the competent authority. The annual family income of less than INR 2.50 lakh

There are many such scholarships that help students to pursue higher education and students in need should be educated for them to take advantage of them. It gives them a fair chance to make their mark in the society.

Legal Education Model Proposal

Nepotism has always been a culture in the law profession. One’s family background plays an important role in deciding the extent of struggle and need for hard work to enjoy a successful career. Well deserving and intellectual candidates are bound to face a long phase of the struggle if they lack an illustrious legal family background. The proposal intends to propose a few potential solutions for addressing the prevailing issues in the Indian Legal Education System. The proposal intends to further research on the legal education models and other possible solutions. In order to overcome these obstacles of discrimination in any sense in the Indian legal education system a proper legal education model must be proposed and backed by the University Grant Commission and Government of India and be efficiently implemented in a timely manner.

Training of Law Faculty in Law Schools

It is important for law schools to introduce mandatory training to teachers by language and cultural experts. Faculty training must include concepts of abolition of prevailing discriminatory practices including language, region, caste, outer appearances, financial disparity, family background, etc. They should further be trained by introducing mock session, practical demonstration training classes. The growth of the students should be the priority of an educator, faculty or teacher. However, it has been observed on occasions in practice that faculty operate with a fixed and stringent mindset. The observation of Carol Dweck, a Stanford University professor of psychology and author of the famous “Mindset: The New Psychology of Success: stated that “*growth mindset is the belief that one’s abilities, qualities, and intelligence can be developed, while a fixed mindset believes that intelligence and one’s qualities are unchangeable*”.¹⁷ We can all bring to mind some stalwart teachers and administrators who refuse to change and are stuck in their practice or reject new ideas. Just as we teach our students to continuously improve, grow, learn, and change, so must we train educators for the same mindset.¹⁸ Even the observation of Freberg, a professor of

¹⁷ Carol Dweck, Mindset: The New Psychology of Success (Ballantine Books, 2006).

¹⁸ Shazia Ahmed, Lisa Rosen, “A Growth Mindset: Essential for Student and Faculty Success”, Faculty Focus, January 18 (2019).

psychology at California Polytechnic University in San Luis Obispo, rightly points out that having a growth mindset in faculty is very important through which the faculty have a sense of believing that their students can improve and learn on a regular basis. A further flexible approach from the faculty and educator will discriminate the practice of them observing their students as bad and good students.¹⁹ Therefore, incorporation of a growth mindset is very important for the Indian law school faculty as it will assist in making them flexible in their approach which will lead to a better legal education for the students and decrease the practice of discrimination between students by the professors on various grounds.

New set of Rules and Regulations for Universities and Law Schools

There is urgent need for the University Grant Commission (UGC) to come up with strict rules and regulations. A strategic plan for this immediate implementation is needed to develop a sense of harmony between the students and the faculty. Every student should be considered equal and should be supported with classes pertaining to abolition of discrimination practices. Either individual teaching or working together in a team, the main goal is to educate the young and aspiring lawyers who will eventually benefit the legal profession as well as the society at large. In order to prevent discrimination in education and eradicate the hostile environment that such discrimination promotes the Indian government needs to enact and enforce statutory protections for the law schools. Imparting quality legal education indiscriminately to everyone who enrolls should be the paramount goal of the legal education system.

Developing a Clinical Legal Education Model

In India, Clinical Legal Education is an important aspect of legal education. This concept of educating future lawyers is growing at a rapid speed and plays a vital role in bridging the gap between theory and practice. The Bar Council, Law Commission, Government of India and other private and public authorities have recognized the importance of Clinical Legal Education; however, this methodology is still in its nascent stage. A Clinical Legal Education method is completely based on learning laws and advocacy through a practical approach, which helps in acquiring the skills required by an advocate in India. It has been observed that Indian law schools offer “legal aid cells”, where students are required to provide legal services to weaker section of societies and communities.²⁰ It is an important aspect of teaching young law students, through which they hone their practical knowledge of law by learning valuable legal skills including legal research, writing, drafting, fact-finding, investigation, counseling, client interaction and problem-solving techniques. In addition to this, the law students also develop a sense of responsibility towards the society and understand the value of social justice through the process of legal aid programs and realize the extent and effect of discriminatory practices prevailing in our country and legal education system.

