

# THE PARADOX OF ELITE LAW SCHOOLS IN INDIA—A COMPARISON WITH CANADIAN LEGAL EDUCATION

*Upasana Dasgupta\**

Legal education, like law, should always be overhauled and refitted to changes in society. What is sought is a model of legal education that best meets the needs of the society, by law students and law professionals alike. In 1987, a new model of law school was established in Bengaluru, India—the National Law School of India University (NLSIU)—drawing largely upon components of the Socratic method and the case-study method that had already been implemented, tried and tested in North America. This paper is a comparison of legal education in North America, particularly in Canada, and in the National Law Universities (NLUs) in India, based on the model of NLSIU. The comparison identifies similarities and dissimilarities between legal education of two countries, India and Canada, one developed and one developing, both of which imbibed the Harvard case method at some point in time. The object of the study is to point out the paradoxes existing in legal education in general and the NLU system in India and is a preliminary study of whether Canadian law schools and NLU systems can learn lessons from each other.

At one time—when 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 the law instead of analyzing it—NLUs were a welcome experiment. They changed the face of legal education by encouraging discussion in class; incorporating an interdisciplinary approach, introducing research projects, compulsory internships and introducing many other innovations. With time, these innovations proved to be less effective and perhaps the time is ripe for change in legal education in India, as in the words of Roscoe Pound, “[w]e must seek principles of change no less than principles of stability.”

L'éducation juridique, comme le droit, devrait toujours être remaniée et adaptée aux changements de la société. Ce qui est recherché, c'est un modèle d'éducation juridique qui réponde le mieux possible aux besoins de la société, à la fois des étudiants en droit et des professionnels du droit. En 1987, un nouveau modèle d'école de droit a été établi à Bengaluru, en Inde – la Faculté nationale de droit de l'Université de l'Inde (FNDUI) –, s'inspirant largement des éléments de la méthode socratique et de la méthode d'étude de cas, qui avait déjà été mise en œuvre et avait fait ses preuves en Amérique du Nord. Cet article compare le système d'enseignement juridique en Amérique du Nord, en particulier au Canada, et dans les universités nationales de droit (UND) en Inde, sur le modèle de FNDUI. La comparaison identifie les similitudes et les différences entre l'éducation juridique de deux pays, l'Inde et le Canada, l'un développé et l'autre en développement, qui ont tous deux imbibé, à un moment donné, la méthode d'étude de cas de Harvard. L'objet de l'étude est de mettre en évidence les paradoxes existant dans l'éducation juridique en général et dans le système UND en Inde. Il s'agit d'une étude préliminaire visant à déterminer si les facultés de droit canadiennes et les systèmes UND peuvent tirer des enseignements mutuels.

À une certaine époque – alors que l'enseignement du droit était caractérisé par des praticiens et des académiciens désintéressés, donnant la parole à un groupe d'étudiants passifs et les évaluant au moyen d'examens à livre fermé, les étudiants devaient passer du temps à mémoriser le droit au lieu de l'analyser –, l'expérience des UND était la bienvenue. Les UND ont changé le visage de l'éducation juridique en

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\* The author is a Doctoral Candidate at the Faculty of Law, McGill University; Graduate of Dr. RML National Law University, Lucknow, India. The author is grateful to Adrien Habermacher, a doctoral candidate at McGill University focus of whose research is legal education in Canada. Adrien reviewed the article and the author is grateful to him for his excellent feedback which he believes improved the quality of the article substantially. Adrien Habermacher also helped with identifying important literature on the legal education in Canada. The author is also grateful to Dr. Kumar Askand Pandey, Associate Professor of Law at Dr. Ram Manohar Lohiya National Law University for his valuable inputs.

encourageant la discussion en classe; incorporant une approche interdisciplinaire, introduisant des projets de recherche, des stages obligatoires et introduisant de nombreuses autres innovations. Avec le temps, ces innovations se sont avérées moins efficaces, et peut-être est-il venu le moment de modifier l'éducation juridique en Inde, comme le disait Roscoe Pound : « [n]ous devons rechercher davantage des principes de changement que des principes de stabilité ».

La educación jurídica, como el derecho, siempre debe ser modificada y adaptada a los cambios en la sociedad. Lo que se busca es un modelo de educación jurídica que satisfaga las necesidades de la sociedad, tanto para los estudiantes de derecho como para los profesionales. En 1987, en Bangalore, India, se estableció un nuevo modelo para la enseñanza del derecho – la Facultad de Derecho Nacional de la Universidad de India (FNDUI) – inspirada en gran medida por elementos del método socrático y el método de estudio de caso, métodos que ya habían sido implementado y probados en América del Norte. Este artículo compara el sistema de educación legal en América del Norte, particularmente en Canadá, con el de las Universidades de Derecho Nacional (UND) en India, regidas por el modelo de la FNDUI. La comparación identifica similitudes y diferencias en la educación jurídica de dos países, India y Canadá, uno desarrollado y otro en vías de desarrollo, pero ambos inspirados, en algún momento, por el método de Estudio de caso de Harvard. El propósito del estudio es resaltar las paradojas que existen en la educación jurídica en general y en el sistema UND en India. Este es un estudio preliminar para determinar si las escuelas de derecho canadienses y los sistemas UND pueden aprender unos de otros.

Hubo una época – cuando la enseñanza del derecho se caracterizaba por profesionales y académicos desinteresados que instruían grupos de estudiantes pasivos y los evaluaban por medio de exámenes a libro cerrado, cuando los estudiantes memorizaban la ley en lugar de analizarla – en la que la experiencia UND fue bienvenida. Las UND cambiaron la cara de la educación jurídica al alentar la discusión en el aula; incorporando un enfoque interdisciplinario, presentando proyectos de investigación, pasantías obligatorias e introduciendo muchas otras innovaciones. Sin embargo, con el tiempo estas innovaciones han demostrado ser menos efectivas, y tal vez ha llegado el momento de cambiar la educación jurídica en la India, como lo dijo Roscoe Pound: "[t]enemos que buscar más principios de cambio que principios de estabilidad".

