

Inclusivity and Marginality in Modern Law Schools: An Undocumented Challenges and Way Forwards

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'Inclusivity means not 'just we're allowed to be there,' but we are valued. I've always said: smart teams will do amazing things, but truly diverse teams will do impossible things'.-**Claudia Brind-Woody**¹

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I. Introduction

Legal Education comes before Law Profession, which attempts to provide legal remedies to society. Articles 14, 22(1), and 39A of the Indian Constitution hold the Indian State accountable for ensuring justice for all and providing legal remedies for the poor and marginalized sections of society. The research attempts to understand the accessibility and inclusivity of SC/ST students at national law universities in India (modern law Schools). Right after considering "Higher the educational profile, higher the upward mobility" there are numerous educational committees being framed and efforts being made to increase the inclusivity and accessibility of marginalized (SC/ST's) students in higher education. When India is celebrating and marking 76 years of independence as "Azadi Ka Amrit Mahotsav" we also need to analyse the efforts we as a young Nation have made to bring in educational equality and equity.

Despite 75 years of independence, 65 years of establishment of UGC, and 25 years of establishment of NLSIU, Bangalore also referred to as Harvard of East led as a benchmark and torchbearer for the establishment of almost 24 National law schools across the country, how well are these modern law Schools in India have paved ways for the inclusivity and accessibility for the marginalized law students coming from the SC & ST Community? Dr. Upendra Baxi and Shri. N.R Madhava Menon's dream of improving and strengthening the legal system on grass root level in the author's opinion is failing as these modern law schools in India are not very well tackling the issue of inclusivity and working on improvising accessibility of those students who come from the core of India i.e., SC's & ST's. The author of the paper is going to examine the inclusivity and accessibility of SC/ST students in National Law schools and suggest measures to make the vision of the constituent assembly and pioneer of modern law schools get more effective on grass root level where the SCs and ST's can transform the existing biases and lawlessness in the system and bring in the "Access to Justice" more effectively by their participation.

The author looks forward to examining the inclusivity and accessibility at Modern Law Schools i.e. National Law Universities Since 1986, There are many modern law schools coming up and contributing to strengthening the quality of legal education in India but somehow the system is still a dream for the last person of the society. As our Preamble starts as "We the People of India" and it's considered that we have given this lengthiest and most diverse constitution to ourselves hence the understanding, interpretation and most importantly its enactment in its true spirit will be possible only when we make the modern law schools more accessible and inclusive for marginalized (SC/ST) students who can go back and strengthen their community right. Though there are various initiatives taken to cater to the same that's not enough until and unless we come up with strong inclusive and accessible policies within these modern law schools.

Research Objectives are: To understand the concept and need for modern law schools in India along with inclusivity and accessibility of SC/ST students at modern law schools. To identify the problems (such as peer pressure, language barrier, caste-based discrimination, and other such issues) faced by SC/ST students in these law schools. To understand the gap in the process of rendering quality legal education curriculum V.

¹The UNC Way...Diversity and Inclusion Matters, DEPARTMENT OF MEDICINE, <https://www.med.unc.edu/medicine/diversity-and-inclusion/the-unc-way-diversity-and-inclusion-matters/> (last visited Jan 28, 2023).

Marginalized learning ability and initiatives to cater to the same. To suggest measures to make the system of modern law schools more inclusive.

The study adopted a descriptive and analytical research design in determining the gap between the rendering of quality legal education and the learning ability of marginalized students in National law schools. With the help of descriptive research design, the researcher will collect data from groups identified for research work from different national law schools. The analytical research design will help to analyse the data collected from primary and secondary sources. The methodology of the research is Qualitative. It can be interpreted as research into legal doctrines, statutes, and implementation by application of reasoning. The research will emphasize the analysis of vision, law, and the experience of law students. The author seeks to achieve this by comprehending the articles, write-ups, and laws paving way for the establishment of these modern law schools and critically analysing the journals, reports, newspapers, and feedback.

