

NOTES AND COMMENTS

MAKING A CASE FOR TRANSFORMING LEGAL EDUCATION IN INDIA: A PROPOSAL TO INTRODUCE 4+1 YEARS LAW PROGRAM IN LAW SCHOOLS

Abstract

The Indian legal education is in an important crossroad wherein it has to ask some basic and fundamental questions about its existing learning process. This self-realization grows manifold for institutes embroiled in higher education. Having said this, the National Education Policy 2020 (NEP 2020) is considered to be a visionary document that not only suggests for path breaking reforms to put the university system in a competitive advantage for an emerging knowledge society, but also allows space to adopt measures to improve its functioning. In this perspective, the article argues that India's NEP 2020 could act as a pivotal tool to introduce a 4+1 years (full time study + full time internship/on the job training) law degree program. Adoption of such a method will result in professional lawyers who will have the skills and value training, and at the same time due to on-the-job experience, a fair realization of what knowledge is and will be relevant for years.

I Introduction

INDIA HAS the highest population of young people in the world; therefore, it is imperative for her to provide a high-quality educational opportunity that not only helps in achieving full human potential, but also towards developing an equitable and just society. In view of the forgoing there are concerns over impartation of legal education everywhere; so much so that there are difficulties in achieving a perfect balance between “practical knowledge and theoretical knowledge” or between “knowledge that is relevant now and knowledge that will be relevant in a few decades.”¹

Today, law students are brighter, more outspoken, impatient, and have high expectations. However, when it comes to the actual reality of law schools in India, there appears increasing sense of dissatisfaction, followed by a growing demand that legal education must offer comprehensive instruction. Currently, there are only a few dynamic and outstanding law schools, which in fact, remain islands of excellence amidst a sea of

1 See Upasana Dasgupta, “The Paradox of Elite Law Schools in India: A Comparison with Canadian Legal Education”, *Quebec Journal of International Law* 163 (Special Issue, 2019), available at <https://www.sqdi.org/wp-content/uploads/147-164-The-Paradox-of-Elite-Law-Schools-in-India%E2%80%94A-Comparison-with-Canadian-Legal-Education-.pdf> (last visited on Mar. 25 2024).

institutionalized mediocrity.² Considering this, it is high time that the crusaders of Indian legal education recognize that the existing legal education system requires revamping. Having said this, it is easier to identify the sources of discontent than to prescribe a cure.³ In this perspective, the present paper attempts to propose 4+1 (full time study + full time internship/on the job training) structure. This proposal is a further extension of the outcome of the *Gangtok Declaration on the Future of Legal Education in India*.⁴ Our approach is not to bring a revolutionary change, but to strike a right balance between varying interests. Balancing of broad goals with theoretical and fundamental research is not an easy, never the less such an approach, especially in the light of the National Education Policy 2020,⁵ is not only crucial for Indian law schools to progress, but also to meet their ambitious goals.

II India's journey towards creation of islands of excellence

The first law department in India was established in the year 1855 in Bombay (presently Mumbai). Post-Independence, India had an uphill task of coming out from “conditions

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- 2 Quoting former Prime Minister Manmohan Singh, who said “We do have a small number of dynamic and outstanding law schools. But I am afraid they remain islands of excellence amidst a sea of institutionalised”, see Prime Minister Manmohan Singh Inaugural Address at the Conference of National Consultation for Second Generation Reforms in Legal Education (May 1, 2010), available at: <https://archivepmo.nic.in/drmanmohansingh/speech-details.php?nodeid=889> (last visited on Feb. 10, 2023).
 - 3 Of course, there are few suggestions offered, namely: institutionalize social justice-based clinical legal education, see N.R. Madhava Menon, “Legal Aid and Development” 2 *Delhi Law Review* 229 (1973); Frank S. Bloch and 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 (2006-2007); Shuvro Prosun Sarker, “Empowering the Underprivileged: The Social Justice Mission for Clinical Legal Education in India” 9 *International Journal of Clinical Legal Education* 321 (2014). Another suggestion is that legal education must place highest priority on public service, see Upendra Baxi, *Notes Towards a Socially Relevant Legal Education: A Working Paper for UGC Regional Workshops in Law 1975-1977*, available at: <https://www.ugc.ac.in/oldpdf/pub/report/1.pdf> (last visited on Mar. 20, 2024); C. Raj Kumar, “Legal Education, Globalization, and Institutional Excellence: Challenges for the Rule of Law and Access to Justice in India” 20(1) *Indiana Journal of Global Legal Studies* 221-252 (2013). There are suggestions to introduce continuing legal education and training for professionals, Prakash Sharma, “Continuing Legal Education: Rethinking Professional Ethics and Responsibility in India” 5(2) *Asian Journal of Legal Education* 152-168 (2018).
 - 4 Sikkim University organized a two-day National Convention on Future of Legal Education in India on June 10–11, 2013, which concluded with the signing of Gangtok Declaration. See “Editorial” 1 *Asian Journal of Legal Education* vii-ix (2014).
 - 5 National Education Policy 2020 (Ministry of Human Resource Development, Government of India, 2020) [hereinafter NEP 2020], available at: https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf (last visited on Mar. 19, 2024).

inherent” as a “dependent nation”⁶ to a self-reliant knowledge hub. As a result, the early decade and a half post-independence, saw encouraging signs of reforms in Indian legal education. In 1958, the Law Commission of India in its 14th Report observed that “the legal education imparted in our country so far has been extremely defective and is not calculated to produce either jurists or competent legal practitioners.”⁷ The 14th Report was significant in many ways, however especially for proposing a system that supported the idea of legal aid for ensuring efficient administration of justice.⁸ The second remarkable reform took place with the adoption of the Advocates Act, 1961, which established the Bar Council of India (BCI) as the regulatory body for legal education and profession in India.

Between 1960 and 1985, while access to legal education expanded, yet the quality deteriorated substantially. The law-school education was characterized by disinterested practitioners and academicians lecturing a passive group of students and evaluating them through closed-book examinations, where students needed to spend time memorizing law instead of analyzing it. Commenting heavily against such system, Upendra Baxi observed:⁹

This type of education is designed to kill creativity in students. Eminent judges and lawyers have asked: when will an Indian scholar produce something like the works of Julius Stone or H.L.A. Hart? The answer, however distressing it may be, is simply that if we produce the like of this scholar in India it will not be because, but rather inspite of our legal education.

Accordingly, Professor Baxi suggested for an integrated professional course as a pilot project that requires thorough assessment.¹⁰ Alongside such observations, there were few other proposals shared too.¹¹ Perhaps, in the mix of differing models proposed,

6 See Government of India, The Report of University Education Commission 224 (December 1948-August 1949), *available at*: <https://www.educationforallinindia.com/1949%20Report%20of%20the%20University%20Education%20Commission.pdf> (last visited on Feb. 20, 2023).

7 Law Commission of India, “14th Report on Reform of Judicial Administration” (1958), *available at*: <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022080514.pdf> (last visited Mar. 29, 2024).

8 *Id.* at 587-593.

9 Upendra Baxi, *supra* note 3 at 10.

10 Professor Baxi opined “the integrated course will make very heavy demands on law schools, not just merely in terms of teaching but also those of library and allied resources. It is also true that such innovation could only be planned as pilot project in one or two law school; and the spread of the innovation must be preceded by a very careful study of these experiments.”*Id.* at 32.