This paper is a study of the National Law Universities (NLUs) in India. These centres of excellence are modelled on the National Law School of India University (NLSIU), which was established in Bangalore, India in 1987, relying heavily on the Langdell's method. Reversing a long history of the lecture method, Dean Langdell introduced in the Harvard Law School, a scientific case study method combined with question-answer format in which the professor would quiz the students about the pre-assigned cases or the Socratic method.<sup>1</sup> It is to be noted that Langdell's 'case method' that was introduced in Harvard in 1870 was subsequently adopted all over North America with resounding success especially between 1890 and 1915.<sup>2</sup>

At one time—when 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—NLUs were a welcome experiment. They changed the face of legal education by: encouraging discussion in class; incorporating an interdisciplinary approach; introducing research projects, compulsory internships (with lawyers, non-governmental organizations, law firms and companies); encouraging moot court competitions, debates, legal aid and other extracurricular activities, setting up centres of excellence in various branches of law; establishing student-run committees, including placement committees; inviting eminent jurists academicians and practitioners to deliver lectures; and introducing many other innovations. With time, these innovations proved to be less effective than they had been in the beginning, and perhaps the time is ripe for change in the legal education in India. Even Madhava Menon, the person behind the concept of NLUs, agrees that it is time that legal education in India went through further reforms.<sup>3</sup>

At present, there are more than 1,200 law schools in India,<sup>4</sup> out of which only 22 are NLUs,<sup>5</sup> the centres of excellence. The NLU system in India is full of paradoxes;

<sup>1</sup> David A Garvin, "Making the Case - Professional education for the world of practice", online: (September-October 2003) 106:1 Harvard Magazine 56 <<https://harvardmagazine.com/2003/09/making-the-case-html>>; Bruce A Kimball, "The Proliferation of Case Method Teaching in American Law Schools: Mr. Langdell's Emblematic 'Abomination,' 1890-1915" (2006) 46:2 History Education Q 192 at 192, 194.

<sup>2</sup> Kimball, *ibid*, at 192; Thomas G. Barnes, "Introduction" in Christopher Columbus Langdell, ed, *Selection of Cases on the Law of Contracts* (reprint of 1871 edition; Birmingham, AL: Legal Classics Library 1983) at 4; Maxwell Cohen, "The Condition of Legal Education in Canada" (1950) 28:3 Can Bar Rev 267 at 287 (The case method was found acceptable even in civil law jurisdictions like Quebec).

<sup>3</sup> Neha Chauhan, "Miles to Go: Prof Madhava Menon Interview" *Legally India* (18 September 2009), online: Legally India <<http://www.legallyindia.com/20090918202/Interviews/miles-to-go-prof-madhava-menon-interview>>.

<sup>4</sup> Prachi Shrivastava, "In two years, number of law schools increased from 800 to 1,200: Now BCI hopes to put brake on mushrooming epidemic" *Legally India* (9 December 2014), online: Legally India <<https://www.legallyindia.com/lawschools/in-two-years-number-of-law-schools-increased-from-800-to-1-200-now-bci-hopes-to-put-brake-on-mushrooming-epidemic-20141209-5408>>.

<sup>5</sup> "National Law Universities", *The Bar Council of India*, online: BCI <<http://www.barcouncilofindia.org/about/legal-education/national-law-universities-2/>> (The Bar Council of India's website is outdated in this regard as it mentions only 12 NLUs, whereas there are 22 such NLUs at present); see also, "Participating Universities", *Consortium of National Law Universities, Bengaluru*, online: CLAT <<https://clatconsortiumofnlul.ac.in/>> (NLU Delhi is not part of the CLAT consortium).

whereas many of the students of these law schools go on to work in leading law firms<sup>6</sup> and companies and set up successful law practices, they are often disillusioned and find their studies in law school irrelevant for law practice. Hence, the question arises whether there is a need to overhaul or at least improve the NLU education system. Legal education, like law, should always be overhauled and refitted to changes in society. There have been attempts everywhere around the world to move towards the model of legal education that best meets the needs of the society, by law students and law professionals alike. In particular, this paper analyzes the new model law school established in 1987 in Bangalore, India—the NLSIU—and the 21 similar law schools that have emerged since then, drawing largely upon components of the Langdell case method that has already been implemented in North America.

It is the inclination of every generation and every country to imagine that problems presented to it are unique. Whereas it is difficult to deny that each generation and each country's problems are to some extent exclusive to it, often these problems are not as extraordinary as they seem to be *prima facie*. Hence, it is wise to look at history of legal education, because

whatever the particularities of today's "existential crisis"<sup>7</sup> in legal education, legal educators would do well to reflect upon the innovations, missteps, and ideological and practical battles of the past—to see the cycles of adaptation and resistance to change as ultimately productive and necessary elements of the vibrant life of law schools.<sup>8</sup>

The Bar Council of India (BCI), created post-Indian independence, is statutorily required to promote legal education and lay down standards for such education.<sup>9</sup> Between 1960 and 1985, whereas access to legal education expanded, the quality of education deteriorated substantially.<sup>10</sup> Modern legal education in India is, however, only 32 years old. The traditional law school model produced stalwarts, legal education was often a product of the personal endeavours of these people and based on lessons they had learnt from apprenticeships, often under a family member who had a legal practice. Hence, it is necessary to look at the history of legal education in North America, which inspired modern Indian legal education. This paper is a comparison of legal education in North American legal education, particularly in Canada, and in the

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<sup>6</sup> "Khaitan grows to 127 partners in corp, CM-heavy promo round: 8 new equity, 15 new AP • 4 from SLS; 3 from NUJS, GLC, NLU-J; 2 from HNLU, NLS", *Legally India* (11 April 2018), online: Legally India <<https://www.legallyindia.com/lawfirms/khaitan-promotes-8-to-equity-15-to-associate-partner-in-huge-promo-round-20180411-9273>>. In Khaitan & Co, one of the top tier law firms in India, out of 22 partner and associate partner promotions in 2018, 11 were NLU alumni; "Cyril Amarchand promotes 12 partner • Half in Mumbai, 5 in corp • 5 from Symbi, 1 GNLU • Hires Khaitan PA", *Legally India* (20 August 2018), online: Legally India <<https://www.legallyindia.com/lawfirms/breaking-cyril-amarchand-promotes-12-partner-5-in-corporate-20180820-9492>>. In Cyril Amarchand Mangaldas, another top tier Indian law firm, out of 13 partner promotions in 2018, 6 were from NLUs.

<sup>7</sup> Lincoln Caplan, "An Existential Crisis for Law Schools" *The New York Times* (15 July 2012) SR10.

<sup>8</sup> Eric M Adams, "Introduction: Back to Future of Law School" (2014) 51:4 *Alta L Rev* 695 at 697.

<sup>9</sup> *The Advocates Act*, 1961 (India), s 7(1)(h).

<sup>10</sup> N R Madhava Menon, "The Transformation of Indian Legal Education" (2012) Harvard Law School, Program on the Legal Profession Blue Paper at 5, online: HLS <[https://clp.law.harvard.edu/assets/Menon\\_Blue\\_Paper.pdf](https://clp.law.harvard.edu/assets/Menon_Blue_Paper.pdf)> [Menon, "Transformation"].

National Law Universities (NLU) of India. This comparison will identify the similarities and dissimilarities between legal education in the two countries: India and Canada, one developed and one developing, both of which imbibed the Harvard case method, though at different points in history. The object of the study is to point out the paradoxes existing in legal education in general and in the NLU system in India more specifically, and is a preliminary study of the lessons that can be learnt for legal education in general.