The universe of the research cannot be limited to a particular geographical location. The case laws opted for analysis are spread across the country. The research focuses on SC/ST students in national law schools which are spread over different geographical locations across the Indian nation. As per the recent update, there are 24 national law schools. The sampling technique which was used by the researcher was the stratified sampling technique. Stratified random sampling is a method of sampling that involves the division of a population into smaller sub-groups known as strata. In Stratified random sampling or stratification, the strata are formed based on members' shared attributes or characteristics such as caste and socioeconomic background. Stratified random sampling is also called proportional random sampling or quota random sampling. The groups for the purpose of data collection have been identified by the researcher. Keeping in mind the research objective and research questions, the stakeholders were identified. The sample size consisted of 116 students from different National law schools.

Studies suggest that modern law schools have transformed the legal education system in India. However, it has failed to strengthen the participation of marginalized students coming from the SC/ST Category. Efforts in relation to catering to the basic issues of such students are also less. Hence, the author thinks this study is meaningful because it throws light on drawing attention to the inclusivity and accessibility of SC/ST students at modern law schools. Hence the significance of the study: To understand the reason hindering the inclusivity and accessibility of SC/ST students in modern law schools. To identify measures challenges faced by SC/ST students such as peer pressure, language barriers, caste-minded remark, etc. To identify various initiatives taken across the law schools to help marginalized law students. To suggest measures to tackle the various difficulties faced by SC/ST students after identifying the problems faced by them and in consultation with various vice-chancellors, Registrars, faculty members, and students. To send a recommendation to the UGC, Ministry of social justice and empowerment, Govt. of India, Bar Council of India, and Modern law schools, along with organising a seminar/conference to spread awareness on the issue of inclusivity and accessibility of SC/ST marginalized students.

Dr. N.R. Madhav Menon and Dr. Upendra Baxi are said to be the founder and propounders of the National law school concept in India. Wherein the popularity of NLS, Bangalore got the tag of Harvard of East (Harvard law school was termed a modern law school). As the learned Prof. N.R. Madhav Menon said that the main objective behind NLUs was to create well-trained lawyers so that 'access to justice' should be given to the marginalized in the Indian legal system and quality is rendered. Rather than equipping the universities with the required facilities and infrastructure to do so, the state governments can be seen in a rat race to open more NLUs in their states without paying much attention to the existing ones.²

Though the term National Law University might create a false impression of the centrally governed institution, generally, it is a model established under a state act wherein a one-time fund is provided/granted for establishing such institutions and left to run based on funds generated internally or otherwise. There is either no or rare financial support from the state governments which is a major reason behind the higher fee structure which acts as a gatekeeper for students from marginalized backgrounds hence cultural and social diversity is not very often seen in the National Law Schools. A 2020 study conducted by the legal education non-profit organization named "IDIA" - Increasing diversity by increasing access (An organisation started by Late. Prof. Shamnash Bashir of the West Bengal National University of Juridical Sciences, Kolkata) suggests that an overwhelming majority of the surveyed NLU students' parents (77.86 percent) were from the family whose parents were graduates, and only a minority of 8.35 percent were first-generation learners. Also, it was well observed that around 96.50 percent of students came from English medium schools, and about 51.06 percent

²The Birth of the Modern Law School on JSTOR, https://www.jstor.org/stable/844687#metadata_info_tab_contents (last visited Jan 7, 2023).

belonged to a family with an annual income higher than 10 lakh INR, making NLUs a hub of elitism. This study clearly suggested that reaching to dream NLUs cannot be in the dreams of the marginalized sections of society.³

1. Application of Inclusivity in Modern National Law School

In the survey conducted on students from different National law schools across the country, the author reached the trend that suggests CLAT which was started back in 2009 to give entrance on limited seats offered by National law schools across the country is in itself so framed that marginalized students proficient in regional language and bit innocent at the English language are either not able to crack the exam or if they do in most of the case they get into third tier NLU's (there is no official definition of third tier NLU rather it's a commonly used term among law students and legal fraternity for national law schools established after 2009). CLAT's application form is priced exorbitantly in comparison to other national-level exams like JEE or NEET. The registration fees i.e. INR 3,500 to 4,000/- in itself somewhere can be treated as a red indicator/signal or gatekeeper for people coming from socially and economically marginalized sections.