11 One such was proposal for establishment of National Law School, *see* G.S. Sharma, “Some Thoughts on a National Law School for India” 3 *Jaipur Law Review* 256 (1963); another was on changes in pedagogy and curriculum reform, *see Report of the Committee for Reorganization of Legal Education at the University of Delhi* (1964).

a belief was grown to develop a model bearing national characteristics.¹² This paved the way for the introduction of the third major reform and with limited budget and support, the National Law School of India University (NLSIU) was established in Bangalore in 1987. Over the course of few years, NLSIU appeared to be a much-needed welcome experiment. It not only paved the way towards the establishment of other National Law Universities (NLUs) but also changed the face of legal education.¹³ Amongst the changes brought, few were quite revolutionary, namely: autonomy in the recruitment of teachers and staff as well as in the framing and frequent revision of the curriculum; introducing research projects; better infrastructure with residential character; compulsory internships with lawyers, non-governmental organizations, law firms and companies; encouraging moot court competitions, debates, legal aid; and setting up centres of excellence in various branches of law.

Although, the changes were appreciated widely, so much so that as on today there are 24 NLUs across every state in India,¹⁴ yet no substantial reform was followed since their inception. In fact, owing to limited attention to reforms, NLU's have risked themselves to becoming mere *notional*. Nevertheless, in the mid 1990's, the fourth crucial law reform of recommending compulsory clinical or practical subjects in the law curriculum was introduced by the BCI.¹⁵ Although noble, the clinical legal education (CLE) programs do suffer, in the sense that responsibility for its implementation was largely passed onto law schools, which in the absence of requisite expertise, infrastructure and financial assistance adopted a casual approach.¹⁶

Since thereafter, there was hardly any reform introduced, except for the fact that newer private law schools were allowed and encouraged to impart legal education. As

12 The belief was that that “in no other sphere of higher education is the need more insistent for sustained national institutional auspices and support than law”, see Upendra Baxi, *supra* note 3 at 50.

13 N.R. Madhava Menon, “The Transformation of Indian Legal Education: A Blue Paper”, *Harvard Law School: Program on the Legal Profession* (2012), available at: https://clp.law.harvard.edu/assets/Menon_Blue_Paper.pdf (last visited on Feb. 20, 2023).

14 As per information provided by the BCI, there are 24 NLUs throughout the country, see Lok Sabha Unstarred Question No. 1602 <https://legalaffairs.gov.in/sites/default/files/AU1602.pdf> (last visited on Feb. 20, 2023).

15 It is argued that linking clinical legal education with other subjects of law or with Legal Services Authorities and Courts could be beneficial, see Shuvro Prosun Sarker, Anirban Chakraborty, *et.al.*, “Visualizing Third Generation Reform of Indian Legal Education”, in Shuvro Prosun Sarker (ed.), *Clinical Legal Education in Asia: Accessing Justice for the Underprivileged* 257-79 (Palgrave Macmillan, New York, 2015).

16 D.S. Prakasa Rao and Prakash Sharma, “The Anatomy of Indian Legal Education: Tracing a Case for Continuing Legal Education”, in S. Sivakumar, Prakash Sharma, and Abhishek Kumar Pandey (eds.), *Clinical and Continuing Legal Education: A Roadmap for India* 123-147 (Commonwealth Legal Education Association and Thomson Reuters, Gurgaon, 2021) [*Hereinafter* A Roadmap for India].

a result, there arise a massive oversupply of lawyers, coupled with growing issues of career dissatisfaction. The legal profession now faces a self-inflicted crisis, and with the mushrooming of law-imparting institutions it has only deepened.¹⁷ Steven J. Harper addressed this issue in a perceptive manner in *The Lawyers Bubble*,¹⁸ wherein he reveals how owing to unregulated and misleading information young minds are misled to choose law schools.¹⁹ The situation is no different in India, wherein “the promotional *blitzkrieg* promising an illusory *El Dorado* sometimes seduces the gullible young minds”.²⁰ It has now become a regular practice for law-imparting institutions in India to constantly engage in luring prospective students into their programs with promotional materials that often cites information that do not gel well with the actual realities. Shamnad Basheer express deep anguish against the current legal ecosystem observed that “our legal ecosystem is beset with cosy cliques and cabals. Cliques priding themselves in an arrogant insularity; cabals boasting members engaged in a deep self-serving relationship that makes incest look benign.”²¹

On the other hand, Harper pints out that “better choices can fix”²² the mess, and perhaps for this reason, there arises a greater need to revisit our priorities. It is also time to re-evaluate our decisions to reform the Indian legal education, which strangely in the course of 70+ odd years, only reveal a few exceptional measures. At the same time, there is a need to re-access the impact of both globalization as well as post-globalization phenomenon on legal education. Herein, the role of law schools becomes crucial, particularly in three ways: *firstly*, to develop lawyers who will be rational thinkers and at the same time act as social engineers; *secondly*, to establish a world class atmosphere for the best and the brightest minds to make a lifelong commitment to teaching, learning, and researching, and in that process, inspire generations; *thirdly*, to create a

17 By 2022, India had 1,721 law schools, with more than double private colleges, see Bar and Bench, “1,721 law schools in India; more than twice as many private law colleges than government law colleges: Law Minister” (Mar. 29, 2022), *available at*: <https://www.barandbench.com/news/lawschools/1721-law-schools-in-india-more-than-twice-as-many-private-law-colleges-than-govt-law-colleges-law-minister#:~:text=1%2C721%20law%20schools%20in%20India,government%20law%20colleges%3A%20Law%20Minister> (last visited on Feb. 20, 2023).

18 See Steven J. Harper, *The Lawyers Bubble: A Profession in Crisis* (Basic Books, New York, 2013).

19 Harper writes: “Vulnerable young people become convinced that anyone can succeed as lawyer. Because much of their undergraduate audience consists of liberal arts majors who can’t decide what do to next, law schools appear to be an attractive default option.” *Id.* at ii.

20 See R. Venkata Rao and Prakash Sharma, “Legal Education, Law Schools and Legal Aid: Indian Experience So Far”, in Ranbir Singh and Jeet Singh Mann (eds.), *Reforms in Legal Education and Research* 109-129 (Moham Law House, New Delhi, 2020).

21 Shamnad Basheer, “An Extra Legal League of Extraordinary Gentlemen”, *The Wire* (June 25, 2015) <https://thewire.in/law/an-extra-legal-league-of-extraordinary-gentlemen> (last visited on Feb. 20, 2023).

22 Steven J. Harper, *supra* note 18 at 208.

mechanism for disseminating knowledge-based initiatives with society. Expecting sudden changes on these lines appears to be asking for something very big, but as Robert Gorman says “.... movement there must be.”²³

The National Education Policy 2020: Key take away

On July 29, 2020, India introduced her ambitious third educational policy that advocated for a radical reconstruction of education.²⁴ The NEP 2020 not only acknowledged the significance of education, but also caught sight of global education development agenda reflected in the Goal 4 (SDG4) of the 2030 Agenda for Sustainable Development.²⁵ In this sense, the document appears to be visionary, since it considers stakeholders’ demands, needs, and ambitions to make India’s education system as inclusive.²⁶

One noteworthy feature of the NEP 2020 is its detailed attention towards rapid changes in the global knowledge landscape. It noticed that owing to “dramatic scientific and technological advances” many unskilled jobs worldwide may be taken over by machines.²⁷ At the same time, the document noticed that there will a “need for skilled workforce with multidisciplinary abilities.”²⁸ Interestingly, according to the 2016 Deloitte Study²⁹ smart and self-learning algorithms will affect high-skilled roles by 2025.

Considering these aspects, the NEP 2020 was also aware of the fact that since decades there has been hardly any significant effort made towards re-examination of the heavy-handed regulatory framework. The NEP 2020 noted that :³⁰

Regulation of higher education has been too heavy-handed for decades; too much has been attempted to be regulated with too little effect. The mechanistic and disempowering nature of the regulatory system has been rife with very basic problems, such as heavy concentrations of

23 Robert A. Gorman, “Proposals for Reform of Legal Education” 119(5) *University of Pennsylvania Law Review* 851 (1971).

24 Sanjit Kumar Chakraborty and Tushar Krishna, “Promises and Prospects of Legal Education in India in the Context of the New Education Policy: A Reality Check” 9(1) *Asian Journal of Legal Education* 78 (2022).

