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EDITORIAL NOTE

Awakening the NLU Conscience- A Case Study of Diversity in Indian Law Schools

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I. INTRODUCTION

“Inclusive, good-quality education is a foundation for dynamic and equitable societies.”

—Desmond Tutu

This statement by anti-apartheid and human rights activist, Tutu mentions that the creation of equitable and dynamic societies can be achieved through an introduction of quality education, which is inclusive, accessible, and uniform. However, an aspect of accounting for socio-economic barriers has been missing in multiple spheres of the educational sector, including the legal education sector. Understanding socio-economic barriers is particularly essential for law students as they are regarded as ‘*social engineers*’ of tomorrow. It is imperative to say that education and opportunities ought to be shared equally, irrespective of social or economic considerations.

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The importance of National Law Universities ('NLUs') in the law school fraternity is increasing with the increase in the number of students opting for the law as a career.¹ This increased interest is backed with an increase in opportunities for honing advocacy skills such as moots, journals, debating along with established alumni networks in the legal profession, and lucrative placements from law firms.² NLUs have professionalised career in law, and law is no more seen as a last resort in career-making.³ These NLUs were given autonomy towards their curriculum and pedagogical teaching while introducing radical learning techniques for the students.⁴ By substantially overhauling the existing manner of a traditional university, these universities aimed to differ from other Indian law universities. The high employment rates of students of top NLUs in law firms have been a prominent factor in leading to their popularity.⁵ The access to the prestigious NLUs is by ranks achieved through the all India Common Law Admission Test (CLAT).

However, a more in-depth study of these law school structures reveals some disturbing trends. The NLUs have led to the belittling of other traditional law colleges or non-NLUs, leading to an epistemicide in the context of legal education. This is also supported by the fact that admission to NLUs is hindered by language, financial, and social barriers for many students. In the first part of this paper, the authors have traced the development of the five-year law school model. Subsequently, the authors have analysed and presented data from Diversity Reports of NLSIU Bangalore (Hereafter NLSIU), NUJS Kolkata (Hereafter NUJS, and Jamia Law School, Delhi (Hereafter Jamia). NLSIU and NUJS are top tier NLUs in the country, while Jamia is considered as one of the better traditional law colleges in India.

These Diversity Reports have been relied upon to demonstrate the presence of language and socio-economic barriers for students accessing law schools in these three colleges. The presence of these barriers is further leading to an illusion of superiority of NLUs over non-NLUs, thereby resulting in colonisation and

¹ Deepak Yadav, "CLAT 2019: Around 60,000 Appear for the Test", *The Times of India* (26/5/2019), available at <<https://timesofindia.indiatimes.com/home/education/news/clat-2019-around-60000-appear-for-the-test/articleshow/69506447.cms?>>, last seen on 2/5/2020; #CLAT 2017: Record 51,000 Applicants This Year, Bar and Bench (1/4/2017), available at <<https://www.barandbench.com/apprentice-lawyer/clat-2017-record-51000-applicants-year>>, last seen on 2/5/2020.

² Nikhil Kanekal, "Law Education: Islands of Excellence", *Live Mint* (13/1/2012), available at <<https://www.livemint.com/Politics/R3SB5JoqpaL2oO78Y3k85K/Law-education-islands-of-excellence.html>>, last seen on 2/5/2020.

³ Upasana Dasgupta, "The Paradox of Elite Law Schools in India — A Comparison with Canadian Legal Education", *Quebec Journal of International Law* 152 (2019).

⁴ *Supra* note 2.

⁵ NUJS 2019 Final Recruitments: 90 Jobs for 124, Including 50+ Big Law • Judicial, Civil Services Prove Popular, *Legally India* (21/8/2019), available at <<https://www.legallyindia.com/lawschools/nujs-2019-final-recruitments-90-jobs-including-50-biglaw-judicial-civil-services-prove-popular-20190821-10791>>, last seen on 2/5/2020 ; Campus Recruitment, *Legally India* available at <<https://www.legallyindia.com/tag/campus-recruitment>>, last seen on 2/5/2020.

epistemicide within legal education. The impact of this epistemicide has a significant effect on the placements offered to students as well as the social value attached to legal education institutions. The authors have presented some recommendations to bridge the gap between NLUs and non NLUs. The authors have limited the discussion on CLAT to the Under Graduate level (Hereinafter 'UG') entrance test.

A. Background of Legal Education in India

The legal education system in India is regulated by the Bar Council of India as well as the University Grants Commission (UGC).⁶ While the Bar Council is responsible for providing quality standards of the legal profession⁷, the UGC is responsible for maintaining quality education across all institutions of higher education in India.⁸ The Advocates Act of 1961 mandates the BCI to lay down standards for legal education imparted by institutions.⁹ It also allows the BCI to make rules to ensure continuity of such legal standards as well as for inspection. The introduction of the five-year integrated law course was one of the most significant legal education reforms of the 20th century, which led to a shift in the model of legal education.

The five-year law course in India owes its origins to the Gajendragadkar Committee of 1964. The Committee recommended a change in the structure of the academic course from a two-year course to a three-year course.¹⁰ The Committee had recommended the establishment of model 'National Law Schools' in India.¹¹ One of the recommendations in this regard was trying to get eminent legal scholars to be faculties in such law schools while also granting them autonomy to develop better pedagogy techniques.¹² However, no significant attention was paid to the model law school proposal until 1975. At the First National Convention on Legal Education in 1979, certain reforms were proposed which included increasing the duration of the academic course to five years.¹³ They also recommended inclusion of social sciences in the study of law such as sociology, political science, and economics to give context to the legal education and

⁶ Lovely Das Gupta, "Reforming Indian Legal Education: Linking Research and Teaching", 59 *Journal of Legal Education* 436 (2010).

⁷ 184th Law Commission of India Report, The Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956, 22 (2002), available at <<http://lawcommissionofindia.nic.in/reports/184threport-PartI.pdf>>, last seen on 2/5/2020.

⁸ *Ibid.*

⁹ *Supra* note 6.

¹⁰ Sushma Gupta, *History of Legal Education*, 78 (2006).

¹¹ *Ibid.*

¹² *Supra* note 6, at 439.

¹³ *Supra* note 10, at 85.

introduce inter-disciplinary analysis within the legal stream being imparted to the students.¹⁴

Professor Upendra Baxi emphasised on the adoption of the five-year integrated law course model as adopted by law schools across the country. He stressed the inclusion of subjects such as economics, international relations, political science, history, and sociology to be taught to students as part of their legal curriculum.¹⁵ He felt that it would help in the development of the “*social reality of law*”.¹⁶ Ideas of autonomous national law schools continued to gain traction in the 1980s. Professor N.R. Madhava Menon, a supporter of the Baxi school was entrusted with the task of establishing the first National Law School in India.¹⁷ The autonomy of these institutions was ensured by making them “*financially, structurally and administratively independent*”.¹⁸ Professor Menon wished for National Law Schools or NLUs to have distinct identities in the legal fraternity and act as centers for development of analytical skills and clinical education.¹⁹

The traditional universities that imparted legal education were based lecture model²⁰, followed in Universities around the world before Langdon had derived the case method in the Harvard Law School²¹. The lecture involved teachers lecturing students for hours with the students making notes and reading commentaries on different laws to supplement their knowledge of the law. These universities were criticized for imparting education through rote memory and not inculcating critical understanding in students.²² However, in the case of India, even though we had an extensive system of laws, we lacked a legal profession which understood the social and economic architecture behind the system.