## I. Object of Law Schools

The first question that comes to mind when we talk about analyzing legal education in a country is what the object of law schools should be. The original stated objective in setting up the NLUs was to supply well-trained lawyers to the trial and appellate bar, as well as for judicial service. The aim was to improve access to justice for the general populace.<sup>11</sup> Thus, the main idea was to create practice-ready lawyers with certain competencies and critical analytical abilities. In the words of Madhava Menon, the father of modern Indian legal education, the theoretical method of legal inquiry based on lectures divorced from practicality has become irrelevant in progressive societies.<sup>12</sup> Hence, under the NLU scheme, attempts have been made to provide practical training to the law students.<sup>13</sup>

To understand modern Indian legal education in the form of NLUs, one must also look at the broader environment and legal market in India. The rise of the NLUs in late 1980s and 1990s was coupled with a wave of liberalization, privatization and globalization in India, which generated work in the field of corporate law—a sizable part of which was transactional work executed by law firms. As Hon'ble Justice Dhananjaya Y. Chandrachud (of the Supreme Court of India) said in one of his speeches,

[t]he prospect of high-paying corporate jobs at the end of the law course has changed who applies to law schools, the choice of law schools, the educational experience at law schools, and how much students are willing to pay for legal education. [...] The financial return from working in a law firm comes much sooner than it does in litigation, making the investment in legal education a less risky investment for the young.<sup>14</sup>

Hence, deviating from the original stated objective of improving the bar and the bench, the NLUs became a means of providing employees to law firms, and many

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<sup>11</sup> *Ibid.*

<sup>12</sup> N R Madhava Menon, "Clinical Legal Education: Concepts and Concerns" in N R Madhava Menon, ed, *A Handbook on Clinical Legal Education* (Lucknow: Eastern Book Company, 1998) 1 at 7.

<sup>13</sup> *Ibid.* Preface at 1.

<sup>14</sup> Dhananjaya Y Chandrachud, "The Future of the Indian Legal Profession", online: (2018) 4:2 *The Practice* <<https://theppractice.law.harvard.edu/article/future-indian-legal-profession/>>; adapted from Judge Chandrachud's keynote address, delivered at the Harvard Law School Center on the Legal Profession's Delhi book launch of *The Indian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and its Impact on Lawyers and Society*, 11 December 2017.

aspiring lawyers aimed to gain entrance into NLUs, in order to secure a job in a reputed, high-paying law firm. This trend of NLUs churning possible recruits for law firms is evident from the law school rankings, which is in large part determined by recruitment in the corporate sector.<sup>15</sup> It may be pertinent to mention here that many have termed NLUs as a failure, as most students having attended them do not practice in the courts; these students join law firms and corporates,<sup>16</sup> meaning that NLUs failed in their original objective of supplying well-trained lawyers to the trial and appellate bar.<sup>17</sup> However, it is arguable that students should be given freedom to choose the career path they want and should not be criticized for not fulfilling the original objective of setting up NLUs. In any case, the fees for attending NLUs are significant, and students often take jobs with law firms and corporates in order to repay student loans.<sup>18</sup> A similar example can be quoted from Canada where the original stated object of establishing law school was not met though the graduates went on to have successful careers. In Akitsiraq Law School, an *ad hoc* law program was designed to train lawyers for the benefit of Nunavut. The outcome of the first cohort of 11 graduates (2001-2005) was overall hailed as a success, but also criticized because the graduates went on to take up government jobs and private sector jobs and did not provide Nunavut with practicing Inuit lawyers.<sup>19</sup>

In India, prior to the establishment of NLSIU, students used to prefer studying law as a last resort, and colleges offered legal education as one of the additional items provided without much infrastructure and without many full-time faculty members.<sup>20</sup> NLSIU turned out to be a resounding success, partly because there were no competitors. Because the existing state of affairs was deplorable, any different initiative would have been a welcome change.<sup>21</sup> The success of NLSIU led to several other National Law Universities (NLUs) being established across India, based on the model of NLSIU, *i.e.*, a single discipline university dedicated to and focusing on legal education, set up through a statute. The five-year integrated LL.B. program initiated by NLSIU was to be pursued by students after senior secondary education, unlike the conventional three-year LL.B. degree which could be pursued only after an undergraduate degree. The

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<sup>15</sup> *Ibid.*

<sup>16</sup> Rohit Moonka, "Whether the graduates of National Law Schools cater to the need of Bar/Bench?", *Research Foundation for Governance in India*, online: Research Foundation for Governance in India <[http://www.rfgindia.org/publications/national\\_law\\_school.pdf](http://www.rfgindia.org/publications/national_law_school.pdf)>.

<sup>17</sup> Menon, "Transformation", *supra* note 10 at 8.

<sup>18</sup> Moonka, *supra* note 16 at 18.

<sup>19</sup> See Thomas Rohner, "Nunavut to Revive Law School, Quassa says Universities of Ottawa and Victoria Both Interested in Partnering With Nunavut Arctic College" *Nunatsiaq News* (15 March 2016), online: *Nunatsiaq News* <[https://nunatsiaq.com/stories/article/65674nunavut\\_lawyer\\_training\\_program\\_to\\_be\\_revived/](https://nunatsiaq.com/stories/article/65674nunavut_lawyer_training_program_to_be_revived/)>.

<sup>20</sup> D V Sadananda Gowda, Address delivered at the 23<sup>rd</sup> Annual Convocation of National Law School University of India, Bengaluru, 30 August 2015; Justice AS Anand, "Legal Education in India—Past, Present and Future" HL Sarin Memorial Lecture, Chandigarh (31 January 1998), online: SF <<http://sarins.org/lectures/legal-education-in-india-past-present-and-future-justice-as-anand/>>; see also, Charles W. Eliot, "Langdell and the Law School" (1920) 33:4 *Harv L Rev* 518 at 520, being taught practicing lawyers only was also the situation in early days of legal education in USA; Adams, *supra* note 8 at 695-96, in Canada too, in early days law practitioners taught law part-time.

<sup>21</sup> Chauhan, *supra* note 3.

NLUs have continued to exist alongside conventional law schools.<sup>22</sup> Whereas NLU education has imparted critical thinking and legal reasoning skills upon law students to some extent (which prove useful when one becomes a lawyer), my own personal experience working in one of the largest law firms in India and conversations with colleagues have led me to believe that the knowledge imparted at NLUs is often not relevant in the world of practice—in private practice or the corporate legal sector. Here is the dilemma—whereas NLUs insist on producing “practice-ready lawyers,” in reality NLU graduates find most of the knowledge that they gained at law school inconsequential once they come to practice law and work in the corporate legal sector. Hence, these graduates find it difficult to cope with work environment.<sup>23</sup> In fact, I have personal experience of many law graduates who used to love studying law but who, once newly recruited, started feeling that they were not “cut out” to be lawyers—and hence eventually would quit their jobs. Yet, it is difficult to deny that the NLUs—admission to which is conducted through an all-India examination—attract some of the brightest minds. In fact, the admission criteria have been becoming more and more demanding with time. This situation leads to a question: are the NLUs teaching what they ought to as a centre of excellence? This question is part of a broader question: what is it that the law schools ought to teach? This broader question has plagued legal educators for the longest time.