25 As “fundamental for achieving full human potential, developing an equitable and just society, and promoting national development”, see NEP 2020, *supra* note 5 at 3 (Introduction).

26 Urvasi Sahni, “India’s National Education Policy 2020: A Reformist Step Forward?” *Brookings* (Oct. 02, 2020), available at: <https://www.brookings.edu/articles/indias-national-education-policy-2020-a-reformist-step-forward/> (last visited on Feb. 20, 2023).

27 NEP 2020, *supra* note 5 at 3 (Introduction).

28 *Ibid.*

29 Deloitte, *Developing Legal Talent: Stepping into the Future Law Firm* 4 (Deloitte, London, 2016), available at: <https://www2.deloitte.com/content/dam/Deloitte/uk/Documents/audit/deloitte-uk-developing-legal-talent-2016.pdf> (last visited on Apr. 2024).

30 *Id.* at 46.

power within a few bodies, conflicts of interest among these bodies, and a resulting lack of accountability. The regulatory system is in need of a complete overhaul in order to re-energize the higher education sector and enable it to thrive.

The purpose of looking at Indian universities in a comparative perspective is obviously to locate it among higher education institutions across the world and to identify its strengths and weaknesses in the advancement of learning and research. This aspect was also highlighted in the Knowledge Commission Report which talked about adopting measures to promote international perspectives through collaborations and partnerships.³¹ Having said this, while globalization has resulted in melting down of international boundaries,³² it is the de-globalization or the post-globalization processes that demand immediate attention,³³ especially in the legal education sphere. In this context, the following part of the paper will delve into three crucial aspects covered under NEP 2020, and accordingly, present a case of introduction of the new course structure, in line with the recent trends.

Endorse collaboration

According to the Ernst and Young Report, there are three eras of higher education, namely, 1968-1990 (era of growth in higher education), 1990-2010 (era of technology

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- 31 National Knowledge Commission, *Report of the Working Group on Legal Education: A Report to the Nation* (Government of India, New Delhi, 2007) [hereinafter Knowledge Commission Report]. The Report suggested that “building world class law schools today will require creatively responding to the growing international dimensions of legal education and of the legal profession, where it is becoming increasingly necessary to incorporate international and comparative perspectives, along with necessary understanding of domestic law.” *Id.* at 41.
- 32 See Jagdish Bhagwati, *In Defense of Globalization* (Oxford University Press, New York, 2004). However, others argue that for developing and third world countries the returns in terms of benefits are unsatisfying, see Surya Deva, “Human Rights Realization in an Era of Globalization: The Indian Experience” 12 *Buffalo Human Rights Law Review* 93-138 (2006); Avinash Dixit and Gene M. Grossman, “The Limits of Free Trade” 19(3) *Journal of Economic Perspectives* 241-244 (2005); James Petras and Henry Veltmeyer, *Globalization Unmasked: Imperialism in the 21st Century* (Zed Books, New York, 2001). The system was also not prepared to accommodate the phenomena, in fact few argue that Indian legal education is in odds with world’s globalization, see Sanjit Kumar Chakraborty and Tushar Krishna, *supra* note 24 at 84.
- 33 See Nikil Saval, “Globalisation: The Rise and Fall of an Idea that Swept the World” *Guardian* (Jul. 14, 2017), available at: <https://www.theguardian.com/world/2017/jul/14/globalisation-the-rise-and-fall-of-an-idea-that-swept-the-world> (last visited on Mar. 10, 2023). See also Terry Flew, “Post-Globalization” 25 *Journal of the European Institute for Communication and Culture* 102-109 (2018). The impact COVID-19 had caused upon world economy has close connections with the issue of de-globalization, see Pol Antràs, “De-Globalisation? Global Value Chains in the Post-COVID-19 Age” NBER Working Paper 28115 (Nov. 2020), available at: https://www.nber.org/system/files/working_papers/w28115/w28115.pdf (last visited on Mar. 10, 2024).

in higher education), and 2010-current (era of collaboration).³⁴ While explaining the idea of collaboration and the development of much deeper partnerships in higher education, the Ernst & Young Report 2020 points out that:³⁵

Higher education...is marked by diminished state and federal spending, lagging personal incomes of collegegoing families, and increased accountability around outcomes, particularly the view that the role of colleges is to prepare graduates for a job...it demands a significant shift in strategy for institutions around the idea of collaboration and the development of much deeper partnerships than higher education has ever seen before.

Additionally, the manner in which the process of internalization is going forward, coupled with unhindered communication channels and inexpensive travel—possibilities of forming global partnership and thereby fostering relationships with other institutions—appears strategic and far-sighted. In this context, the NEP 2020 emphasizes on collaboration between Indian and international institutions.³⁶ The relevant text runs thus:³⁷

An International Students Office [ISO] at each HEI [Higher Education Institute] hosting foreign students will be set up to coordinate all matters relating to welcoming and supporting students arriving from abroad. Research/teaching collaborations and faculty/student exchanges with high-quality foreign institutions will be facilitated, and relevant mutually beneficial MOUs [Memorandum of Understandings] with foreign countries will be signed. High performing Indian universities will be encouraged to set up campuses in other countries, and similarly, selected universities e.g., those from among the top 100 universities in the world will be facilitated to operate in India. A legislative framework facilitating such entry will be put in place, and such universities will be given special dispensation regarding regulatory, governance, and content norms on par with other autonomous institutions of India. Furthermore, research collaboration and student exchanges between Indian institutions and global institutions will be promoted through special efforts. Credits acquired in foreign universities will be permitted, where appropriate as per the requirements of each HEI, to be counted for the award of a degree.

34 EY Parthenon, *Strength in Numbers: Strategies for Collaborating in a New Era for Higher Education* (Ernst & Young LLP, 2020) [hereinafter Ernst and Young Report], available at: <file:///Users/prakashsharma/Downloads/ey-strength-in-numbers.pdf> (last accessed 06 December 2023).

35 *Id.* at 2.

36 Similar suggestion was referred by the Knowledge Commission Report, *supra* note 31 at 41, 46, and 63.

37 NEP 2020, *supra* note 5 at 12.8.

There are multiple factors behind such observation. *Firstly*, it will address the concern of massive outflow of Indian students to foreign institutions. *Secondly*, India is lagging in satisfying the demand of the globalized legal professionals, therefore the sharing of curriculum, teaching methods, and quality standards would benefit students and the economy. *Thirdly*, owing to the growing emergence of epidemics and pandemics, call for collaborative research in infectious disease management and development of vaccines and the resultant social issues heightens the need for multidisciplinary learning.

That being said, there are many concerns that require a prior thought. Some aspects appear impractical, for instance, the target is to reach out to top 100 global institutions (for partnership and collaboration), which in many ways appears to be preposterous. In fact, given the current scheme of world order,³⁸ it will be improbable for top 100 institutions to establish a campus outside their nation. Further, any collaborative course so allowed, must be evaluated on the basis of credibility, admission process, course design and duration, *etc.* Here, NEP 2020 talks about adapting a legislative framework, which offers an option for policymakers to think practically.

Emphasis on ethics and constitutional values

Laws are construed to be the repositories and expressions of values in a society.³⁹ India has understood legal education as the cornerstone for ethics, morals, ideals, and ultimately justice. Part of the reason for such belief is the fact that the primary body responsible for creating the Constitution of India was the Drafting Committee, and all of the eight original members, including the Chairman, had legal background.⁴⁰ Perhaps for this reason, the Indian Constitution is understood to be a “moral education document.”⁴¹ Taking note of this fact, the NEP 2020 in its introductory part, sets out a larger goal of developing a system that is “linked with the aspirational aspirations of 21st Century education while staying compatible with India’s traditions and value systems.”⁴² In this context, the idea is to stress upon constitutional values. The NEP 2020 noted that :⁴³

Legal education needs to be competitive globally, adopting best practices
and embracing new technologies for wider access to and timely delivery

38 Here our argument is the rising case of nationalisms, *see* Michael Cox, “Nationalism, Nations and the Crisis of World Order” 33(2) *International Relations* 259 (2019).