NLSIU was established by the state of Karnataka through the National Law School of India University Act (Karnataka Act 22 of 1986)²³. The Act embodied the principles of a model law school as envisioned by Professor Baxi and Professor Madhav Menon. NLSIU was given complete academic and administrative autonomy while leaving room for experimentation and innovation in pedagogy.²⁴

¹⁴ *Ibid.*

¹⁵ *Supra* note 6, at 441.

¹⁶ *Ibid.*

¹⁷ *Supra* note 6, at 442.

¹⁸ *Ibid.*

¹⁹ Madhav Menon, “The Transformation of Indian Legal Education: A Blue Paper”, Harvard Law School, available at <https://clp.law.harvard.edu/assets/Menon_Blue_Paper.pdf>, last seen on 2/5/2020.

²⁰ Gerhard Casper, “Two Models of Legal Education”, 41 Tennessee Law Review 16 (1973).

²¹ Chase, Anthony, “The Birth of the Modern Law School”, 23(4) The American Journal of Legal History 329-348 (1979), available at <www.jstor.org/stable/844687>, last seen on 2/5/2020.

²² Von Mehren, Arthur Taylor, “Law and Legal Education in India: Some Observations”, 78(6) Harvard Law Review, 1180-1189 (1965), available at <www.jstor.org/stable/1338927>, last seen on 2/5/2020.

²³ S.3, The National Law School of India University Act, 1986.

²⁴ About Us, National Law School of India University, available at <<https://www.nls.ac.in/about-us/>>, last seen on 2/5/2020.

The establishment of the NLSIU in 1986 represented the creation of a new law school which incorporated the vision suggested by Professor Baxi and Menon. The idea of a five-year law school was appreciated and deliberated upon for further creation of National Law schools. NLSIU, NALSAR, NLIU and NUJS are considered as successful implementations of this reform. They kick started the race for establishment of national law schools in different parts of the country. As of 2019, there were 23 NLUs established in India by different state governments²⁵. The 24th law school to be created is the Jammu and Kashmir National Law University established in the year 2019.²⁶

The NLU model aims to create a legal education framework recognised as adequate to mold students into professionals capable of fulfilling the changing requirements of the legal profession in India and abroad. NLUs have begun to create a new set of legal luminaries over the ones emerging from traditional universities with legal departments, such as Delhi University or Aligarh University. Thus, within the Indian context, the NLU model of legal education has been considered to occupy the highest rung of the legal education ladder.²⁷ This is reinforced by the fact that numerous state governments have endeavoured to establish NLUs in their respective states, sometimes three in a single state²⁸, believing in the superiority of the NLU model over traditional universities imparting legal education.

B. Opportunities to Student National Law Universities Vis-à-vis Traditional University: A case Study of Three Law Schools

This part of the note will analyze the demographical patterns in three colleges which have conducted their Diversity Report in the past. These reports include NLSIU Bangalore (2016 Report)²⁹, Jamia Institute of Law (2018 Report)³⁰ and NUJS, Kolkata (2019 Report)³¹. The respondents' backgrounds have been

²⁵ Brief History, Consortium of NLUs, available at <<https://consortiumofnlus.ac.in/history.html>>, last seen on 2/5/2020.

²⁶ "Governor Clears Way for Setting up NLU in Jammu and Kashmir", *The Times of India* (2/10/2019), available at <http://timesofindia.indiatimes.com/articleshow/71406584.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst>, last seen on 2/5/2020.

²⁷ "The Establishment of NLU System is Unquestionably the Greatest Achievement in the Course of Providing Quality Legal Education in Our Country", p. 7 <<http://lawjournals.stmjournals.in/index.php/Jolj/article/download/104/76/>>.

²⁸ "Three National Law Universities Coming in Maharashtra", LiveLaw (22/1/2014), available at <<https://www.livelaw.in/three-national-law-universities-coming-in-maharashtra/>>, last seen on 2/5/2020.

²⁹ Chirayu Jain, Spadika Jayaraj et al., "The Elusive Island of Excellence : A Study on Student Demographics, Accessibility and Inclusivity at National Law School 2015-16", available at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2788311>, last seen on 2/5/2020.

³⁰ Husain Aanis Khan, "Inclusivity and Diversity in Minority Central University", available at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3541086>, last seen on 2/5/2020.

³¹ The NUJS Diversity Report, Rohit Sharma, Nikhil Iyer et al., available at <<http://sja.nujs.edu/storage/The%20NUJS%20Diversity%20Report%2C%202019.pdf>>, last seen on 2/5/2020.

checked to understand the diversity in the Universities and determine accessibility of National law schools to students belonging to social and economic backward sections of society. The hypothesis for this part is that there exists a similar pattern of diversity in students of two of three top tier NLUs i.e. NUJS and NLS in this case.³² The authors shall also present basic demographics, financial background, and educational background of students from these three colleges. In this section, the term 'students' refers to respondents of the diversity reports.

C. Basic Demographics

In this portion, a socio-economic analysis of the background of students studying in NLSIU, NUJS and Jamia has been done.

This determination will involve identification of caste of the respondents and their regional background to understand the percentage of students belonging to urban and rural areas of the country.

In Jamia, around 11% and 22% percent respondents associated themselves as 'Brahmin and Other Upper Castes' respectively.³³ 4% respondents identified themselves as belonging to Other Backward Castes ('OBCs').³⁴ Surprisingly, there were no respondent (0%) who identified themselves as belonging to Scheduled Castes (SC) or Scheduled Tribes (ST).³⁵ This requires one to question the reasons for this as to whether these students refrained from answering due to social circumstances or their representation is lacking in Jamia.³⁶ NLSIU and NUJS both had around 27% of Brahmins and, 32% of other upper caste.³⁷ On account of other backward castes, there were 2.7% and 2.3% of the students who identified themselves as OBC in NLSIU and NUJS respectively.³⁸ While around 15% and 7% of the students of NLSIU students and 10% and 5% of the students of NUJS marked themselves as coming from SCs and STs respectively.³⁹

D. Urban v Rural background

We will first compare the Urban-Rural distribution in background of students of Jamia and NLSIU since NUJS Diversity report didn't rely on tier model but rather divided the responses into 'City', 'Town' and 'Village'.

³² CLAT 2019 Preferences: NLU J Overtakes NLIU in 4th Place, NLU Odisha Rises above Patiala, Nuals • NLS Builds Lead, Legally India (15/6/2019), available at <<https://www.legallyindia.com/lawschools/clat-2019-preferences-nlu-j-overtakes-nliu-in-4th-place-nlu-odisha-rises-above-patiala-nuals-nls-builds-lead-20190615-10642>>, last seen on 2/5/2020.

³³ *Supra* note 30 at 39.

³⁴ *Ibid.*

³⁵ *Supra* note 30 at 69.

³⁶ *Ibid.*

³⁷ *Supra* note 29 at 28; *Supra* note 31 at 14.