A dive into the history of legal education in Canada would show, the feeling of legal education being in at crossroads has permeated every generation of legal educators in the past century.<sup>24</sup> Every generation of legal educators have been concerned with similar problems namely

[t]hemes of societal change, evocations of revolution, destabilizing shifts in technology, debates about the balance of theory and practice, and the sense that unique and dramatic times call for innovation have always defined Canadian legal education.<sup>25</sup>

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<sup>22</sup> *Rules of Legal Education*, Bar Council of India/2008, Rule 2(iv), online: BCI <[www.barcouncilofindia.org/wp-content/uploads/2010/05/BCIRulesPartIV.pdf](http://www.barcouncilofindia.org/wp-content/uploads/2010/05/BCIRulesPartIV.pdf)>, “‘Centres of Legal Education’ means: (a) All approved Departments of Law of Universities, Colleges of Law, Constituent Colleges under recognized Universities and affiliated Colleges or Schools of law of recognized Universities so approved... (b) National Law Universities constituted and established by statutes of the Union or States and mandated to start and run Law courses.”

<sup>23</sup> See generally Avani Bansal, “God Save The Legal Education In India” *Live Law.in* (24 September 2017), online: LiveLaw <<https://www.livelaw.in/god-save-legal-education-india/>>; Dushyant Arora, “The 3 Biggest Challenges Nearly Every First-Generation Advocate Will Face (and Some Sound Advice) by @atticus” *Legally India* (25 December 2014), online: Legally India <<https://www.legallyindia.com/the-bench-and-the-bar/the-3-biggest-challenges-nearly-every-first-generation-litigating-lawyer-will-face-and-some-sound-advice-20141225-5462>>; see generally “Foundations for Practice” *Institute for the Advancement of the American Legal System*, University of Denver, online: IAALS <<https://iaals.du.edu/projects/foundations-practice>>: the hypothesis of this project is that in America too, law graduates often find their legal education to be not sufficient when they enter practice.

<sup>24</sup> Adrien Habermacher, “A Hitchhiker’s Guide to the Crisis of Legal Education”, lecture delivered at Association of Graduate Students in Law University of Ottawa Annual Conference, (11 May 2018), online: SSRN <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3374361](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3374361)> at 6-11.

<sup>25</sup> Adams, *supra* note 8 at 700.

In spite of this permanent sense of urgency to reform legal education, on the one hand, we have not changed how we train lawyers very much in the past century, and, on the other hand, the changes having occurred were more the result of forces outside law faculties rather than well-thought-out plans to bring about change.<sup>26</sup> This observation raises a pertinent question: is “what law schools ought to do?”

As a Canadian Bar Association discussion paper states, “[w]hile some observers would have them place increased emphasis on the practice of law, law schools in their current form may not be the best option for providing practice training.”<sup>27</sup> At a “Future of Law School” conference, Harry W. Arthurs proposed three possible answers to the question of what law schools ought to do: to produce “‘practice-ready lawyers’ for today’s profession”,<sup>28</sup> “tomorrow’s lawyers”,<sup>29</sup> or provide the students “with a large and liberal understanding of law that will prepare them for a variety of legal and non-legal careers and for participation as citizens in the broader economy and polity.”<sup>30</sup> The future of law school depends on many developments that are largely beyond anyone’s control—developments in political economy, in technology, in demographics and in society that are reconfiguring the legal system; the market for professional services; and the structure of higher education. The societal, political, economic, technological and demographic forces that influence law and the market for professional legal services are ever-changing and beyond the control of legal educators, but the values and ambitions that law schools embrace are within their control. It is these values and ambitions that define whether “law schools collaborate with or resist, succumb to or transcend” these powerful external forces.<sup>31</sup> The idea is not to send out young lawyers fully trained in how to perform the tasks which are required in their first three or four months of practice; rather, it develops the mental equipment needed to generate creative responses to issues which may arise thirty or forty years hence.<sup>32</sup> University education is the best way to teach prospective lawyers “how to teach themselves the answers to problems which neither they nor their teacher would have ever dreamed in the classroom.”<sup>33</sup> Law schools should be teaching students to think like lawyers, to contextualize and critically evaluate their legal experiences, to adapt to change and, especially, to learn how to learn<sup>34</sup>—not to be “practice-ready lawyers,” as laws are subject to change. Besides, lawyers specialize in diverse fields and if creating professional “competency,” not “intellectual ability,” is the aim of legal education, one-

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<sup>26</sup> Habermacher, *supra* note 24, at 11-16; Annie Rochette & W Wesley Pue, “‘Back to Basics’? University Legal Education and 21st Century Professionalism” *Allard Research Commons* (2001) 167.

<sup>27</sup> CBA Legal Futures Initiative, *The Future of Legal Services in Canada: Trends and Issues* (Ottawa: The Canadian Bar Association, 2013) at 34, online: CBA Legal Futures Initiative <<http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/trends-issues-eng.pdf#pext-.pdf>>.

<sup>28</sup> Harry W. Arthurs, “The Future of Legal Education: Three Visions and a Prediction” (2014) 51:4 *Alta L Rev* 705 at 706 [Arthurs, “The Future”].

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.* at 705.

<sup>32</sup> Paul C Weiler, “Past and Future in Canadian Legal Education: Personal Reflections” in Neil Gold, ed, *Essays on Legal Education: Centre for Studies in Canadian Legal Education* (Toronto: Butterworths, 1982) at 5.

<sup>33</sup> *Ibid.*

<sup>34</sup> Arthurs, “The Future”, *supra* note 28 at 713.



size-fits-all approach to legal education would not serve all law graduates.<sup>35</sup> The aim of legal education cannot be to “cram [students] as full of detailed law as we can,” Rod MacDonald noted, for “law is such a vast subject that we ... cannot accomplish a complete course of instruction in five years or in fifty.”<sup>36</sup> Rather, he argued, “The great object ... that a law school should have before it, is to saturate the minds of the students in those elementary principles that lie at the base of all law, and upon which our ideas of freedom and justice exist”.<sup>37</sup> Achieving the blend of theory and practice necessary to train a student to answer any problem is indeed easier said than done. The first solution to this problem that comes to mind is a change in the curriculum, which will be dealt with in the next section.