Schools should promote basic legal education in primary schools

The most conducive period to learn and grow for students is during the primary education they receive in schools. Indian schools should prepare students to fight and understand the real world outside the school, colleges, and workplace. Schools should bring mandatory legal education programs in their curriculum and should further work on the development and enhancement of students. The Constitution of India should be included as a subject from Grade 7 wherein they should be taught about the fundamental rights of an Indian citizen prevailing in the Constitution. Teaching parts of the Constitution, including the preamble and the fundamental rights, will help in a better upbringing of students and also improve the mentality of teachers in the school pertaining to legal education in India and the concern of prevailing discrimination practices. The reading and understanding of Article 15 of the Constitution of India²¹ which states that Prohibition of discrimination on grounds of religion, race, caste, sex or

¹⁹ Philip Preville, “How Faculty Can Apply a Growth Mindset To Their Teaching”, Top Hat, Dec 12 (2018).

²⁰ Gujrat National Law University, “Report on National Seminar on Law School Based Legal Services Clinics” (2017).

²¹ Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

(a) access to shops, public restaurants, hotels and palaces of public entertainment; or

place of birth, should be made compulsory in schools and practical training for students and teacher should be conducted. This model will help in strengthening the educational base for students and the future faculty and will further prepare them to abolish any kind of discrimination prevailing in the Indian legal system.

VI. Challenges in the proposed legal education methods:

The proposed legal education model will undergo various challenges. Some of them include: Considering the introduction of language learning method in law schools. This might not be a very practical solution as it requires significant manpower and monetary resources to implement. Most law students are also not willing to dedicate their efforts and time to learn a myriad of languages and aspects of cultures in India and are rather more inclined in learning about various precedents and relevant laws for their legal career.

Considering the introduction of faculty training method in law schools. This concept will increase the expenditure of law schools which will impact the charges of tuition of the students. Though this method will surely bring the required change and will strengthen the Indian legal education system, the resources required for the implementation is immense.

Considering the introduction of a new set of rules and regulations for law schools to avoid discrimination based on an individual's appearance, gender, behavior and background. Though this will be a productive and effective method to control discrimination, adherence to such rules and regulations by the law schools is not standardized and it is blatant that law schools and their academy autonomy will be a major obstacle to achieve this objective.

Considering the Clinical Legal Education model for law schools in India. Clinical Legal Education programs in Indian law schools are in a nascent developing stage. Efforts are being made towards enhancing the practical skills of law students and further assisting them in understanding the importance of social justice. It has been observed that students who have exposed to Clinical Legal Education are prepared to deal with the practical problems existing in the society, in forms such as poverty, discrimination, social exclusion, injustice and the crude reality. However, the Bar Council of India has faced various obstacles in the course of introducing such an advanced system of schooling and legal education within the nation.

Considering the introduction of legal education in primary schools to hone the understating of children about the Indian legal system and create awareness about prevailing discriminatory practices within the country. This addition to the current curriculum might be way more demanding for school children. Also, in the earlier stages it would be tougher to grasp the legal concepts or have a good understanding of the Constitution as it requires a lot of intellectual prowess.

Survey

Gender Based Discrimination

The survey conducted by IDIA in 2018 witnessed a participation rate of 95.7% students from students across the top five National Law Schools. The top five NLUs were selected based on the preference list of students provide by the CLAT consortium. The NUJS survey witnessed the participation of 544 respondents of which only 214 (39.14%) were females and 329 identifies as males and only one respondent (0.2%) belonged to transgender community. As the report suggest, the number of females have never been greater than that of male between the years 2014-2018. The IDIA data suggests that total of 2141 candidates were allotted a seat in the third selection list across 19 NLUs under CLAT, female constituted only 43.34%. While the overall female representation has increased from 2016-1718 (from 41% to 43.34%), the gender ration has declined in the top NLUs with only 36 girls seen in the top 100 participants. In 2018-19, NLU Bhopal reported highest number of female representations of 46% followed by NALSAR of 40.74% (NALSAR Report). It is worth noting that even after the Supreme Court declared transgender

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

(3) Nothing in this article shall prevent the State from making any special provision for women and children

(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

as third category, but according to IDIA survey, only two identified themselves as transgenders (IDIA Survey). Even though enough time has passed since the judgement, the representation of third genders remains insecure.