³⁸ *Ibid.*

³⁹ *Ibid.*

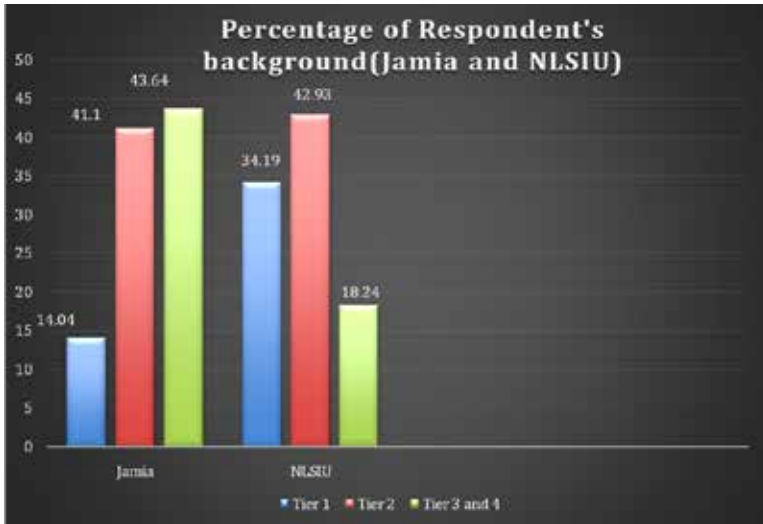


Figure 1⁴⁰: Background of Students of Jamia and NLSIU

Note: 4.63% marked inapplicable in NLSIU which might be representative of Non-Residents of Indian origin or foreign nationals.

In the Fig. 1 we can witness that the students from Tier-3 and Tier 4 cities are merely 18.24% of the student strength in NLSIU while the same percentage is 43.64% in the case of Jamia. The student strength of NUJS⁴¹ (84.3% of the students) and NLSIU⁴² (77.1% of the students) was primarily dominated by those from cities⁴³ unlike Jamia⁴⁴. This trend can also be seen in NUJS wherein only 15% people came from 'Town' and only 1% belonged to 'Village'.⁴⁵

The above data is suggestive of the fact that CLAT aspirants who make into these two NLUs are residents of urban areas.

This is in sharp contrast to Jamia, where a more significant number, 43.64% of students came from Tier 3 & 4 areas.

⁴⁰ *Supra* note 30 at 96; *Supra* note 29 at 31.

⁴¹ *Supra* note 31 at 37.

⁴² *Supra* note 40.

⁴³ For NLSIU, the percentage given is of Tier-1 and Tier-2 Cities while for NUJS, it is the percentage of students who marked city as their background.

⁴⁴ *Supra* note 40.

⁴⁵ *Supra* note 41.

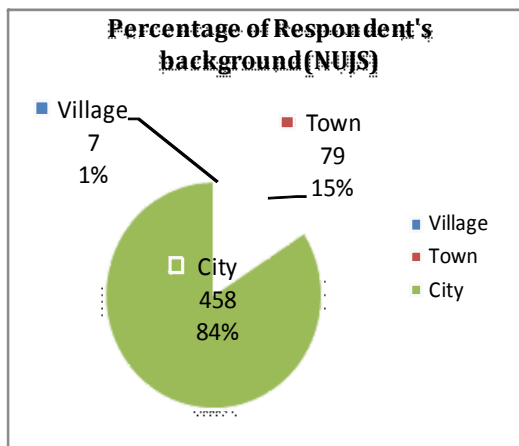


Figure 2⁴⁶ : Background of Students of NUJS

Supplementary issues of impediments faced by students belonging to semi-urban and rural backgrounds will be analysed subsequently. Some of these factors are financial and language differences.

E. Financial Background

This section discusses the financial background of students joining these universities. In order to assess financial background of students, we will resort to the data on total combined income of parents of the respondents.

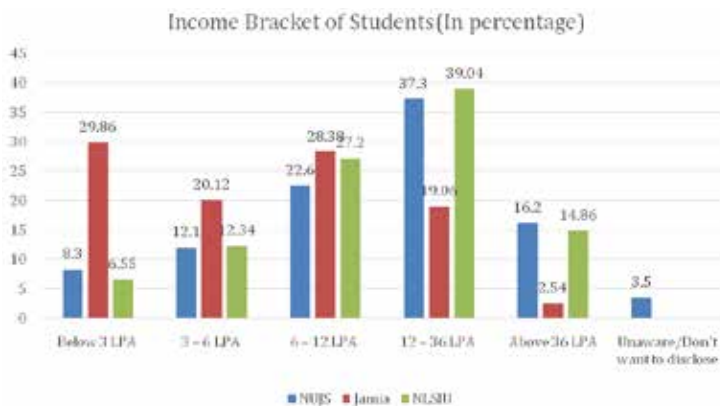


Figure 3⁴⁷: Combined Annual Income of Students of three law schools

⁴⁶ *Ibid.*

⁴⁷ *Supra* note 29 at 32; *Supra* note 30 at 45; *Supra* note 31 at 51.

In NLSIU, the annual income of Brahmins and other upper castes lies between 20.8-21.5 lakh rupees, while it was Rs. 12.5 lakhs and Rs.15.8 for SCs and STs respectively.⁴⁸ Contrasting this with NUJS, it was 17.5 lakhs rupees for other upper caste, 19.5 lakh rupees for Brahmins and 21.5 lakhs for students refusing to identify their caste.⁴⁹ The same was substantially lower for SC and ST students with both groups having average combined income being around 11.5 lakh rupees.⁵⁰

This is reflective of the fact that students from higher income groups find it easier to access National Law Schools. A small 20% of the students in NLSIU⁵¹ and NUJS⁵² belong to homes with annual salaries of less than 6 Lac rupees. In comparison to Jamia, almost half of the students belong to this group.⁵³

In NUJS and NLSIU, 15-16% of students had annual parents' salary more than 36 Lacs rupees while in case of Jamia, it was just at 2.5 % of student strength.⁵⁴ This data shows the difference in terms of the financial background of the students joining two of three top NLUs in comparison to a traditional law school such as Jamia.

F. Role of CLAT in determining Accessibility to Law schools

The Common Law Admission Test (CLAT) leads to inaccessibility in three ways: *first*, registration fees for taking up the examination, *second*, mode of the examination, and *third*, medium of the examination. The third part has been analysed in a subsequent section.

G. CLAT Fees

The fees for UG CLAT is Rs. 4000/- (General) and Rs. 3500/- for students belonging to SC,ST, and Below Poverty Line (BPL).⁵⁵ The average monthly household income of the wealthiest top 1% of Indians ranges in between 8-14 Lacs, and that of the wealthiest 10% is 4.3-8 Lacs.⁵⁶ A meagre 0.2 per cent of the country's aggregate workforce makes over Rs 1 lakh per month.⁵⁷ The earning of

⁴⁸ *Supra* note 29 at 47.

⁴⁹ *Supra* note 31 at 53.

⁵⁰ *Ibid.*

⁵¹ *Supra* note 48.

⁵² *Ibid.*

⁵³ *Supra* note 30 at 45.

⁵⁴ *Supra* note 47.