39 Yehezkel Dror, “Values and the Law” 17 *The Antioch Review* 440 (1957).

40 Aditya AK, “Republic Day: The Lawyers who helped draft the Constitution of India”, *Bar and Bench* (Jan. 26, 2018), *available at*:<https://www.barandbench.com/columns/republic-day-lawyers-constitution-india> (last visited on Mar. 20, 2024).

41 Swati Deshpande, “Discourse on public morality often finds its way into law: CJI” *The Times of India* (De. 18, 2022), *available at*: <https://timesofindia.indiatimes.com/city/mumbai/discourse-on-public-morality-often-finds-its-way-into-law-cji/articleshow/96312864.cms> (last visited on Mar. 10, 2024).

42 NEP 2020, *supra* note 5 at 3 (Introduction).

43 *Id.* at 20.4.

of justice...It must be informed and illuminated with Constitutional values of Justice—Social, Economic, and Political.⁴³

The strategy is to achieve two purposes, namely: (a) maintain the highest standards of professional ethics, and (b) develop a spirit of public service. In this perspective, the NEP 2020 suggests for developing curricula for legal studies in such a manner that it reflects upon:⁴⁴

socio-cultural contexts along with, in an evidence-based manner, the history of legal thinking, principles of justice, the practice of jurisprudence, and other related content appropriately and adequately. State institutions offering law education must consider offering bilingual education for future lawyers and judges—in English and in the language of the State in which the institution is situated.

Adopting such a curriculum will encompass a holistic approach that instills not only legal knowledge but also ethical values, professionalism, and social responsibility amongst aspiring lawyers. Earlier, the Knowledge Commission Report too suggested for developing legal education in tune with “justice-oriented education”.⁴⁵ In this direction, the NEP 2020 imports a new term *viç*: “national reconstruction”. While explaining the phrase, the document suggests that national reconstruction can be done “through instrumentation of democracy, the rule of law, and human rights.”⁴⁶

The question is: why an effort is being made through NEP 2020 to revisit values? The answer is: since the landscape of legal education has over the course of time witnessed significant transformations, it gives rise to critical examination. In this context, the NEP 2020 is a response to such critical examination. It recognizes the evolving societal and professional demands, but at the same time, insists on the need and importance of value-based legal education. In fact, prior to the emergence of corporatization of legal education, there were few efforts towards instilling “cause lawyering”.⁴⁷ It is in this context, effort is made to bring transformative learning into the current discourse.

44 *Ibid*.

45 Knowledge Commission Report, *supra* note 31. The Report suggest that “the vision of legal education is to provide justice-oriented education essential to the realization of values enshrined in the Constitution of India. In keeping with this vision, legal education must aim at preparing legal professionals who will play decisive leadership roles.” *Id.* at 39.

46 NEP 2020, *supra* note 5 at 20.4.

47 A factor which was noticed by former Chief Justice of India N.V. Ramana, *see* Debayan Roy, “Very few graduates from National Law Universities take up public causes, litigation: CJI NV Ramana”, *Bar and Bench* (Dec. 19, 2021), available at: <https://www.barandbench.com/news/very-few-graduates-from-national-law-universities-take-up-public-causes-litigation-cji-nv-ramana> (last visited on Mar. 20, 2024).

Recognition to technology driven education

Any document that looks into the future ought to acknowledge the existence and influence of technology, which influences, informs, and inspires every aspect of life. In fact, it has already been done by now, and in this process, nations are arduously trying to regulate technology.⁴⁸ At the same time, there are growing concerns over excessive control, privacy, jurisdictional challenge, human autonomy, other basic freedoms, etc.⁴⁹ This debate of course will take time to settle, especially considering the virtual nature of its existence and possible futuristic advancements.

Anyhow, the NEP 2020 was receptive of new circumstances and realities. The document noticed that epidemics and pandemics compel nations to look for “alternative modes of quality education whenever and wherever traditional and in-person modes of education are not possible.”⁵⁰ The larger intent behind NEP 2020 is to allow and adopt to changes. The relevance of such futuristic thought was found noteworthy during pandemic, wherein every aspect of human life came to a halt, and it was only through the use of technology, the system gradually came to back to the normalcy.⁵¹

However, pandemic altered the dynamics of learning. With the sudden change from bustling campus life to online courses/programmes, there was tremendous alterations afforded *via* digital transformation—and the process is still continuing.⁵² And certainly, there are colossal strides made towards accessibility, inclusivity, and future-readiness through education technology, yet much of the ground work, especially for India, is required to be uncovered. For instance, there are still concerns over digital divide, access to both internet and related devices, technological proficiency, privacy and

48 Antonio Segura-Serrano, “Internet Regulation and Role of International Law” 10 *Max Planck Yearbook of United Nations Law* 192 (2006).

49 Rowena Rodrigues, “Legal and Human Rights Issues of AI: Gaps, Challenges and Vulnerabilities” 4 *Journal of Responsible Technology* (2020), available at: <https://www.sciencedirect.com/science/article/pii/S2666659620300056> (last visited on Apr. 30, 2024).

50 NEP 2020, *supra* note 3 at 58.

51 Sanjoy Mondal and Priyanjana Mitra, “The Role of Emerging Technologies to Fight Against COVID-19 Pandemic: An Exploratory Review” 7 *Transactions of the Indian National Academy of Engineering* 157-174 (2022), available at: <https://link.springer.com/article/10.1007/s41403-022-00322-6> (last visited on Mar. 10, 2024).

52 Raghunandan Malik, “Digitising Legal Education” *Times of India* (May 20, 2023), available at: <https://timesofindia.indiatimes.com/blogs/voices/digitising-legal-education/> (last visited on Feb. 20, 2024). The author highlights that “in 2021, the Indian ed-tech market was valued at \$3.42 billion”, and witnessing massive growth, “the ed-tech sector is projected to reach \$10.4 billion by 2025 with 37 million paid ed-tech users.”

security concerns, etc.⁵³ Further, there are concerns over formulation of effective measures/mechanism that can evaluate the quality, utility and strength of digital learning.⁵⁴

The NEP 2020 took note of some of the concerns raised above and emphasized greatly upon digital equity. The document appropriately records that “the benefits of online/digital education cannot be leveraged unless the digital divide is eliminated through concerted efforts, such as, the Digital India campaign and the availability of affordable computing devices.”⁵⁵ It also emphasized upon the need for suitable training and development of online educators.⁵⁶ While rightly acknowledging such concerns, the documents thereafter laid down ten initiatives to leverage technology for teaching-learning at all levels of higher education in India.⁵⁷

In this direction, it is necessary for Indian legal education to quickly adapt according to the newer demands of acquiring necessary skills to appreciate the nuances of technology.⁵⁸ In fact, without proper help, understanding and the capacity to analyze technology related issues, it will be difficult to *live through technology*. Perhaps, more literature or efforts must be encouraged in this direction to find out the answer to the question: how should legal education impart those skills? Here, one significant effort is drawn by the Rajiv Gandhi School of Intellectual Property Law (RGSoIPL), IIT Kharagpur, which offers a three-year LLB course for engineering/Science/Medicine/Pharmacy/Management or equivalent degree holders.⁵⁹

The elephant in the room

Currently, the state of legal education is at the mercy of multiple regulatory agencies, namely, the university to which the college is affiliated, the state under whose law the

53 Rumi Roy and Prakash Sharma, “The National Education Policy (NEP) of 2020 and the Hybrid Learning Paradigm: Revising Strategies for an Evolving Legal Education Environment”, 11(1) *Asian Journal of Legal Education* 44-59 (2024). See also Ritambhara Singh and Mihir Rajamane, “India Can’t Keep Citing the Pandemic to Deprive Children of Education” *The Wire* (Aug 12, 2021), available at: <https://thewire.in/education/india-cant-keep-citing-the-pandemic-to-deprive-children-of-education> (last visited on Feb. 10, 2024).