Selective Modern Law Schools- Zone wise

North	South	East	West
National Law University, Delhi	National Law School of India University, Bangalore	The West Bengal National University of Juridical Sciences, Kolkata	National Law University, Jodhpur
National Law Institute University, Bhopal	National Academy of Legal Study & Research (NALSAR) University of Law, Hyderabad	Dr. Ram Manohar Lohiya National Law University, Lucknow	Gujrat National Law University, Gandhinagar
Himachal Pradesh National Law University, Shimla	National University of Advanced Legal Studies, Kochi	Chanakya National Law University, Patna	Rajiv Gandhi National University of Law, Patiala
Dharmashastra National Law University, Jabalpur	Damodaram Sanjivayya National Law University (DSNLU), Visakhapatnam	National Law University, Odisha, Cuttack	Dr. B.R Ambedkar National Law University Sonapat, Haryana.
	The Tamil Nadu National Law School, Tiruchirapalli	National University of Study and Research in Law, Ranchi	Maharashtra National Law University, Mumbai
		National Law University and Judicial Academy, Assam	Maharashtra National Law University, Nagpur
		Hidayatullah National Law University, Raipur	Maharashtra National Law University, Aurangabad

The above-given table presents the snapshots of the few law schools that impart high-quality legal education and produce renowned future legal luminaries. Indeed, these law schools effectively stand for inclusivity and diversity.

However, the collection of data from the selective students of 23 National Law Schools studying in different semesters and a few graduates conveys still certain specific measures need to be taken toward inclusivity. Among the students who participated in the data collection 30% were from the first year, 23.3% were from the second year, 10% were from the third year, 16.7 % were from the fourth year while 13.3 % were from the fifth year and 6.7 % were graduates. Below given matrix highlights the samples of those modern law schools that have actively responded to the research⁴. Among the 23 law schools estimated around 12500 are enrolling in undergraduate law programs in an academic year, out of which, 2000 students may be from SCs community and 875 may be from STs, the significant portion of the students from first-generation constituting around 10% they are all struggling to hope the challenges of academic elitism. Therefore, 18.66% of the students having facing multifaced challenges during their course in these law schools. It may be noted that the observation did not include the 27% OBC who also face similar problems.

³High fees, “sexism” & poor infra has angry national law students erupting in protest, <https://theprint.in/india/education/high-fees-sexism-poor-infra-has-angry-national-law-students-erupting-in-protest/267584/> (last visited Jan 6, 2023).

⁴Field Data collected from the targeted respondents in 2022.

UG First Year	UG Second Year	UG Third Year	UG Fourth Year	UG Final Year	UG Law Graduates	Average total
30%	23.3%	10%	16.7%	13.3%	6.7%	18.66%

All India Forum for ‘Inclusivity’ suggests that these students need to be taken special care for academic performance. Differentiated teaching and learning methods will be alternatives to encourage them for successful completion of the course.

Status of Empowerment Measures

Outer/Virtual assistance from Law octopus, LawSikho, SCC Online, etc.	36%
Language Assistance for students from a rural background	3.3%
Peer support	10%
Support from seniors in moots, debates, etc.	26.6 %
Extra classes and evening Tutorial Classes	7%
Faculty support- Assignment/presentation/seminar/Case Analysis	8%

The participants were asked about empowering measures undertaken in their college/university for marginalized students and the results suggest that 36.7% of students outrightly denied any direct support rather they were getting support from outer initiatives and start-ups like Law Shikho, Law Octopus while 3.3% students stated that their university has assistance for student facing the language barrier which apparently can also be concluded that there are preconceived notions that students coming to modern law school don’t need such assistance. Another 10% of students mentioned that they were receiving peer group support and personal assistance as their faculty had empathy towards empowering such students hence, they were quite cooperative. 26.6% of students told the existence of strong peer group support which helps them in the examination, moots, mocks, internships, placements, etc. The extra class model to assist such students were not much encouraged and overall, 7% of students only suggested the existence of a such system in their university or college.