⁵⁵ Instructions for UG Programme, Consortium of NLUs, available at <<https://consortiumofnlns.ac.in/clat-2020/ug-instructions.html>>, last seen on 2/5/2020.

⁵⁶ Pramit Bhattacharya, "How Much the Richest 1% Earn and Spend", *LiveMint* (2/6/2016), available at <<https://www.livemint.com/Home-Page/QxSmwS3bnJalaoRMKexoKJ/How-much-the-richest-1-earn-and-spend.html>>, last seen on 2/5/2020.

⁵⁷ *Ibid.*

as many as 45% of regular workers in India is below Rs 10,000 per month as per Periodic Labour Force Survey (PLFS) survey for the year 2017-18 gs).⁵⁸

Entrance fees of Rs 4000 and Rs. 3500 are substantial burdens for all middle to lower classes of the population in India. The amount of fees has been decided arbitrarily without any financial audit of the CLAT consortium as to the funds that get collected by the organising NLU for that particular year.⁵⁹ In 2018, a report of the MHRD found that the CLAT fees should be Rs 1500.⁶⁰ The Committee highlighted that out of Rs 25.7 crore collected, 23.1 crore (around 90%) was profit.⁶¹ Financial hurdles in the form of high application form fee impede students of weaker economic backgrounds from reaching NLUs. The authors believe that the first step towards inclusivity in legal education can be a reduction of these entrance fees to incentivise people from all backgrounds to apply for the exam.

H. Mode of Examination

From the year 2015, CLAT switched to an online mode of examination to be given by students using computer systems.⁶² They must practise mock examinations on computers. As of 2020, CLAT has reverted back to offline mode of examination.⁶³ However, the process of applying for the examination continues to

⁵⁸ "How Much do the Salaried Really Earn? Here are the Most Detailed Findings Yet", *The Economic Times* (9/8/2019), available at <https://economictimes.indiatimes.com/jobs/how-much-do-the-salaried-really-earn-here-are-the-most-detailed-findings-yet/articleshow/70599591.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst>, last seen on 2/5/2020.

⁵⁹ Shreya Roy Chowdhary, "Here's Why the Common Law Admission Test is Going Offline after Four Years of Online Exams", *Scroll.in* (2/11/2018), available at <<https://scroll.in/article/900584/why-the-common-law-admission-test-is-going-offline-after-four-years-of-online-exams>>, last seen on 2/5/2019. (The panel had asked for audits or reports of the measures undertaken by both the university and Sify before the exam but did not receive any from either.)

⁶⁰ Arnab Mitra, "Why CLAT Application Fee is So High", *The Indian Express* (15/3/2020), available at <<https://indianexpress.com/article/education/why-clat-application-fee-is-so-high-mhrd-recommendation-not-followed-consortiumofnlus-ac-in-6282744/>>, last seen on 2/5/2019.

⁶¹ Report of the Committee Constituted to look into the Matter of Improper Conduct of CLAT 2018 and to Take Remedial Measures, available at <<http://www.documentcloud.org/documents/5026258-Report-of-Committee-CLAT-2018-Copy.html>>, last seen on 2/5/2019; Apoorva Mandhani, "CLAT Fee Shockingly High, Allows Profit Margin of 90-95% for NLUs: Committee Examining CLAT-2018", (1/11/2018) available at <<https://www.livewlaw.in/clat-fee-shockingly-high-allows-profit-margin-of-90-95-for-nlus-committee-examining-clat-2018-read-report/>> last seen on 2/5/2019.

⁶² Prachi Shrivastava, CLAT 2015: All You Want to Know About the 'Amazing' New 'Controversy-Free' Online CLAT (And How It will Actually Work), *Legally India* (3/11/2014), available at <<https://www.legallyindia.com/pre-law/revealed-how-clat-online-will-actually-work-20141103-5260>>, last seen on 2/5/2020.

⁶³ Preeti Biswas, "CLAT to Roll Back to Offline Mode from 2019", *The Times of India* (19/10/2018), available at http://timesofindia.indiatimes.com/articleshow/66286624.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst>, last seen on 2/5/2020.

be only via online means.⁶⁴ This restriction to online modes disincentivises students who have none or limited access to computer systems or digital payment options. This shows how the process of entering the law schools right from its first step creates an impression of exclusivity for multiple groups of aspirants.

I. Educational Background

We will first see the nature of school from where the students came from before joining the law school. This section also analyses the fluency of students in English with the purpose to determine the pool of students, which has the most active participation in college activities. College activities, such as debating and mootings, require some access to knowledge with fluency in English.

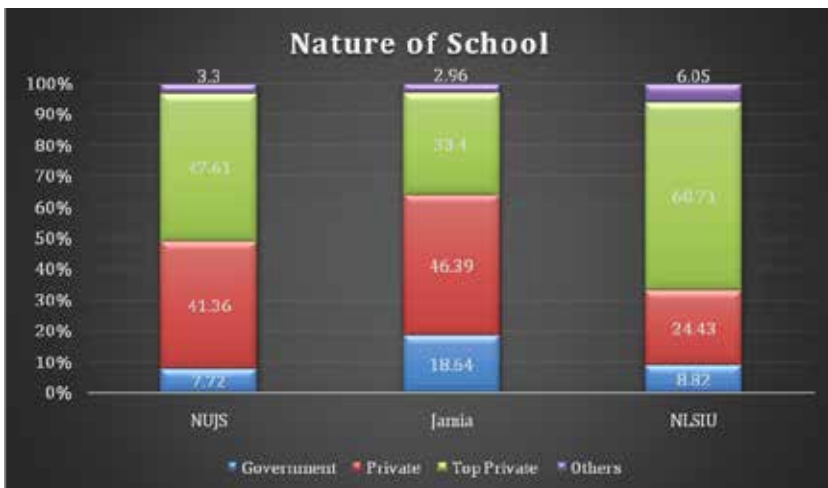


Figure 4⁶⁵: Educational Background of Students of three law schools

A report⁶⁶ by prominent academician Geeta Gandhi concluded that merely 29.6 students from ages 6-18 went to private schools for primary, senior and higher school education by the year 2014. In the 20 highly populated states of India, 75% of the total students study in government schools.⁶⁷ Now coming to these three law schools, Jamia had 19% of students from government schools while NLSIU and NUJS had merely 9% of students who had graduated from government schools.⁶⁸ This data shows that a substantial number of students of

⁶⁴ Instructions for UG Programme, Consortium of NLUs, available at <<https://consortiumofnlus.ac.in/clat-2020/ug-instructions.html>>, last seen on 2/5/2020.

⁶⁵ *Supra* note 29, 37; *Supra* note 30 at 52; *Supra* note 31 at 66.

⁶⁶ Geeta Gandhi, "The Private Schooling Phenomenon in India: A Review" (March 2017) 11 available at <<http://ftp.iza.org/dp10612.pdf>> last seen on 2/5/2020.

⁶⁷ *Id.* at 12.

⁶⁸ *Supra* note 65.

NUJS and NLSIU have studied in private schools.⁶⁹ 61% of students in NLSIU, 48% of students in NUJS have received education in private schools, unlike in Jamia, which has only 33% of such students.⁷⁰ The difference in percentage shows that Jamia gets most of its students who have not studied in private schools.