Caste Based Discrimination

To increase the diversity and access to education, University provides reservation to the students belonging to lower castes. The reservation provided by NALSAR are to Scheduled Caste: 15%, Scheduled Tribe: 7.5%, Resident Students of Telangana, Persons with Disability: 3%, (Horizontal) Women: 30% (Horizontal) (NALSAR Report). Almost all National Law Schools provide reservation to the students of above category and to the students of the respective states.

As far as the caste is concerned, most students (87.7%) belong to the Hindu Religion and almost 33.26% belong to the most privileged caste of India, Brahmins. According to the NUJS survey, almost 26.7% students identify themselves as Brahmins and 31.9% belong to the other upper caste (NUJS Survey, 2019). The above statistics show that almost 57% students belong to the upper castes and remaining 43% belong to the other backward classes (2.7%), schedule castes (10.3%) form 1/10th of the total respondents, schedule tribes (5.3%) from the smallest group, other religion (7.9%) and a few (15.29%) are unaware of their castes.

- Religion- When asked about the religion, most students provide the religion of the head of the family (father/guardian). The statistics show that 88% students belong to a Hindu family and the minority communities are severely under-represented. Even though, Muslims constitute 14.23% of the Indian population, only 3.88% students in top law schools identify themselves as Muslims. Although the number has increased from 1.5% which was reported in 2016-17 survey, it is still not enough. It could be just a coincidence and the numbers should be closely observed over the years. It also observed that, the Muslim representation is increasing but the representation of the minorities is still negligible (IDIA Survey, 2019).

Person with Disabilities

According to the IDIA survey, 6.21% have disabilities ranging from physical to mental disabilities. The Right of Persons with Disabilities Act, 2016 makes a compulsion of for all educational to reserve at least 5% of the total seats for persons with disabilities. Sadly, not all NLUs have not reserved 5% of the total seats. For example, NALSAR only has 3% reservation for person with disabilities, few NLUs did not even have a single seat until 2018 for PWD candidates (NALSAR, 2019). The survey suggests that 9 Universities, including NALSAR, and NLIU, Bhopal, did not include the Foreign National/ NRI/ NRI Sponsored seats to accommodate total number of seats reserved for PWD candidates, thus lowering the number of seats available for PWD candidates. It is worth noting that even though 6.21% students had some form of disabilities, only 3.3% students survey secured seats in the NLUs (IDIA, 2019). This might be due to the lack of knowledge of change of law for PWD students. In 2019 NUJS it was reported that only 2.7% (15/541) seats were occupied by the PWD. The numbers are really painful and as a society we are ignoring the greatest minority in the world. When students in NALSAR were asked about the diversity in their college most students responded that there was very low diversity with almost no PWD and they did not have proper infrastructure to support them. Almost 52.4% reported that their institution had not outlined the mechanisms as required (NALSAR, 2019).

NLUs also ought to make their environment more inclusive for students with disabilities. It is the responsibility of the NLUs to provide for the necessary infrastructure that would enable students with disabilities to participate as effectively in academic, extracurricular and social activities at their universities, as their peers.

The survey also reported 2.52% of cases of mental illness like depression, bipolar disorders, anxiety and post-traumatic stress disorders (PTSD). But almost 23.88% students said to be facing more generic mental health issues. This points at the concerns related to the environment in the top-5 NLUs. Most of the time, this stress is related to the social stigma and it is evident that there is no support from the Universities.