## II. Curriculum

In the design of a curriculum, it is important to incorporate those things which are peculiarly relevant to legal education: those things which ought to be taught, studied and learnt at law school.<sup>38</sup> Curriculum design should involve selection from the vast array of human knowledge and information, knowledge that provides certain distinct types of understanding.<sup>39</sup> If we combine the focus on fundamental forms of understanding with some concern for what is most useful to us in the widest sense and for what makes us distinctiveness humans, it seems justifiable to argue that we should seek to establish a knowledge-based curriculum.<sup>40</sup>

The BCI, which is responsible for maintaining standards of legal education, has provided some guidelines for curriculum content, and these have been followed by the NLUs. Some subjects have been prescribed as compulsory, such as jurisprudence, law of contract, constitutional law, family law, criminal law and law of property, and the minimum number of courses to be taken by each student is also prescribed.<sup>41</sup> There are four kinds of “integrated” degrees offered by NLUs: (1) Bachelor of Arts, LLB; (2) Bachelor of Science, LLB (3) Bachelor of Commerce, LLB and (4) Bachelor of Business Administration, LLB. Since NLUs offer an integrated degree, a few subjects specific to a liberal education, such as in arts and law, science and law, commerce and law, have to be taken by students (based on the degree offered), thus providing an interdisciplinary approach. In addition, some NLUs offer specializations in particular

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<sup>35</sup> *Ibid* at 714.

<sup>36</sup> Proceedings of the Fifth Annual Meeting of the Canadian Bar Association (Winnipeg: Bulman Bros, 1920) at 19.

<sup>37</sup> *Ibid*.

<sup>38</sup> Robin Barrow & Ronald Woods, “Knowledge and the Curriculum” in *An Introduction to Philosophy of Education*, 4<sup>th</sup> ed (Abingdon: Routledge, 2006) 38.

<sup>39</sup> *Ibid* at 55.

<sup>40</sup> *Ibid* at 56.

<sup>41</sup> *Rules of Legal Education*, 2008, *supra* note 22 at Rule 8; whereas all Universities and its constituent and affiliated Centres of Legal Education conducting either the three-year law degree program or the integrated double degree program for not less than five years of study or both would follow the outline of the minimum number of law courses both theoretical and practical, compulsory and optional, as the case may be, prescribed by the Bar Council of India and specified in the Schedule II.

branches of law, like criminal law and business law.<sup>42</sup>

As Paul C. Weiler said while reflecting on legal education in Canada, though the primary thrust of legal education must be nurturing a critical, theoretical perspective on law and an aptitude for creative problem solving, it would be foolish to ignore the need for good practical training.<sup>43</sup> Similarly, the BCI has recommended a better balance between theoretical and vocational education at law schools, with an emphasis on imparting practical skills to senior-year students.<sup>44</sup>

In NLUs in India, students are interested in gaining employment in the corporate legal sector, and they choose their courses, their extracurricular activities, as well as the internships they pursue, in a manner that will make them attractive candidates for recruitment—leading to a corporatization of education.<sup>45</sup> In Canada, “[s]tudents are anxious to maximize their job prospects and are focusing their academic efforts—often quite mistakenly—on courses which they believe will attract potential employers.”<sup>46</sup> Thus, whereas law students push for law-school education to be one that helps their professional development, the truth is that they often lack the knowledge and perspective that will be relevant to their future careers. This lack of knowledge and perspective is why the presumption is always that one should do what has always been done in past—a presumption which is not necessarily correct.<sup>47</sup> Although law schools have introduced an almost infinite variety of courses and seminars with great diversity of teaching methods, they have somehow failed to alter fundamentally the intellectual and social perceptions of most students, to encourage them to take the chances offered them, and to accept the risks of the unfamiliar as a route to both personal development and a different sort of professional future.<sup>48</sup> That being said, perhaps it is wise to allow some leeway for optional subjects, to provide exposure to various fields of law. The optional courses offered by NLUs are limited, and there is also a limitation on the number of such optional courses which can be taken by the students.<sup>49</sup> Many students still adhere to the standard curriculum, as shown by experience in Canada, where the transcript of the typical law student has not changed much in the last 100 years.<sup>50</sup> In Canada, for example, the optional courses are often eclectic in design and not highly structured. It is not possible to list the laws which are important to practitioners, whose practices vary widely, and “very little is systematically known about what lawyers

<sup>42</sup> *Rules of Legal Education*, *supra* note 22 at Schedule II.

<sup>43</sup> Weiler, *supra* note 32 at 7.

<sup>44</sup> Bar Council of India, “Reform of Legal Education in India”, Note on Proposed Directions for Reform (BCI, 21 July 2010), online: Bar Council of India <<http://www.barcouncilofindia.org/wp-content/uploads/2010/07/LegalEducationReformRecommendations.pdf>>.

<sup>45</sup> *Ibid.*

<sup>46</sup> Harry W Arthurs, “Paradoxes of Canadian Legal Education” (1977) 3:3 Dal LJ 639 at 639, 648 [Arthurs, “Paradoxes”].

<sup>47</sup> *Ibid* at 648.

<sup>48</sup> *Ibid* at 640.

<sup>49</sup> For example, at NLSIU, students have to take up 65 subjects, out of which only 8 are optional; in Dr. Ram Manohar Lohiya National Law University out of 58 courses, only 8 are optional.

<sup>50</sup> Habermacher, *supra* note 24 at 12-14; Donald H Clark, “Core vs Elective Courses: Law School Experience Outside Quebec” in Roy J Matas & Deborah J McCawley, eds, *Legal Education in Canada: Reports and Background Papers*, National Conference on Legal Education held in Winnipeg, Manitoba, 23-26 October 1985 (Montreal: Federation of Law Societies of Canada, 1987) 214 at 217.

actually do, about which legal rules they actually rely upon, or about the extent to which those rules are likely to remain unchanged in the future.”<sup>51</sup> Hence, the concern that allowing electives would produce lawyers with no exposure to basic legal concepts<sup>52</sup> is perhaps not valid, and in any case, most students tend not to bypass the “bread and butter” courses.<sup>53</sup> In NLUs, optional subjects should be made available to the students in a structured fashion, and students should be advised of the benefits of taking up the optional courses through proper counselling. Even the BCI suggested that

[t]he curriculum rules would also be amended to allow students a greater choice in choosing subject of study, and law schools a wider discretion in providing options of study, with the aim of allowing for both, greater interdisciplinary and multidisciplinary approaches to the study of law, as well as a wider choice of specialisation for law students.<sup>54</sup>

Perhaps the key to ensuring the success of law schools is finding the right balance between obligatory and elective courses.

Similarly, though jurisprudence is a compulsory subject in law school curriculum in India, it is often considered one of the unimportant courses by the law students, and even those who study this subject with sincerity fail to make connections between jurisprudence and practice of law. With the aim of students being to secure a job in the corporate legal sector, students often subscribe to the view that only a positivist angle and more knowledge of substantive private law will advance their career. However, this view is not necessarily correct or the best one for the professional development of the vast majority of students (who target corporate law practice), let alone that of the others whose interests lie beyond private law. Admittedly, this issue is also part of the debate opposing academics in law and practitioners. Whereas the academically minded emphasize theory and practitioners envisage law from the standpoint of practice, some theory is necessary in order to understand the nuances of practice.<sup>55</sup>

Further, is a change in the curriculum the ultimate answer to solving the problem of what law schools ought to do? What is taught as “law of torts” at the University of Ottawa may be different from what is taught at the University of Toronto, and the failure to recognize the terminological differences makes us believe that there is more agreement on what courses should be mandatory than there is in fact.<sup>56</sup> In Canada, for example, what was taught in 1956 in tort classes was often mostly negligence taught in a very positivist fashion and at best, an impression was imparted

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<sup>51</sup> Consultative Group on Research and Education in Law, *Law and Learning: report to the Social Sciences and Humanities research Council of Canada* (Ottawa: The Council, 1983) at 50 [CCREL, “*Law and Learning Report*”].