The 2011 Census of India revealed that English is the primary language of merely 256,000 people and a second language for 8.3 Crore citizens.⁷¹ This means that 6.88% of Indians have English as their first and second language. Only 10.68% of Indians have had English as their first, second or third language which still leaves around 90% of Indians not having it as a preferred language.⁷² However, CLAT as an exam continues to be organized in English despite such a low population of students with fluency in English. There is an automatic barrier created by language in accessing NLUs. Hence, students are required to know English to even appear for the examination, which may not be a point of strength for students studying in government schools due to lack of teachers fluent in English. In a study commissioned by the Department of Justice for Legal Reforms, it was suggested that that owing to lack of access to English as medium of instruction by most of the students, the paper needs to be conducted in all scheduled languages.⁷³ The author believes that barring English and Legal reasoning, all the sections can be provided in these languages at the behest of CLAT aspirants to make the paper more accessible to all classes of society.

J. Fluency⁷⁴ in English

Fig.5 and Fig.6 analyse fluency in spoken English and written English of the students of these three law schools.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ Rukmini S., "In India, Who Speaks in English, and Where?" *LiveMint*(14/5/2019) available at <<https://www.livemint.com/news/india/in-india-who-speaks-in-english-and-where-1557814101428.html>>, last seen on 2/5/2020.

⁷² *Ibid.*

⁷³ Ministry of Law and Justice, Government of India, NALSAR: A Study to Create Evidence-Based Proposals for Reform of Legal Education in India - Suggestions for Reforms at the National Law Universities Set-Up through State Legislations Report 2018, available at <<https://doj.gov.in/sites/default/files/Final%20Report%20%20NALSAR%20.pdf>>, last seen on 2/5/2020.

⁷⁴ The author has categorised values 0-2 as Low, 3 as Medium, 4 as High, 5 as Extremely High for fluency in spoken and written English.

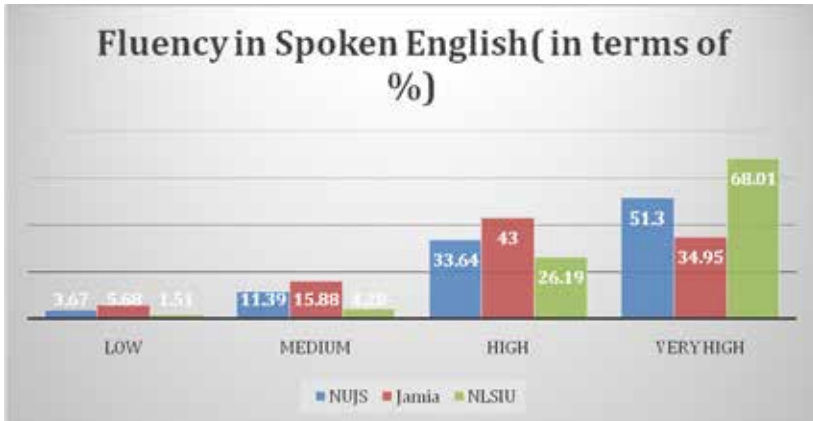
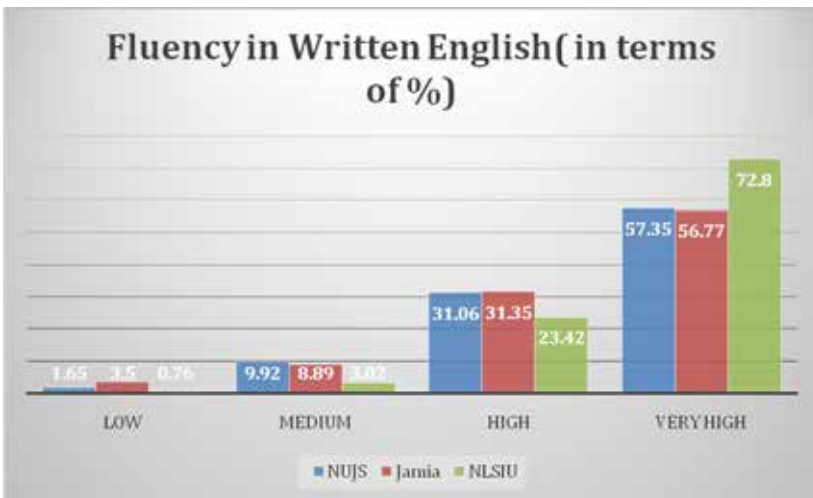
Figure 5⁷⁵: Fluency in Spoken English of StudentsFigure 6⁷⁶: Fluency in Written English of Students

Figure 5 illustrates 94.2% of NLSIU students had high spoken English fluency as opposed to 85% of NUJS Students and 78% of Jamia Students.⁷⁷ With respect to written English, Figure 6 shows that the students of NLSIU had better results with 96.2% having high written English fluency much higher than NUJS

⁷⁵ *Supra* note 29 at 36; *Supra* note 30 at 51; *Supra* note 31 at 86.

⁷⁶ *Supra* note 29 at 36; *Supra* note 30 at 51; *Supra* note 31 at 86.

⁷⁷ *Supra* note 74.

students (88.41%) and Jamia students (88.13%).⁷⁸ The authors believe that the education received by family generations reflect these fluency patterns.⁷⁹

Hence, students are deprived of the opportunity to study in top tier law schools because of their English language barrier. This language barrier leads one to wonder whether Prof. Madhav Menon's ideas of making law schools accessible have indeed come to fruition or not. Is the present structure leading to a 'colonialization' of legal education in NLUs caused by the domination of privilege.

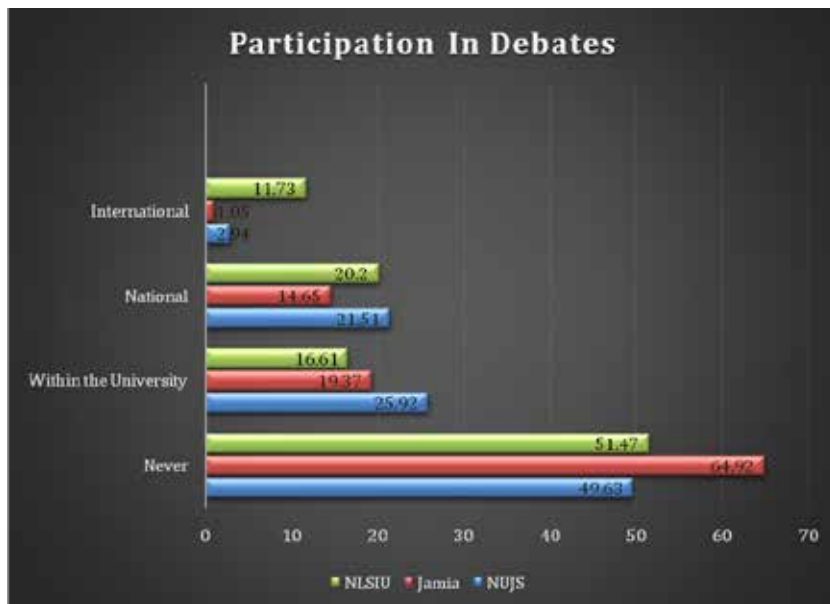


Figure 7⁸⁰: Participation in Debating

Debating in law schools is considered as an elite activity considering it requires significant command over the English language. Barring isolated incidents of NUJS⁸¹ and RMLNLU⁸², there is no evidence that any NLU has ever conducted a debate competition in vernacular language. In NUJS, for instance the ratio of those who have done a National level debate to those who have done any debating is highest in the Below 6 LPA group, at nearly 1:4 which decreases

⁷⁸ *Supra* note 75.