Educational Background

Educational background of both parents and students plays a really important role in distinguishing a student from each other. Almost 50% parents speak fluent English and converse in English in the house. English is considered as a mark of privilege and lack of fluency or proficiency in English is a disadvantage to students as they tend to lack behind in their classes and restrain themselves from becoming a part of extra-curricular activities. Students belonging to minority communities believe that caste has a high influence on the CGPA which is contrary to what

students belonging to high caste believe. Also, the place of residence like urban, rural, cities, has influence on the student's overall performance. People from cities and urban areas have comparatively greater opportunities in almost all dimensions. They have greater exposure to global education, chance of enrolling themselves in a CLAT coaching centre and thus, a greater chance of getting into a top law institution. These advantages create an unlevel playing field for the disadvantaged students during the duration of the course.

Also, majority of students come from the Hindi speaking (65.44%) belt, like Madhya Pradesh and Uttar Pradesh and hence are dominant in the CLAT examination. On the contrary other vernacular language is not well-represented and it is extremely sad to see that there is no representation from the marginalised states. The marginalised states are Jammu and Kashmir and the North Eastern states.

It is observed that students who came from English medium schools and scored high scores in class 10 and 12 were the one to excel in classes (NALSAR, 2019). They even had an upper hand in grabbing opportunities. It is noted from the NUJS survey that students from rural area never scored CGPA above 4 out of 7. Which is contrary to the once who came from urban areas. This is due to the fact that all classes were taught in English and some had a problem in grasping the concepts.

Discrimination on Campus

According to the IDIA survey, almost 54% of the students were met with discrimination on campus regarding their political beliefs, appearance, gender, language etc. they figure only keep increasing over the years. In 2014-15 24% students had reported of facing discrimination which is now 54%. Almost 21% of students have faced discrimination by the faculty members because of the political beliefs, appearance, language, interaction with the opposite gender, sex, economic status, disability, race/ethnicity, appearance, educational and rural background. This number is also increasing over the years and it is of grave concern (IDIA, 2019).

It is heart wrenching to note that 14.70% students of NUJS have been subjected to sexual harassment by an individual associated with the university. The survey suggested that 1 out of every 5 females and 1 out of every 10 males have faced sexual harassment. It is also noted that people who marked their sexual choice other than heterosexual had a higher chance of facing sexual harassment. Their chance is almost 32% higher than heterosexual individuals (NUJS Survey, 2019).

The NLUs are diversity deficit and tend to be not inclusive of student from all regions, backgrounds, beliefs or disabilities. The student body continues to reflect a significant majority of high economic status, English-speaking, urban city-dwellers who can afford to pay the high fees of extremely high-fees law school. Students with disabilities, students belonging to minority communities, rural backgrounds, those educated in the vernacular medium, and those generally belonging to underprivileged or marginalized communities represent very low percentage of the law schools. Especially for law schools that impart values of social justice and equality, and should be seen to be practicing the same. An important point of consideration is the fact that law schools is a path to the legal profession, and a lack of diversity would lead to lack of diversity in legal profession to. If the NLUs continue to function in such a way then the legal profession will only belong to the elitists. The NLUs must step up and lead by example to address these concerns.

VII. Conclusion:

The surveys conducted by several law schools highlight the lack of diversity and inclusivity in National Law Schools in India. The student body mostly reflects the rich, excellent English speaking, urban city dwellers and financially well-off students. Disabled students, the ones who belong to marginalized communities, and the ones from rural background are only a trickle at a time. It is time for the NLUs to work towards a more inclusive and safer environment for students from all walks of life. To this end, the NLUs have established progressive scholarship policies and fee-waivers for a few underprivileged students. There are a few NLUs who provide academic and social support groups for students to help themselves merge into the NLUs environment. But this is not enough, the NLUs will have to work harder to make the environment more inclusive. Increased diversity not only provides a better learning opportunity to marginalized students but also enhances a student's overall development. This is especially important for law schools who strive to implant justice and equality, should be seen reflecting the same. Law schools are a pathway for the future lawyers and thus, it is important for them to increase diversity to enhance diversity in legal profession in the future.