<sup>52</sup> Letter from K Jarvis to D H Jenkins (20 February 1984) at 11, cited in Rochette et Pue, *supra* note 26 at 174.

<sup>53</sup> Clark, *supra* note 50 at 220-221; Rochette et Pue, *supra* note 26 at 183.

<sup>54</sup> Bar Council of India, *supra* note 44; see also, Gowda, *supra* note 20.

<sup>55</sup> Clifford Ian Kyer et Jerome Edmund Bickenbach, *The Fiercest Debate: Cecil A Wright, the Benchers, and Legal Education in Ontario 1923-1957* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 1987) at 67.

<sup>56</sup> Clark, *supra* note 50 at 219.

to the students that the judgments and entire law of torts was not beyond criticism.<sup>57</sup> The emphasis shifted in 1976, when

[m]uch greater attention [was] likely paid to case analysis as a skill; much greater stress [was] laid on the limits of common law litigation as a system of loss distribution, on the intellectual viability of concepts such as ‘fault’ and ‘deterrence’, on insurance, legislation, and state compensation schemes.<sup>58</sup>

This change was not, however, reflected in the curriculum outwardly, which was “Torts” in both 1956 and 1976, even though by 1976 the student’s learning experience had been substantially altered. The emphasis on learning in the first year in Canada shifted in 1976 from rules to skills, from the case to the system, from litigation to the legal process.<sup>59</sup> Hence, change in the curriculum (in the sense of broad subject areas taught) itself is perhaps not always the solution.

In addition, there is often a problem in the form of a gap between promise and delivery. In Canada, in the 1970s, the difference between course descriptions and classroom performance occasionally amounted to “more than a mere puff,” especially in interdisciplinary subjects,<sup>60</sup> *i.e.*, those designed to “explore the efficacy of law as an instrument of social control,”<sup>61</sup> and unfortunately, the situation has not changed much since then.<sup>62</sup>

Through personal experience of NLU education, I have seen that though we were taught social sciences at Dr. Ram Manohar Lohiya National Law University (RMLNLU), we were not taught the connection between these social sciences and law. Thus, the NLUs may just be giving lip service to the term “interdisciplinary.” Interdisciplinarity is an essential element of the response to change in law: it changes the notion that law is unchanging and unchangeable, makes budding lawyers think outside the legal box and helps them better understand just what is in that box.<sup>63</sup> Teaching in an interdisciplinary approach is not easy, as it requires knowledge far beyond law, but perhaps it is necessary especially, with changing technological evolution and rise of other social sciences, to impart knowledge beyond the four corners of law. This is the challenge posed to NLUs, and NLUs—being centres of excellence—should raise their standards to respond more constructively.

As discussed in this section, the real problem for law schools in India is perhaps that they are too technical in their approach and often end up producing mere technicians of law, without the necessary exposure either to practice or to theory. Legal education should not be narrowly constructed as the study of some substantive areas of law which are considered important for the majority of lawyers—as is presently the

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<sup>57</sup> Arthurs, “Paradoxes”, *supra* note 46 at 645.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid* at 646.

<sup>61</sup> Clark, *supra* note 50.

<sup>62</sup> Arthurs, “The Future”, *supra* note 28 at 712.

<sup>63</sup> *Ibid.*

case in Canada.<sup>64</sup> Law schools in Canada fail to provide “liberal education in law.”<sup>65</sup> Thinking like a lawyer should not exclude thinking like a human being.<sup>66</sup> Law graduates must also think like human beings, so that they can fulfill diverse and important functions in the society.<sup>67</sup>

### III. Clinical Legal Education

Legal education in both India and Canada started as “apprenticeship-style learning,” where legal education was imparted by practitioners. This era was followed by that of scholarly legal education, with an emphasis on developing analytical skills. “The move from an apprentice-style model to that of the modern scientific approach came as a result of a shift in epistemology, whereby thinkers and scholars went from valuing practical knowledge to prizing analytic and empirical knowledge.”<sup>68</sup> Thus, this movement towards case analysis undermined the importance of practical training.<sup>69</sup> Hence, in Canada, there has been a return in the past four to five decades to practical training in law through clinical legal education.<sup>70</sup>

Clinical legal education is a dynamic style of learning also described as “experiential learning” or “learning by doing.” Clinical legal education can be defined as an “educational program grounded in an interactive and reflective teaching methodology with the main aim of providing law students with practical knowledge, skills, and values.”<sup>71</sup> Law clinics foster systematic change by promoting social justice; encouraging budding lawyers to use their education for the benefit of the society by aiding the oppressed; and enabling these lawyers to confront challenges, solve legal problems (arising for clients) and change their perspectives or outlooks on the rule of law.<sup>72</sup> In Canada,

(1) clinical legal education usually involves immersion in ‘real-life’ legal practice, whether at a law-school clinic, a community-based legal clinic, or an externship placement; (2) clinical legal education usually (but not always) involves working with marginalized communities and clients; (3) clinical

<sup>64</sup> Rochette & Pue, *supra* note 26 at 186.

<sup>65</sup> *Ibid.*

<sup>66</sup> Arthurs, “The Future”, *supra* note 28 at 712.

<sup>67</sup> Rochette & Pue, *supra* note 26 at 186.

<sup>68</sup> Jonathan Black-Branch, “A Pedagogic Paradigm Shift in Clinical Legal Education: Towards Placing Practical and Theoretical Knowledge on an Equal Footing?” *Slaw: Canada’s Online Legal Magazine* (15 June 2017), online: <http://www.slaw.ca/2017/06/15/a-pedagogic-paradigm-shift-in-clinical-legal-education-towards-placing-practical-and-theoretical-knowledge-on-an-equal-footing/>.

<sup>69</sup> William M Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law*, by The Carnegie Foundation for the Advancement of Teaching (San Francisco: Jossey Bass, 2007) at 5, 7.

<sup>70</sup> Sarah M Buhler, “Clinical Legal Education in Canada: A Survey of the Scholarship”, online: (2015) *Can Leg Education Annual Rev* <<https://ssrn.com/abstract=2865957>>.