⁷⁹ *Supra* note 29 at 39; *Supra* note 30 at 55; *Supra* note 31 at 46.

⁸⁰ *Supra* note 29 at 101; *Supra* note 30 at 127; *Supra* note 31 at 159.

⁸¹ NUJS Conducts first Intra-College Hindi Debate, Student Juridical Association, (29/9/2018) available at <<https://sja.nujs.edu/newsroom/2018/09/29/nujs-conducts-first-intra-college-hindi-debate>>, last seen on 2/5/ 2020.

⁸² Ankit Yadav, Ram Manohar Lohiya National Hindi Debate 2017 Announced, SCC Online (25/8/2017), available at <<https://www.sconline.com/blog/post/2017/08/25/ram-manohar-lohiya-national-hindi-debate-2017-announced/>>, last seen on 2/5/2020.

as income increases.⁸³ It is highest for respondents in the More than 36 LPA bracket, at about 1:1.6.⁸⁴ Can income be a relevant factor for student participation? Are law schools creating enough opportunities so that all the students can perform equally well or have equal opportunities to participate in debating activity? Now comparing the participation in debates in these three colleges, Figure 7 shows a major contrast in all three colleges with merely around 16% Jamia students participating in national and international debate competitions while the number is around 25% and 32% for NUJS and NLSIU students respectively.⁸⁵ If Jamia being one of the top non-NLU colleges has less than 1/5th of its students participating in competitions, then it seriously raises questions on the opportunities available to other non-NLUs or state universities.

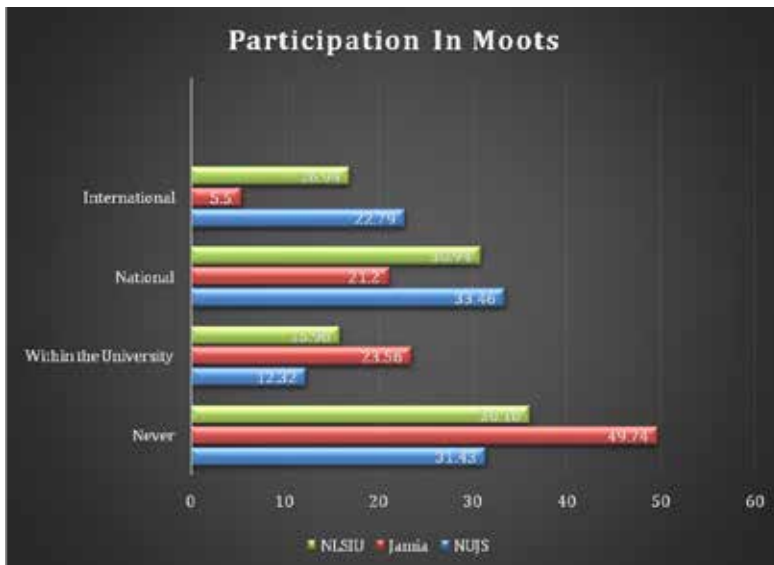


Figure 8⁸⁶: Participation in Mooting

Mooting is yet another elitist activity in law schools which has been considered to be non-approachable for a major section of law students. In order to see the representation of universities in performing well in “premium moots”, the authors analysed 6th, 7th and 8th edition of Mooting Premier League by Legally India. In the top 10 law schools to perform well, there were two Non-NLU in

⁸³ *Supra* note 31 at 163.

⁸⁴ *Ibid.*

⁸⁵ *Supra* note 79.

⁸⁶ *Supra* note 29 at 101; *Supra* note 30 at 127; *Supra* note 31 at 147.

top 10 (ILS, JGLS) in the 6th edition⁸⁷, only one in the 7th edition⁸⁸ (SLS Pune) and three in the 8th edition⁸⁹ (NIRMA, Shashtra, SLS). Unsurprisingly, NLSIU, NUJS, NALSAR, NLIU, NLUJ, NLUD, GNLU, NLUO, RMLNLU, RGNUL were the colleges featuring in in top 10 ranks of two or more of three editions of this mooting league. This shows that either the exposure NLU students are getting with respect to mooting is substantially higher or the opportunities available to non-NLUs are abysmal wherein even if they want to participate in national and international moots, the mentorship and college support element is missing. Besides this, there has not been any training program ever conducted by any NLU to train non-NLUs students to represent in these moots. Private universities like SLS, Amity, Jindal, and Nirma are the lucky ones getting access to mentorship support of good mooters from their college or NLUs which is not available for the state universities. To contrast this with our data, Figure 8 shows that 48% and 56% of NLSIU and NUJS participated in national and international moots as opposed to 27% of Jamia.⁹⁰ The proportion of Jamia students in international moots was 1/3rd of NLSIU and a quarter of NUJS which shows again the lack of participation by a non-NLU university on an international level.⁹¹

This prejudice and the prevalence of NLUs in mooting culture has been normalised to this extent that even law entrance website of CLAT coaching “Career Launcher” mentions that “NLUs have the best facilities for moot courts, debates or MUNs, conferences. They allocate resources and support students to go and win moots, debates and other such activities.”⁹² So even before a student joins a college, they are given a feeling that without joining an NLU, they won’t have a future in the legal industry.

⁸⁷ Sakshman Dwivedi, NLU Jodhpur Wins its First Ever Mooting Premier League by a Landslide, NLS Bangalore, NLU Delhi Take Runner-Up Spots, Legally India (31/10/2015), available at <<https://www.legallyindia.com/mooting/nlu-jodhpur-wins-its-first-ever-mooting-premier-league-by-a-landslide-nls-bangalore-nlu-delhi-take-runner-up-spots-20151031-6823>>, last seen on 2/5/2020.

⁸⁸ Nilav Banerjee, It’s Official: GNLU Beats Nalsar, NLS, NUJS to Win MPL 7, After Rocking ELSA Moot and Season, Legally India (23/8/2017), available at <<https://www.legallyindia.com/home/it-s-official-gnlu-beats-nalsar-nls-nujs-to-win-mpl-7-after-rocking-elsa-moot-and-season-20170823-8725>>, last seen on 2/5/2020.

⁸⁹ MPL 8: NLIU Bhopal Gets to Finals in Stetson World, SLS Pune Wins Best Orator • RGNUL Wins Oxford Media Quals, Sastra KK Luthra, Legally India (4/4/2018), available at <<https://www.legallyindia.com/mooting/mpl-8-nliu-bhopal-gets-to-finals-in-stetson-world-sls-pune-wins-best-orator-rgnul-wins-oxford-media-quals-sastra-kk-luthra-20180404-9246>>, last seen on 2/5/2020.

⁹⁰ *Supra* note 85.