54 Christine Storr and Cormac McGrath, “In Search of the Evidence: Digital Learning in Legal Education, a Scoping Review” 57 *The Law Teacher* 119-134 (2023).

55 NEP 2020, *supra* note 5 at 24.2.

56 *Id.* at 24.3.

57 *Id.* at 24.4.

58 R. Venkata Rao and Prakash Sharma, “Towards a New Era of Legal Tech Startups: Lawyering 2.0”, 49(1) *Indian Bar Review* 149-160 (2022).

59 Rajiv Gandhi School of Intellectual Property Law, Eligibility Criteria 2024, available at: <https://gateoffice.iitkgp.ac.in/law/p6.php> (last visited on Mar. 10, 2024).

college runs, the University Grants Commission (UGC) and the BCI. On a whole, these entities are engaged in performing the task of admission, licensing, organizing, approval and administration. Now, with multiple authorities involved, at times, owing to conflicting regulations or in the absence of clarity, these authorities impinge upon each other's mandate. For instance, while UGC's power is to regulate higher education in general, in so far as legal education is concerned, the BCI usually steps in to fix the ambiguities. In fact, by virtue of section 7(h) of the Advocates Act, 1961, it enjoys an upper hand *via* promoting and laying down standards of legal education.

Furthermore, the NEP 2020 has emphasized on radical restructuring of regulatory bodies to enable a single point regulation, except for medical and legal education.⁶⁰ At the same time, the NEP 2020 has not established or mentioned a distinct regulator for law, rather it obliquely states that legal education must be internationally competitive, incorporating best practices and embracing new technology to provide more people with timely access to justice.⁶¹ In fact, the document has hardly made any effort to address the challenges and concerns encountered by the institutions imparting legal education.

Nevertheless, ceasing this opportunity to continue as a regulatory body, BCI went a mile ahead to implement the NEP 2020 for all stages of legal education *i.e.*, undergraduate, postgraduate, and research studies, as well as for all types of education, academic, professional, and clinical skill learning. In 2020, the BCI came with the Bar Council of India Legal Education (Post-Graduate, Doctoral, Executive, Vocational, Clinical and other Continuing Education), Rules, 2020 (BCI Rules 2020),⁶² which allows the BCI to take hold of the entire spectrum of legal education *i.e.*, the undergraduate, the postgraduate, and Ph.D. courses, which is in complete contravention to its 2019 press release⁶³ that acknowledged only approval/recognition of undergraduate degree and not the postgraduate and Ph.D. degrees. Adding to this is the confusion created by the University Grants Commission (Minimum Standards and Procedures for Award of Ph.D. Degree) Regulations, 2022,⁶⁴ that recognises

60 NEP 2020, *supra* note 5 at 47.

61 *Id.* at 50.

62 The Bar Council of India Legal Education (Post-Graduate, Doctoral, Executive, Vocational, Clinical and other Continuing Education), Rules, 2020, *available at*: https://www.livelaw.in/pdf_upload/pdf_upload-386894.pdf (last visited on Apr. 30, 2024).

63 The Bar Council of India Press Release on Aug. 2, 2019, *available at*: <http://www.barcouncilofindia.org/wp-content/uploads/2020/01/Press-Release-Dated-12.08.2019.pdf> (last visited on Mar. 10, 2024).

64 University Grants Commission (Minimum Standards and Procedures for Award of Ph.D. Degree) Regulations, 2022, *available at*: https://www.ugc.gov.in/pdfnews/0909572_Minimum-Standards-and-Procedure-for-Award-of-PhD-Degree.pdf (last visited on Mar. 10, 2024).

one-year postgraduate law course which is in contravention with BCI Rules 2020. These conflicting rules and regulations not only result in a stalemate situation, but also offer less motivation for students to pursue law. In this regard, the Consortium of National Law Universities had moved to the Supreme Court to contest the decision of the BCI to scrap the one-year LL.M program and derecognise LL.M from the foreign universities.⁶⁵ The petition alleged that the BCI Rules 2020 "not only seek to assume jurisdiction and powers in derogation of the law but also usurp jurisdiction and authority vested in other statutory bodies."⁶⁶

It is not rocket science to understand the fact that absence of clarity often brings incidents of continuing ambiguities. Here, it is expected from the government to bring clarity as to whether legal education can be regarded totally as a professional education or whether a professional body is capable of dealing with all kinds and levels of legal education, general and professional.⁶⁷ There is a genuine belief that BCI has assumed too many functions. In fact, few opine that in its attempt to regulate legal education, the BCI has overstepped its mandate under the Advocates Act, 1961.⁶⁸ The purpose was to establish a professional body for practicing advocates and accordingly discipline lawyers and set standards to do justice to a full-time job like legal education. Perhaps, it is high time for BCI to realize that the purpose of legal education is larger than a mere service to the courts.

The proposal

Indian law schools need to consider innovation when it comes to the degree programs they offer, for the simplest reason that unlike other Asian countries, Indian law schools are lagging way behind in satisfying the demand of legal profession.⁶⁹ In the past,

65 Sushree Mohanty, "NLU Consortium moves Supreme Court challenging BCI decision to scrap one year LL.M; Hearing on interim relief on Feb 11" *Law Insider* (Feb. 11, 2021), available at: <https://www.lawinsider.in/news/nlu-consortium-moves-supreme-court-challenging-bci-decision-to-scrap-one-year-ll-m-hearing-on-interim-relief-on-feb-11> (last visited on Mar. 10, 2024).

66 *Ibid.*

67 See N.L. Mitra and Manoj Kumar Sinha, "National Education Policy 2020 and Challenges to the Bar Council of India" 10(1) *Asian Journal of Legal Education* 17 (2022). The authors have asked pertinent question: "Can powers that have not been expressly assigned in the Act be assumed by rules?" *ibid.*

68 See A.K. Avasthi, "Powerlessness of The BCI to Improve Standards of Legal Education" 46(1) *Journal of Indian Law Institute* 55 (2004); Nizamuddin Ahmad Siddiqui and Lavish Dudeja, "The continuing ambiguities in postgraduate legal education in India" *Bar and Bench* (Jan. 26, 2023), available at: <https://www.barandbench.com/columns/the-continuing-ambiguities-in-postgraduate-legal-education-in-india> (last visited on Mar. 10, 2024).

69 See Kanti Bajpai, "Global Competitiveness, Privatization, Dignified Spaces, and Curricular Reform in Indian Higher Education" in C. Raj Kumar (ed.), *The Future of Indian Universities: Comparative and International Perspectives* 167-191 (Oxford University Press, New Delhi, 2017).

Indian higher education system commanded awe and respect, with institutes like *Nalanda* and *Takshashila* attracted students and academics from across the globe. Notwithstanding such great legacy, currently our law schools neither hold a place of high esteem at home or abroad,⁷⁰ nor do they hold any profound space for legal scholarship or enlightened research.⁷¹

However, as witnessed in the visionary statement of NEP 2020, India surely wants to re-establish herself as a major global competitor. In this regard, India's aspirations of building world-class universities through comparative international dimensions would demand out of box thinking that takes into consideration some of the best practices. Such grandiose plan to recast legal education must remain *au fait* with existing realities. It would be worth to quote Timothy W. Floyd, who writes that, "there is too much at stake for us to continue blindly down the paths we have trod. We must begin exploring, articulating, and debating what constitutes good legal education. Our answers to that question should then dictate all curriculum and pedagogical choices."⁷² Taking cue from this, the following part of the paper examines three relevant factors *i.e.*, emphasis on clinical education, greater autonomy for institutions to run a law course, and insistence on humanised study of law, as major contributing factors to propose changes.