<sup>71</sup> Ibijoke Patricia Byron, “The Relationship Between Social Justice and Clinical Legal Education: A Case Study of The Women’s Law Clinic, Faculty of Law, University of Ibadan, Nigeria”, Paper delivered at the 11<sup>th</sup> International Journal of Clinical Legal Education Conference, Durham, 11-13 July 2012 (2014) 20:2 *Intl J Clinical Leg Education* 563 at 566.

<sup>72</sup> *Ibid.*

legal education is rooted in theories of experiential learning; and (4) clinical legal education programs usually incorporate some form of structured critical reflection component, usually an academic seminar, in which students are encouraged to actively evaluate their practice and experiences.<sup>73</sup>

In India, the BCI has mandated that each law school has a legal clinic supervised by a faculty member.<sup>74</sup> Each NLU has a legal-service clinic, which is a voluntary cell run by students under the supervision of a faculty member offering legal and paralegal services to the underrepresented, including rural populations and prisoners. Such clinics also have tie-ups with various non-governmental organizations and district, state and national “Legal Services Authorities.”<sup>75</sup> These clinics offer free legal advice and facilitate mediation from time to time. The clinics provide legal-literacy services through awareness camps, meetings, skits, plays, workshops, surveys and seminars. The clinics also conduct community legal education, community development and *pro bono* and public policy orientated research.<sup>76</sup> Such clinics, which assist both individuals and communities through projects,<sup>77</sup> are generally beneficial to both the law students participating in them and society at large.

However, such legal aid clinics are voluntary cells which depend on the participation and motivation of students. In a study conducted among students at NLUs, it was found that mass participation in the legal aid clinics is often lacking and restricted to a few students only.<sup>78</sup> Although NLUs have a choice of clinical-education courses in their curricula, the courses do not give enough exposure to real-world situations and often pay mere lip service to the concept.<sup>79</sup>

Clinical legal-education courses should be made more practical, so that they help students learn advocacy skills through real-world situations. Also, the clinical experience provided through these courses should be diverse and innovative and include experiences such as negotiating, mediating, meeting clients, drafting contracts, litigation and resolving disputes. Further, regular courses, too, should have clinical-education components. Clinical work may be incorporated into almost any law course, including company law and finance law, as clinics need not always cater to social

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<sup>73</sup> Buhler, *supra* note 70; Susan Bryant & Elliot S Milstein, “Rounds: a ‘Signature Pedagogy’ for Clinical Education?” (2007) 14:1 *Clinical L Rev* 195.

<sup>74</sup> *Rules of Legal Education*, *supra* note 22.

<sup>75</sup> Information has been obtained from the official websites of the NLUs; see also Gaurav Kataria & Abhilasha Kataria, “Role of Law Schools in Facilitating Legal Aid: A Critical Appraisal” in Raman Mittal, KV Sreemithum & Legal Aid Society (Campus Law Centre, University of Delhi), eds, *Legal Aid: Catalyst for Social Change* (New Delhi: Satyam Law International) 148 at 148.

<sup>76</sup> Information has been obtained from the official websites of the NLUs; see also *ibid*.

<sup>77</sup> See Anna E Carpenter, “The Project Model of Clinical Education: Eight Principles to Maximize Student Learning and Social Justice Impact” (2013) 20:1 *Clinical L Rev* 39 at 39-43, 53-61.

<sup>78</sup> Yashu Bansal, *Legal Aid and Legal Schools* (BBA LL. B, Chanakya National Law University), online: <[http://www.academia.edu/8191942/LEGAL\\_AID\\_AND\\_LAW\\_SCHOOLS\\_IN\\_INDIA](http://www.academia.edu/8191942/LEGAL_AID_AND_LAW_SCHOOLS_IN_INDIA)>.

<sup>79</sup> Shannad Basheer, “If National Law Schools are not careful, private law schools will take over” (Third Justice VR Krishna Iyer Memorial Lecture delivered at the Centre for Constitutional Law, Kerala Law Academy Law College, Thiruvananthapuram, 25 august 2016), online: Bar and Bench Indian Legal News <<http://barandbench.com/national-law-schools-not-careful-private-law-schools-will-take-shannad-basheer/>>.

justice as such and may diversify into other ideologies that govern law in general.<sup>80</sup> Thus, in addition to the legal-aid clinics, which are praiseworthy ventures, NLUs should increase exposure to real-life situations and teach clinical education innovatively. This, they could do by increasing incentives for students—apart from resume building—to participate in clinical legal education. Lessons can be learnt from Canada, where credits are given to students for taking part in legal clinics. At McGill University, for example, legal clinics have “volunteers” who do not necessarily receive any credits, but from the pool of volunteers there are directors and other office holders who are chosen, and these volunteers do receive credits for their work in their transcripts.<sup>81</sup> Further, in Queens University, all the volunteers, irrespective of position, get credit for experiential learning.<sup>82</sup>

#### IV. Legal Writing and Research

The Canadian National Lawyers Guild Handbook suggests that legal writing and research should be integrated into each course in all law schools.<sup>83</sup> Also, “[w]riting forces students to think analytically [and] express themselves cogently...”<sup>84</sup> Writing as a form of active learning helps students explore their own thinking about concepts and issues.<sup>85</sup> Writing clarifies thinking and is an essential activity in creating order from chaos, meaning from confusion.<sup>86</sup>

In NLUs, writing a “research project” (basically a research paper) is an integral part of most courses. Such a research project, along with a *viva voce* before a faculty member as well as other students, accounts for 15% to 30% of the total marks for the course.<sup>87</sup> Further, for seminar courses, upper-year students write papers which form the sole basis for evaluation. Generally, research projects are to be done individually, although joint projects are allowed in exceptional circumstances, at the discretion of the professor.

While deviating from 100% closed book exams that used to be the norm earlier, to emphasis on research projects for evaluation was novel in India, the system has several flaws. Even though NLUs have anti-plagiarism policies, and most NLUs have anti-plagiarism software used by the faculty as suggested by the BCI,<sup>88</sup> plagiarism

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<sup>80</sup> Praveen Kosuri, “Losing My Religion: The Place of Social Justice in Clinical Legal Education” (2012) 32:2 Boston College JL & Soc Just 331 at 343.

<sup>81</sup> See e.g. “McGill University” <<https://licm.ca/about/ourstaff/>>.

<sup>82</sup> See e.g. “Experiential Learning” *Queens University*, online: Queen’s University <<https://law.queensu.ca/programs/jd/experiential-learning/>>.

<sup>83</sup> Heidi Boghosian, “Radicalizing Your Law School: Ideas for Achieving Curriculum Reform, Integration, Personal Satisfaction and Rewarding Jobs” in National Lawyers Guild, eds, *Disorientation Handbook: Creating Your Own Progressive Legal Education* (New York: 2017) 13 at 14.

<sup>84</sup> *Ibid.*

<sup>85</sup> Chet Meyers & Thomas B Jones, *Promoting Active Learning: Strategies for the College Classroom* (San Francisco: Jossey-Bass, 1993) at 24.