⁹¹ *Ibid.*

⁹² NLU vs. Non-NLU, Career Launcher, available at <<http://www.lawentrance.com/article/nlu-vs-non-nlu.html>>, last seen on 2/5/2020.

II. ANALYSIS OF COLONISATION AND EPISTEMICIDE IN INDIAN LAW SCHOOLS

Colonialism involves ‘naturalisation’ of hierarchies between people based on dominance and oppression. It can be extended to include foreign invasion and occupation. It nullifies the validity of all existing political, social, and cultural structures. Boa Ventura has argued epistemology of the dominating West to be patriarchal, capitalist, and imperialist.⁹³ In his paper *Epistemologies of the South and the Future*, Boa Ventura De Sousa emphasises on the existence of an “*invisible distinction*”.⁹⁴ In the context of knowledge, it leads to a distinction between scientific and non-scientific knowledge, and therefore, creates a hierarchy in terms of general acceptance by society at large. A naturally resulting consequence of colonialisation is epistemicide.⁹⁵

Epistemicide refers to dominance of knowledge of one form over another form of knowledge.⁹⁶ The authors in this paper argue that the Indian legal system has fallen victim to this epistemicide to a great extent, though not in the traditional sense. Even education continues to be based on glorifying Western philosophers, thinkers and scientists, while ignoring indigenous knowledge of India.⁹⁷ The work in litigation practice or corporate practice continues to rely heavily on the English language.⁹⁸ The cause of legitimisation of Eurocentric knowledge goes to India’s colonial rule⁹⁹. Indigenous knowledge was looked down upon with the colonizers making increased efforts to impose a single accepted version of knowledge, deeming it superior to indigenous knowledge.¹⁰⁰ The study of Western civilization became Indian education. Slowly, the indigenous education became lost over time.

In the Indian context of legal education, the continued emphasis on English as the primary language for accessing law schools in India is a prime example of colonisation. This classification of students on the basis of their language fluency is further leading to an ‘epistemicide’ in the context of presence of an invisible

⁹³ ‘University of Coimbra, “Epistemologies of the South and the Future”, available at <http://www.boaventuradesousasantos.pt/media/Epistemologies%20of%20the%20south%20and%20the%20future_Poscolonialitalia_2016.pdf>, last seen on 2/5/2020.

⁹⁴ *Ibid.*

⁹⁵ B.L. Hall and R. Tandon, *Decolonization of Knowledge, Epistemicide, Participatory Research and Higher Education*, available at <<http://unescochair-cbrsr.org/pdf/resource/RFA.pdf>>, last seen on 2/5/2020.

⁹⁶ *Ibid.*

⁹⁷ Ezeanya Esiobu C. (2019) “The Case for an Indigenous Knowledge Based Curriculum” in *Indigenous Knowledge and Education in Africa*. Frontiers in African Business Research. Springer, Singapore.

⁹⁸ Heikki E.S. Mattila, *Comparative Legal Linguistics: Language of Law, Latin and Modern Lingua Francas*, 331 (2006).

⁹⁹ *Supra* note 96.

¹⁰⁰ *Supra* note 93 at 20.

barrier in between NLUs and non-NLUs. In spite of little differences in terms of quality of teaching yet NLUs dominate over the non-NLUs.¹⁰¹

A. Stage I Common Law Admission Test (CLAT)

The colonisation of legal education in India can be seen from the entrance examination to college environment and professional life. The entrance exam to the premium NLUs of the country called CLAT is organized in English. However, only 17% of all the school students in India are studying in English medium schools.¹⁰² As per IDIA Diversity Survey Report for the year, 2018-19, 96.5% of the respondents of first years from five NLUs namely NLU (Delhi), NLSIU (Bangalore), NALSAR (Hyderabad), NUJS (Kolkata) and NLIU (Bhopal) had their schooling in English medium schools which shows how a big number of students cannot even dream of reaching these “top” law schools.¹⁰³

In principle, the English language becomes a barrier for those with poor English and attempting to enter the legal field. There is no provision for the conduct of CLAT in Hindi or any other language. The domination of one language over the other deprives numerous meritorious students not just the ability to study in premier legal institutions but even to appear for the qualifying examination.

The epistemicide resulting from CLAT has led to a divide not just between NLUs and non NLUs but also between NLUs themselves. In a 2016 *Bar and Bench* report titled ‘Law School Darshan’ on legal education in India, the differences in placements, publications, opportunities, and social value makes it clear that this gap is significant and exists.¹⁰⁴ Vice Chancellors of the so called “lower” NLUs have themselves recognised this gap existing due to the impression of superiority of top tier NLUs.¹⁰⁵

In this regard, the Vice Chancellor of GNLU recognised that English is a significantly dominating language in the legal field with students requiring a strong grasp over it to get ahead in the profession. Fluency of the English language is required in the legal field.¹⁰⁶ Some Vice Chancellors have also recognized that CLAT is not an adequate mechanism to judge the legal skills of students, but it is must followed due to lack of alternatives.¹⁰⁷ A large number of students of

¹⁰¹ *Supra* note 3 at 153.

¹⁰² Kritika Sharma, Only 17% Children in India Go to English-Medium Schools, DNA India (1/12/2016), available at <<https://www.dnaindia.com/academy/report-only-17-children-in-india-go-to-english-medium-schools-2278538>>, last seen on 2/5/2020.

¹⁰³ Shamnad Basheer et al., IDIA Diversity Survey Report, 2018–2019, 26 (IDIA) <<https://www.idialaw.org/wp-content/uploads/2020/04/diversity-survey-2018-19.pdf>> last seen on 2/5/2020.

¹⁰⁴ Pallavi Saluja, Law School Darshan, Bar and Bench, available at <http://images.assettype.com/barandbench/import/2016/05/Compendium2016_11.pdf>, last accessed 2/5/2020.

¹⁰⁵ *Id.* at 25.

¹⁰⁶ *Id.* at 14; at 114.

¹⁰⁷ *Id.* at 19; at 60; at 136.

NALSAR also felt that CLAT was not a good idea and required expensive coaching to clear.¹⁰⁸

Clearly, there is a strong need to relook at the CLAT exam and its impact on the lives of aspirants who come from varying backgrounds. As per IDIA Diversity Survey Report 2018-19, out of all the respondents first year students of top five NLUs, 83% did their schooling from city while only a miniscule minority did their schooling from town and rural areas.¹⁰⁹ This in a way shows how the people who are joining these national law universities are not coming from towns and rural areas but the student base remains concentrated in the city which we witnessed even in case of three law schools analysed above.¹¹⁰ There is a strong need to restructure the exam pattern as well as its organisation to make it more in tune with the socio-economic reality of students. There needs to be a shift from the classist seeming approach taken by the CLAT committee to one which takes into account the absence of social and economic privilege in the Indian society.

B. Stage II College Life

The institutions providing legal education shall for the purpose of this section will be divided into 3 groups, firstly, top tier NLUs, secondly, other NLUs and thirdly, non NLUs. The top tier NLUs will include NLSIU, NALSAR, and NUJS and rest of the 20 NLUs will come in the second category. All other private law schools as well as traditional law departments of universities will be clubbed into non NLUs.