Emphasis on clinical education

The need of hour is to create lawyers who can deal with practical as well as theoretical problems. Gone are the days of producing practice-ready lawyers. The Indian legal education heartily acknowledges this, and only after much persuasion measures like compulsory clinical subjects were introduced in to bridge the gap between "law in books" and "law in action". The idea is to allow a budding lawyer to not just find law but also apply law, and in process engage them in experiential learning. So far, there are few positives, including the fact that law clinics have greatly helped in improving the quality of practical training in law schools in India. However, practical training and CLE has a huge potential, especially in the light of current global economics, wherein knowledge is perceived as capital, and thus its dissemination in the society is restricted. Herein lies, another significance of clinical programs, since they can establish an important link between law schools and society. This perhaps posit a question: what restricts the law schools to unleash the potential of CLE?

70 C. Raj Kumar, *supra* note 3 at 226-227.

71 See Prakash Sharma, "A Review of Journal of Indian Law Institute in Legal Education" 4(1)*Asian Journal of Legal Education* 61-70 (2017).

72 Timothy W. Floyd, "Legal Education and the Vision Thing" 31 *Georgia Law Review* 867 (1997).

One crucial factor, limiting the benefit of CLE is the fact that full-time law faculty cannot practice law in India.⁷³ This perhaps demonstrates the traditional approach of law teaching, wherein law courses are only meant to provide necessary knowledge.⁷⁴ Such guarded approach not only affects the very the idea of law clinics, but also thwarts future reform processes. Elsewhere, like in the United States, United Kingdom, Canada, Germany, Singapore, South Korea, Peoples Republic of China, *etc.* there are regulated mechanisms of allowing part time practice by academics.⁷⁵

Further, legal academics in India have significantly contributed to the cause of justice in the courts.⁷⁶ In 2019, there had been an effort made by late Shamnad Basheer to relax the rule barring legal academics from practicing in the courts in India.⁷⁷ In his petition before the Supreme Court, Basheer had argued that :⁷⁸

Barring legal academics from legal practice does great disservice to the idea of clinics and the need to integrate some practical training within the overall curricula of legal education. More so in a country like India

73 *See* Rule 49, Chapter III, Part VI of the Bar Council of India Rules, 1975. These rules have been placed there under section 49(1)(c) of the Advocates Act, 1961. Interestingly, a practicing advocate can teach in law schools, see Rule 3, The Advocates (Right to Take up Law Teaching Rules), 1979

74 Shuvro Prosun Sarker and Prakash Sharma, “Bridging the Gap: Understanding the Trends in Indian Legal Education from Recent Developments” 7(1)*Asian Journal of Legal Education* 58 (2020).

75 In United States, the debates pertaining to the practice by a law teacher dates back a century, *see* Albert M. Kales and Ezra Ripley Thayer, “Should the Law Teacher Practice Law?” 25 *Harvard Law Review* 253-273 (1912). Similar observation was in United Kingdom too, *see* Martin Partington “Academic Lawyers and “Legal Practice” in Britain: A Preliminary Reappraisal”, 15 *Journal of Law and Society* 374-391 (1988). In United States and Canada, there hardly a doubt (although this is still unclear) about the potential of Practitioner as Academic, *see* William P. Quigley “Introduction to Clinical Teaching for the New Clinical law Professor: A View from the First Floor” 28 *Akron Law Review* 463-196 (1995); Tim Wu, “Did Laurence Tribe Sell Out?” *The New Yorker* (May 6, 2015), *available at*:[newyorker.com/news/news-desk/did-laurence-tribe-sell-out](https://www.newyorker.com/news/news-desk/did-laurence-tribe-sell-out) (last visited on May, 20, 2024). A number of other countries such as Singapore, South Korea, Germany *etc.* also permits legal academics to practice in courts, *see* Petition to permit legal academics to practice law at 11, *available at*:<https://images.assettype.com/barandbench/import/2019/02/Shamnad-Basheer.pdf> (last visited on Mar. 10, 2024) [*hereinafter* Petition to Permit].

76 Professor Upendra Baxi had played a monumental role in pursuing justice for the victims of the Bhopal gas tragedy, both through his engagement with the litigation and through writing/research and advocacy, *see* Prakash Sharma, *et. al.*, “UpendraBaxi and Legal Education: An Open Reflection of Illustrious Career” in *Roadmap for India*. *See also* *Upendra Baxi (I) v. State of Uttar Pradesh*, (1983) 2 SCC 308; *Upendra Baxi (II) v. State of Uttar Pradesh*, AIR 1987 SC 191. Similarly, Shamnad Basheer intervened as *Amicus Curie* in a much-celebrated IPR case (*Novartis v. Union of India*, AIR 2013 SC 1311).

77 Petition to Permit, *supra* note 75.

78 *Id.* at 9.

where we suffer a shortage of resources, and law schools may find it easier to deploy regular faculty members to integrate a clinical approach in their classrooms, rather than hiring experienced practitioners to run full-time clinics, as is the case with the US.

The petition also revealed a dichotomy between BCI Rules and University Grant Commission's Regulations. According to the UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018, academics engaged with "consultancy" projects and sponsored projects are entitled to a better research score.⁷⁹ Now, in *Bar Council of India v. AK Balaji*,⁸⁰ the Indian Supreme Court held that the "practice of law includes litigation as well as non-litigation."⁸¹ In other words, the practice of law is not merely confined to practice before courts of law, but includes a "non-litigations" practice as well. This aspect was noticed by the Knowledge Commission Report in its report which suggested that in order "to foster quality and create better incentives, there is also a need to remove fetters on faculty that pertain to opportunities in legal practice."⁸²

Be that as it may, the petition did receive support from the Consortium of NLUs,⁸³ which echoed similar apprehension against the rule prohibiting law teachers to simultaneously practice; however nothing concrete has been done since then. Interestingly, in May 1973, there was an interesting suggestion made to even allow students of final years (alongside teachers of law schools) to appear before courts.⁸⁴ In fact, simulation exercises like the moot court activities have often witnessed remarkable efforts been put forth by the law students, so much so, that in certain occasions the arguments put forth, appear to be far better than an average certified

79 See Regulation 9.1, UGC Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018. Consequently, some law schools and law professors do engage in consultancies, *id.* at 8.

80 AIR 2018 SC 1382.

81 *Id.* at para 39.

82 Knowledge Commission Report, *supra* note 31 at 40.

83 Akansha Jain, "Allow Law Teachers to be Litigation Lawyers: NLU Consortium", (2019), available at: <https://www.livelaw.in/news-updates/allow-law-teachers-to-be-litigation-lawyersnluconsortium143077> (last visited on May, 20, 2024).

84 The Report suggested to amend Advocates Act, 1961 and insert s. 33-A, see *Report of the Expert Committee on Legal Aid: Processual Justice to the People* (Ministry of Law Justice and Corporate Affairs, 1973) [*hereinafter* Report of the Expert Committee on Legal Aid], available at: <https://indianculture.gov.in/reports-proceedings/report-expert-committee-legal-aid-processual-justice-people>(lastvisited on May, 20, 2024).

advocate.⁸⁵ Furthermore, through clinic education, law students are not only learning practical skills, but are also directly involved in providing assistance to people who could not otherwise afford legal services.⁸⁶ Additionally, law students are finding success in filing public interest litigation (PIL) before the high courts and the Supreme Court in India.⁸⁷ These experiences perhaps suggest that time has come to figure out how law must not be treated as a pure theoretical discipline.

Greater autonomy

Institutions require greater autonomy to sustain international competitive culture, especially in the light of technological advancements, which has changed the dynamics of law learning from *practice* to *skill accretion*. For instance, with respect to legal education, Mark A. Cohen opined that although during pandemic there was an increase in law school applications, yet owing to their faltering curriculum, they are continuing to prepare graduates for “careers that are vanishing.”⁸⁸

Here, pandemic has accelerated the change, and has placed law schools in a curious position, especially Indian law schools, which often find difficulties in following global competitive practices. Part of the reason is too much control or interference in their functioning by multiple regulatory authorities. For Indian law schools, it is high time to realize that digital change will soon expose laggards. Therefore, in order to remain competitive or excel in creating knowledge economy, as mandated by NEP 2020, there arises a greater need to relax control mechanism and grant greater autonomy.