<sup>86</sup> *Ibid.*

<sup>87</sup> Information collected from websites of NLUs.

<sup>88</sup> Bar Council of India, *supra* note 44.

often creeps into research projects.<sup>89</sup> The *viva voce* is a way to test whether the student has put in effort and has understood the topic; however, it is not sufficient to curb plagiarism, as students can plagiarize content of research paper and understand the concept of the project properly before the *viva voce*.

Students commonly plagiarize by copying passages from a few different articles found on the internet or in an electronic database and stringing the passages together, paraphrasing in order not to be detected by anti-plagiarism software. The students also plagiarize by taking papers written by students at their own law schools or other law schools in the previous year and submitting these papers as their own.<sup>90</sup> Further, law-school teachers are “often ignorant (of) and mostly indifferent” to plagiarism in project reports submitted by students, as law-school teachers are burdened by more than 100 such projects for each year.<sup>91</sup> Penalties for plagiarism are light and almost never enforced.<sup>92</sup> Students also feel unmotivated from working hard on research projects because they know that professors will not read them properly or give any valuable or useful feedback.<sup>93</sup> Further, students are overburdened with five to six projects per semester, in addition to having to attend regular classes and take part in extracurricular activities.<sup>94</sup>

Even if plagiarism is not resorted to, often old ideas are presented in new forms and there is less emphasis on originality. In fact, when Madhava Menon was asked in an interview if he was happy with the quality of academic research in law schools, he asked, “Where is academic research? Real research has not happened yet in law schools.”<sup>95</sup>

In Canada, though plagiarism is generally dealt with more strictly, that itself does not guarantee originality of work. Harry W. Arthurs in the Law and Learning Report (1983) puts this strongly by stating that legal scholarship in Canada is inhibited by an environment that is at the best indifferent and at the worst, hostile to original scholarship.<sup>96</sup> With full-time professors having heavy work load that does not encourage them to stimulate original work, Canada is dominated by heavily doctrinal

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<sup>89</sup> The Bar Council of India, Press Release, “BCI Chairman Initiates Steps to Stem Plagiarism in Legal Scholarship” (8 June 2010), online: BCI Press Release <<http://www.barcouncilofindia.org/bci-chairman-initiates-steps-to-stem-plagiarism-in-legal-scholarship/>>.

<sup>90</sup> Jonathan Gingerich & Aditya Singh, “Writing Requirements, Student Assessment and Plagiarism in Indian Law Schools” *India Law News* (Fall 2010), online: Harvard Blog <<https://blogs.harvard.edu/jonathan/files/2010/01/Gingerich-and-Singh-from-India-Law-News-Fall-2010-copy.pdf>>.

<sup>91</sup> “Law School Has Lowered Quality, Says CJI Committee” *The Times of India* (14 January, 2011), online: The Times of India <<http://timesofindia.indiatimes.com/city/bengaluru/Law-School-has-lowered-quality-says-CJI-committee/articleshow/7289201.cms?>>.

<sup>92</sup> Shivangi Bajpai, “Changing Cultures: NLSIU, Bangalore (AlumniSpeak)” Interview of Professor Abhik Majumdar (27 March 2016), online: Ergo <<https://lawyergo.org/2016/03/27/changing-cultures-nlsiu-bangalore-alumnispeak/>>; Gingerich & Singh, *supra* note 90.

<sup>93</sup> Gingerich & Singh, *ibid*.

<sup>94</sup> *Ibid*; Philip C Kissam, “Space and Time” in *The Discipline of Law Schools: The Making of Modern Lawyers* (Durham, NC: Carolina Academic Press, 2003) at 71.

<sup>95</sup> MyLaw, ““National Law School model is outmoded in curriculum and methods”” (12 October 2010), online: YouTube <[https://www.youtube.com/watch?v=vwW\\_DLILGzM](https://www.youtube.com/watch?v=vwW_DLILGzM)> at 6:23.

<sup>96</sup> CCREL, “*Law and Learning Report*”, *supra* note 51.



and “conventional” legal research which “identifies, analyses, organizes and synthesizes statutes, judicial decisions and commentary.”<sup>97</sup> The Report also agreed that a “rigorous system of refereeing is the answer.”<sup>98</sup> Also, there should have the creation of more favourable conditions of research “especially if theoretical and fundamental questions.”<sup>99</sup>

Faculty should meet each student personally at least once in relation to each project,<sup>100</sup> and provide suggestions and give useful feedback. The written component can be reduced in length. Recently, National Law Institute University reduced its earlier requirement of 5,000 words project to a five-page piece of original work, and the West Bengal National University of Juridical Sciences not only reduced the quantity of writing that students are required to do in their first two years of law school, but also introduced a system of tutorials where fourth- and fifth-year students instruct first— and second-year students in small groups and give advice on written projects.<sup>101</sup> Also, all law schools should set up a common portal of all research projects, so that students cannot pass off projects written by others as their own work. Also, professors could replace projects with original collaborative work by students in groups.<sup>102</sup> Such changes may need a considerable time, effort and infrastructure, but some reform is necessary to improve the integrity of the system and encourage original research.

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The NLU system of education though had been a welcome change in the 1980s, further reforms have not taken place since then. In any case, though the NLU system curbed a lot of problems with legal education in India, in no sense was it perfect even in the beginning. Time has shown the flaws that the system has and it is up to the legal community to rise up to the situation and act for its reform.

That being said, the problems with legal education as it is today in the NLUs in India are not uniquely Indian. The situation is similar, though perhaps not as serious, in Canada, which is viewed by Indians as having a better legal-education system than India's. Thus, legal education perhaps everywhere is in a state of flux, as it is difficult to achieve a balance between practical knowledge and theoretical knowledge, on the one hand, and between knowledge that is relevant now and knowledge that will be relevant in a few decades. Hence, it is difficult to set a curriculum for legal education for applications everywhere within a jurisdiction, within which the same questions may consistently arise, although never with a consistent level of importance. It may be

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<sup>97</sup> *Ibid* at 66, 69.

<sup>98</sup> *Ibid* at 144.

<sup>99</sup> *Ibid* at 154.

<sup>100</sup> Elizabeth A Reilly, “Deposing the ‘Tyranny of the Extroverts’: Collaborative Learning in the Traditional Classroom Format” (2000) 50:4 J Leg Educ 593 at 597.

<sup>101</sup> Gingerich & Singh, *supra* note 90.

<sup>102</sup> Reilly, *supra* note 100.

reemphasized here that law schools should be aiming to create lawyers who can deal with any problem—whether practical or based in theory and not merely aim to produce practice-ready lawyers. The right approach is perhaps not to bring a revolution changing the face of legal education, but to strike the right balance between varying interests by a structured approach. Balancing of broad goals of incorporating practitioner’s approach with that of theoretical and fundamental research is not an easy talk, but the balance is necessary for law schools to progress and meet their goals.