“Discomfort, pain and fear of ridicule” have no place in the educational experience.¹¹¹ Particularly, not in an educational system which aims to stimulate personal and intellectual autonomy.¹¹² There is a need to acknowledge and normalise the experiences of those individuals who are considered to be outside the boundaries of supreme law schools of the country.¹¹³ Such acknowledgement and inclusion of those marginalised from mainstream will lead to the development of a truly universal legal educational system, over a superficial one which in reality accounts for lives of limited sections of society. The NLUs have led to a creation

¹⁰⁸ Nalsar Study Reveals How Law Schools are Chosen • Slams Mag ‘Rankings’, CLAT Convenors, NLU-D • Suggests Reforms, Legally India (28/5/2018), available at <<https://www.legallyindia.com/lawschools/nalsar-study-in-nlu-choices-faculty-quality-rules-20180517-9351>>, last seen on 2/5/2020.

¹⁰⁹ *Supra* note 103.

¹¹⁰ *Supra* note 40; *Supra* note 46.

¹¹¹ A. Lakshminath, “Legal Education, Research and Pedagogy—Ideological Perceptions”, The Indian Law Institute, available at <http://14.139.60.114:8080/jspui/bitstream/123456789/12826/1/017_Legal%20Education%2C%20Research%20and%20Pedagogy-Ideological%20Perceptions%20%28606-628%29.pdf>, last seen on 2/5/2020.

¹¹² *Ibid.*

¹¹³ *Id.* at 624.

of an image that other law schools and law colleges lack the legitimacy and are unable to render legal service of good quality.¹¹⁴

The modern legal education mechanism as envisioned in law schools aims to inculcate intellectual thinking and personality skills in students. However, the law school environment in India is serving to be a bitter reminder of social and economic privilege. For Indian students who are unable to secure a good CLAT rank, they are left to pick private law schools or enroll in other universities with traditional law departments. Traditional law colleges limit student growth due to outdated pedagogy and lower standing among the legal fraternity. Any interaction that such students have at the competitions, gatherings, and even trainee internships, they are made to remember their lack of privilege and increasing inferiority to the top tier NLU students. This is experienced not just by non- NLU students but even other NLU students. This sense of privilege follows from NLUs, particularly the top tier is limiting access to students on the basis of social, financial, or educational factors as discussed above. The social and professional hierarchy of NLUs over others and non NLUs is reinforced by the facts that the NLU students find it easier to access good internships and work opportunities over non NLU students.

III. RECOMMENDATIONS

- Certain uniform minimum standards must be entertained by every law school and law college in the country. Those standards that are followed in NLUs must be applied to all non NLUs. The Bar Council of India must become stricter about enforcement of these standards to ensure uniformity in teaching across legal education institutions.
- Standardized textbooks prepared by a NLUs (if they are the best in their subject matter) must be adopted across all law school and law colleges to bridge the gap in legal learning among students with modifications/additions allowed by each State for all legal educational institutions within each State. A common starting point will make it easier to bridge the divide between non NLU students and NLU students. States which don't have NLUs yet can rely on the standardised textbooks prepared by other NLUs.
- Since the NLUs are supposed to be model law schools for all law colleges in their respective States, the lectures of all teachers should be made available to all law colleges in the respective State, at least in digital form.
- NLUs must be pushed to adopt a traditional law college every year where the experienced and well renowned faculty of NLUs teach for some time to allow for better dissemination of quality education.

¹¹⁴ *Supra* note 103 at 115.

- The push for legal education in vernacular languages, in compliance with the Draft National Education Policy 2019,¹¹⁵ must come from the NLUs. While furthering education in English, law schools must adopt policies towards supplementing legal training in vernacular languages. However, this solution adds another difficulty that a lot of students in law colleges come from different parts of the country and might not find it viable to learn the vernacular language of the State.
- Only 21-22% of total Respondents from 15 NLUs marked that institution organize remedial classes for English or have full-time for their proper integration into Elite English oriented law schools.¹¹⁶ One suggestion which author feel is mandatorily organization of such remedial classes and having English faculty in all law schools to develop their English language skill at par with international students. NUJS for example shows how remedial classes as well as full-time faculty lead to students becoming highly fluent from 64.5% (while joining) to 84.92% (2019, while filling diversity form)¹¹⁷. These are some examples which show that integration of students can be done only through institutional mode of integration.
- The study of Sociology, Law, and Impoverishment and related subjects must be made with the Indian context in mind to help students of NLUs understand their privilege. They should be sensitised to cultivate a sense of participant of a common legal fraternity and not a “superior” class of students in comparison to other NLU or non-NLU students.
- The standard of teaching imparted must be reviewed periodically to allow the legal field to adopt to practical requirements of workplaces. At times, even the students of top NLUs are found to have inadequate skills for the corporate legal sector.
- As we witnessed in mooted section, most of the colleges performing well are NLUs. As part of legal fraternity, law students should come together to train non-NLU students for national and international moots. The author suggest that these law schools can adopt one non-NLU college every year to train them to be at par with their counterpart NLUs. Besides this, NLUs which are doing better at Alternative Dispute Resolution competitions, Debating Tournaments and MUNs can send their experienced students to train students from other law schools to encourage and motivate them to get similar exposure that a NLU student receives by being a part of an NLU.

¹¹⁵ Ministry of Human Resource Development, Government of India, Draft National Education Policy 2019, available at <https://mhrd.gov.in/sites/upload_files/mhrd/files/Draft_NEP_2019_EN_Revised.pdf>, last seen on 2/5/2020.

¹¹⁶ *Supra* note 73, at 81-82.

¹¹⁷ *Supra* note 31, at 86.

- With respect to the conducting of CLAT exam in vernacular languages, the authors are in support of the idea. However, the authors realise that students from such backgrounds may face difficulty while in law schools to cope with the teaching methodology, which principally involves English. Hence, it is suggested that law schools prepare explanatory material or primers for each subject that are distributed to students from such backgrounds to assist those from such backgrounds to understand the principles of law and acquire skills of analysis by reading the material in their own language.
- Activities such as mooting, debating, ADR and MUNs must also be encouraged to be undertaken in vernacular languages to make them more inclusive for people from all groups in all law schools.

A possible counter posed by the critics on these suggestions might be that this will lead to dilution of the idea of NLUs. However, one must remember NLUs were setup always with the idea of being model law colleges. Hence, other law institutions must be brought at par with NLUs to foster equality in the quality of legal education. NLUs should help in this task and fulfill the responsibility for which they were set up.

IV. CONCLUSION

The five-year model of legal education has significantly improved the quality of lawyers in India. While law graduates from NLUs have begun to make their mark nationally and internationally, it is essential to remember the principles of inclusivity and accessibility in the legal field to truly achieve improvement across all sections of society. Lawyers have the power and the potential to usher in social reform and fight injustice. Hence, it is important that our legal centers of excellence also become models of social reform. NLUs have an obligation to serve as ideals of pedagogy for all law colleges across India, as opposed to becoming isolated superior islands of legal knowledge. There is an urgent need to take considerations of language, wealth and educational privilege into account, which act as barriers for students wishing to access these centers of legal learning. There exists a vast divide between NLUs and non-NLUs, and it is important that the legal fraternity takes a step back to reevaluate legal education to make it reformatory and meaningful for the society in a real sense.