Having said this, the argument of minimum interference and greater autonomy does not mean lesser emphasis on transparency and strict adherence to standardized norms.

85 They are considered as “theatres of knowledge for law students”, see Ravi Kanth, “Moot Courts and Legal Aid Clinics-The theatres of knowledge for Law Students” Bar and Bench (June 09, 2021), *available at*: <https://www.barandbench.com/apprentice-lawyer/moot-courts-and-legal-aid-clinics-amity-law-school-gurugram> (last visited on Mar. 10, 2024).

86 Shuvro Prosun Sarker, *supra* note 3 at 322-323.

87 See for example, see *Shreya Singhal v. Union of India*, Writ Petition (Criminal) No. 167 of 2012; Priyanshu Gupta Daughter of *Manish Gupta v. State of Rajasthan*, D.B. Civil Writ Petition (PIL) No. 11581/2021. However, owing to lack of proper regulations, law students are filing unnecessary PILs too, see PTI, “Focus on studies instead of filing PILs: Supreme Court to law student” *Deccan Herald* (July 03, 2023), *available at*: <https://www.deccanherald.com/india/focus-on-studies-instead-of-filing-pils-supreme-court-to-law-student-1233780.html> (last visited on Apr. 10, 2024); PTI, “SC Refuses To Entertain PIL Seeking Common Dress Code For Students In Educational Institutes”, *ABP Live* (Sep. 16, 2022), *available at*: <https://news.abplive.com/news/india/sc-refuses-to-entertain-pil-seeking-common-dress-code-for-students-in-educational-institutes-1553653> (last visited on May 20, 2024).

88 Mark A. Cohen, “A Boom Year for Law Schools, But What About Students, Legal Consumers, and Society?” *Forbes* (Mar. 31, 2021), *available at*: <https://www.forbes.com/sites/markcohen1/2021/03/31/a-boom-year-for-law-schools-but-what-about-students-legal-consumers-and-society/?sh=6f55d4d67aba> (last visited on May 20, 2024).

The idea is to suggest a system that operates in compliance with the law. This would also mean democratic engagement with other stakeholders, including academia. Perhaps, the creation of NLU's across India was a classical example of how right amalgamation of innovations, academic autonomy, and merit-based admission system, results into changes in curricula innovation. Nevertheless, NLU experiment was meant to be “a work in progress” that requires continuous upgrading;⁸⁹ and since that has not been the case, there exists a hierarchical set up amongst the 1700 law schools in India, with few NLU's considered as “elusive islands of excellence”. This position is somewhat changing now, especially with the establishment of the Institute of Eminence (IoE) which currently has eight public and four private institutions,⁹⁰ yet, many concerns remains unaddressed. For instance, the focus of law imparting institutions is largely upon entry-level access and very rarely do they go deep into analyzing a case for inclusivity or institutional support.⁹¹

In this context, the suggestion given by senior professor A.K. Avasthi. for the establishment of the National Institute of Legal Education and Research (NILER) appears quite workable on two counts:⁹² *firstly*, it will have a proportionate representation from bar councils, judiciary, UGC, and colleges/universities engaged in imparting legal education; and *secondly*, it will entrust the body to formulate both under-graduate as well as post-graduate courses in law. Respectively, the body would not only see the effective implementation of courses, but will also be engaged in affiliation and recognition of law schools. Thus, the proposal will not only settle the conflict (owing to the involvement of multiple authorities) but will also clarify their role and mandate.⁹³ Herein, NILER could be assigned one crucial task, which is to break the hierarchical barriers amongst the law schools by giving enough scope of autonomy to all—be it a public or a private law school.

Humanized study of law

Many aspects of law schools in general and law learning particular, create undue and unnecessary stress upon the students. Part of the reason behind such observation is

89 See N.R. Madhava Menon, “Training in Legal Education: Some Comparative Insights from Indian and American Experience” 49(3) *Journal of the Indian Law Institute* 408 (2007).

90 Here out of eight public institutions, three, and out of 4 private institutions, 2 are engaged in imparting legal education, see UGC, *List of IoEs with Date of Notification*, available at: <https://ioe.ugc.ac.in/Home/ListofIOE> (last visited on Apr. 2, 2024).

91 Chirayu Jain *et al.*, “Accessibility and Inclusivity at National Law School” 53 *Economic & Political Weekly* 78 (2018).

92 A.K. Avasthi, *supra* note 68 at 76. Similar observations were also suggested by Abhishek Manu Singhvi, Senior Advocate, Supreme Court of India, see Abhishek Manu Singhvi, “A new vision for legal education in India”, *The Times of India* (Jan. 18, 2021), available at: <https://timesofindia.indiatimes.com/blogs/straight-candid/a-new-vision-for-legal-education-in-india/> (last visited on May 20, 2024).

the fact that the focus of law schools is to reveal the reality of the profession and accordingly, get them ready by “creating an equally brutal, demanding, and disoriented educational experience.”⁹⁴ This approach although was the primary motto of Indian law schools, has sadly in the course of recent few decades shifted towards “specialization” instead of a “more humanized study of law.”⁹⁵

One of the reasons is the “cultivation of corporate job culture” in the NLU’s.⁹⁶ Students are cultured in such a manner that the “most encultured law products” of the NLU’ snow serve the causes of “globalized lawyering than the future of human rights in a globalizing India.”⁹⁷ For instance, The National Academy of Legal Studies and Research (NALSAR) Final Placement Report 2021-23,⁹⁸ emphasis is drawn towards highlighting industrial verticals as against policy organization or non-governmental organization. This aspect was equally supported by the rise of corporate law firms in India.⁹⁹ Much impetus behind such persistence comes from the fact that post liberalization, India has adopted relaxed measures to make the system flexible and adaptable. Recently, since March 2023, India has even allowed foreign law firms to operate in India on a reciprocal basis and in restricted non-litigious areas.¹⁰⁰

93 For example, BCI role can be limited to “the job of taking care of its members, to prescribe and enforce professional ethics among them, to take appropriate disciplinary action against erring members, and to maintain and harmonize bench-bar relations.” *Id.* at 78.

94 Barbara Glesner Fines, “Fundamental Principles and Challenges of Humanizing Legal Education” 47(2) *Washburn Law Journal* 314 (2008).

95 Robert A. Gorman, *supra* note 23 at 850.

96 Upendra Baxi, “Enculturing Law? Some Unphilosophic Remarks”, in Mathew John and Sitharamam Kakarala (eds.), *Enculturing Law: New Agendas for Legal Pedagogy* 17 (Tulika Books, New Delhi, 2007).

97 *Ibid.*

98 NALSAR University of Law, Final Placement Report 2021-23, *available at*: <https://doms.nalsar.ac.in/wp-content/uploads/2023/06/Final-Placement-Report-2021-23-1.pdf> (last visited on May 20, 2024).

99 Harsh Mahaseth, and Sanchita Makhija, “The *Idée Fixe* of Corporate Jobs in India: The Institutional Change in Legal Education and the Different Factors for the Shift” 9(1) *Asian Journal of Legal Education* 100 (2021).

100 See the Bar Council of India Rules for Registration and Regulation of Foreign Lawyers or Foreign Law Firms in India, 2022, *available at*: https://www.livelaw.in/pdf_upload/bar-council-of-india-rules-for-registration-and-regulation-of-foreign-lawyers-and-foreign-law-firms-in-india-2022-463531.pdf (last visited on May 20, 2024). There are apprehensions against the Rules, see Ashutosh Ray, “India at the Tipping Point to Welcoming Foreign Law Firms? How Do New Rules Affect Foreign Arbitration Lawyers?” *Kluwer Arbitration Blog* (May 6, 2023), *available at*: <https://arbitrationblog.kluwerarbitration.com/2023/05/06/india-at-the-tipping-point-to-welcoming-foreign-law-firms-how-do-new-rules-affect-foreign-arbitration-lawyers/> (last visited on Mar. 20, 2024).

As a result, legal practice has assumed the role of delivering accessible, efficient, and fit-for purpose services, products and assistance. In this structure, it is difficult for law schools to develop a humanized environment of teaching and learning. In fact, few argue that for all tall claims, law schools are still finding it difficult to impart legal education that advances the three e's namely; empathy, equity, and evenness.¹⁰¹ The recent COVID experience curiously explains this concern. The pandemic not only uncovered the concealed imbalance but also managed to connivingly “rattle every modicum of certainty.”¹⁰² It brought the discriminatory policies to the forefront, argued for a case of dialogue amongst the concerned stakeholders, and inspired a sense of gratitude and belongingness. In fact, post-pandemic literature suggests for dismantlement of “antiquated and dysfunctional ideals that guide legal education”¹⁰³ and replace it with humanized practices.

Further, studies suggest that students with proper care and attention leave with happy memories.¹⁰⁴ Perhaps, for these reasons it is necessary to examine the suggestions offered by Barbara Glesner Fines that there should be (i) identification of negative stressors in the law school environment; (ii) greater focus on teaching students rather than on teaching subjects; and (iii) emphasis on re-capturing the essence of professional values.¹⁰⁵ In other words, she emphasizes upon adopting a collaborative approach wherein students will develop their ability as ethically competent lawyers through “discerning their own values and purposes, and knowing how to work with and for others”, while understanding diverse perspectives.¹⁰⁶ Here, the idea is to reclaim the element of humanity *via* law learning, and subsequently, follow it in the profession. In this manner, not only will legal education be humanized, but such an approach will perform two crucial functions *i.e.*, (i) strengthen the cause of social transformation, and (ii) foster primary objective of law learning.

101 There are few who discuss on inequitable learning environment in law schools, see Shamnad Basher, *et al.*, “Making of legal Elites and the IDIA of Justice” in David B. Wilkins, Vikramaditya S. Khanna, and David M. Trubek (eds.), *The Indian Legal Profession in the Age of Globalisation* 578 (Cambridge University Press, New Delhi, 2018).

102 Kinda L. Abdus-Saboor, “Lessons from Pandemic Pedagogy: Humanizing Law School Teaching to Create Equity and Evenness” 69(3)*Journal of Legal Education* 621 (2020).

103 *Id.* at 622. See also Rumi Roy and Prakash Sharma, *supra* note 53 at 45.

104 NCERT, National Curriculum Framework for School Education, 2023, available at: https://www.education.gov.in/sites/upload_files/mhrd/files/infocus_slider/NCF-School-Education-Pre-Draft.pdf (last visited on May 20, 2024). See also National Post secondary Education Cooperative, *What Matters to Student Success: A Review of the Literature* (2006), available at: https://nces.ed.gov/npec/pdf/kuh_team_report.pdf (last visited on Mar. 20, 2024).

105 Barbara Glesner Fines, “Fundamental Principles and Challenges of Humanizing Legal Education” 47(2) *Washburn Law Journal* 313(2008).

106 *Id.* at 319-320. See also Michael Hunter Schwartz, “Humanizing Legal Education: An Introduction to a Symposium Whose Time Came” 47(2)*Washburn Law Journal* 235-246 (2008).

Such an approach in fact takes us back to the earlier literature which suggest for reviewing: what law if for? This sentence needs to be rewritten as it lacks clarity. Upendra Baxi while answering the question recommends for creating a pool of soldiers of social justice,¹⁰⁷ who will remain compassionate and humane to build public trust and advance common good. He is of the belief that for India, learning of law must encourage human interactions. Such an approach will not only add meaning to law learning, but instill a sense of belongingness and responsibility towards the nation.

The course structure

On the basis of the above-mentioned analysis, it is proposed to introduce a 4+1 years program (full time study + full time internship/on the job training) in the law schools. At present, there are two models in India: the three-year Bachelor of Law (LL.B.) program and the five-year integrated BA (Hons)-cum-LL.B. program. In this regard, our proposal of 4+1 suits the second model of offering law course It is proposed that propose:

- i. In the first four years of law learning, focus should primarily be drawn towards completing the BCI's minimum of 21 core subjects, three optional subjects and four compulsory practical papers (moot court, pre-trial preparations and participation in trial proceedings; public interest lawyering, legal aid and para legal services; drafting pleading and conveyancing; professional ethics accountancy for lawyers and bar-bench relations). Here, liberty must be extended to law schools to introduce 12 additional specialized subjects. This would mean a total of 40 subjects in four years will be covered. In total every semester will have five subjects each for eight semesters.
- ii. Students in their second year (*i.e.*, 3rd and 4th semester) must choose a particular substantive field to explore in depth, and devote a substantial part of their second and third years to mastering that field. As a result, the law student will not only accumulate information about the field, but view it with the versatility, perspective, and sophistication which the lawyer must bring to the profession.
- iii. In the fourth year, emphasis should be given towards skills exercises, appropriate clinical work, and small-group and individualized study program.
- iv. The final year of the course *i.e.*, the fifth year, should be kept as a full-time internship/on the job training, which must be determined on the basis of (i) assessment of subjects chosen by the student, (ii) preference taken in the second year, (iii) desired mastery acquired in the second and third years, and (iv) requisite skills, attitude, and ethics gathered in the fourth year.
- v. For the full-time internship/on the job training there must be a planned curriculum of practical training prepared in consultation with clinical teacher

107 Upendra Baxi, *supra* note 96 at 17.

who will also participated in the assessment. The assessment must be credit based with 50% evaluation each with law school and the institution/individual, as the case may be.

- vi. On satisfactory completion of the full-time internship/on the job training, students should receive LL.B. degree along with a certificate on respective specialized domain.

In this manner, the proposal offers students to explore their individual purposes in becoming a lawyer. Being student oriented, the proposed model confirms greater say in terms of (i) selection of their area of expertise, (ii) working to develop mastery in it, and (iii) due to greater importance upon internship, the proposed model makes their final year progressively illuminating and challenging. Additionally, in order to bring more teeth to our proposal, we suggest an amendment to the Advocates Act, 1961 by inserting a new provision that allows a person who is engaged in teaching of or research in law in an institution of higher learning or a student of a final year, upon obtaining the necessary consent from respective workplace or place of study, as the case may be, to apply for practice of law as a pro-bono lawyer.¹⁰⁸

III Concluding remarks

Legal education and law schools demand constant evaluation to refit and meet the needs of the society, for the simplest reason that it is through constant evaluations, reforms are proposed, which in fact, determine the beauty, longevity and functional utility of the superstructure of law. Be that as it may, Indian experience suggests that any efforts towards bringing reform have either witnessed unnecessary delays or no reforms at all or unclear reforms. For instance, the NLU system of education though had brought a welcome change in the 1980s, continues to suffer from want of reforms.¹⁰⁹ This fairly sums up the gap between the rhetoric of reform and the reality of governance. Therefore, it is high time to move out from the perception that only a particular model is foolproof and it must linger till perpetuity; rather a correct approach will continuously assess and evaluate institutions functioning, especially in the light of the newer challenges. In this perspective, the proposed course structure along with suggestive reforms has the potential to bring a euphoria of great expectations and promises.

*Shuvro Prosun Sarkar**

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108 This would also mean few changes in the Ch. IV, Advocates Act, 1961. The proposal is in tune with the Report of the Expert Committee on Legal Aid, *supra* note at.

109 Upasana Dasgupta, *supra* note 1 at 163.

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