Caste, Gender, and Regional Biases in Modern Law Schools

Never faced any Discrimination	40%
Gender, and regional biases	56%
Selective-treatment meted out based on caste	7%

Another question that was asked them was if they find any biases or if they faced any discrimination based on caste, color, creed, sex, region, and religion. 40% of students didn’t find or felt any such discrimination as they stated that modern law school has a system where you cannot identify a student’s caste while there were issues about regional/Language biases followed by sexist remarks. The survey suggested rampant sexism and prominent regionalism. These law schools which are supposed to create lawyers who will fight for equality tomorrow, are violators of equality and are hubs of sexism and prominent regionalism, both express and implied. Most of the NLUs follow or adhere to very biased administrative policies that are discriminatory, especially towards female students. Generally, the students are not allowed to be part of meetings of the academic council or any matters which directly or indirectly affect the academics and careers of the students. Another discriminatory practice often followed and observed in the NLUs is the curfew timing a term given to the in-time for male and female students, and this is often justified on preventive and protective grounds, that is, that it is unsafe for female students to stay out late at night. This practice led to the famous “*Pinjra Tod*” movement in 2015 at the RMNLU in Lucknow, U.P, wherein a female student out of her medical condition had a curfew timing of 9:30 p.m. She had to write an apology and plead with university officials before she was let in, ultimately sparking a protest against the policy, resulting in a win for the students. Similar protests have been witnessed at the NLU in Raipur. Another incident was from the National Law School Visakhapatnam where there was curfew timing followed within the boundaries of the university campus.

Female students face discrimination and sexism at most NLUs every day, in the form of comments on their demeanor, clothing, opinion, and most importantly their character. Sexism is another major issue leading the protest in NLU, Jabalpur. Female students complained that some of the guards, wardens, and other officials make derogatory remarks about their clothing, and call them characterless. NLUs are replete with administrative policies that are discriminatory towards female students. In 2016, students at the NLU in Bangalore complained against a professor who reprimanded a female student for wearing shorts and allegedly even cast aspersions on her character similarly students from DSNLU complained about a faculty calling out ‘*Chaddimaighumtiladkia*’ (girls roaming in shorts). In 2017, the Director of the NLU in Bhopal was accused of remarking

'tumharejaisiladkiyanapni izzat aur sharm ko bechkaraatihain' (girls like you come here by compromising your dignity and shame) to a female student.⁵ Imagine, learning about Article 15 of the Constitution in a class, and seeing it violated the next moment. The article prohibits discrimination on grounds of, among other things, sex.

Grievance Redressal Mechanism and SC/S cell in Modern Law Schools

Unaware of the existence of any such bodies	33.3%
Students agreed to have an effective grievance redressal mechanism	16.7%
Not an effective one	50%

On the question of effective grievance redressal mechanism especially the existence of SC/ST cells. 33.3 % of students were unaware of any such body while 16.7% of students agreed to have effective functioning in their college/university in their university or college. While the remaining 50% of students gave a mixed opinion which suggests having a non-effective and biased grievance redressal mechanism at their university. The researcher is not revealing the name of the university as he received mixed opinions in maximum responses but the data trend suggests the majority of students are either unaware or don't have faith in such mandatory bodies.

"NIU's which has gradually established itself as the hub of quality legal education is not free from class hierarchy and there is discrimination faced by students as they come from marginalized and rural backgrounds and hence face tangible repercussions. We can state this as a piece of news reported, a first-year student at NLIU, Bhopal, committed suicide after being constantly "mocked" by his peers for his innocence in understanding and especially the speaking of English – A foreign/Colonial Language."⁶ In a well-established modern law school, few students were forced to leave the course because of poor performance. In a few places, assignments and presentations are always discouraged and undermined by faculty members. There have been instances where 80-82 out of 120 students have failed in

In many NLUs discrimination appears not only in interactions with administrators but also in interactions among students. When a Dalit student was physically assaulted and abused because of his ethnicity, the administration chose to ignore the incident and instead blamed the victim. When the student approached the police, the college administration impeded the inquiry, and no action was done. This is not only heinous on the part of the college, but it is also illegal. Several Dalit students have tried suicide in recent and not-so-recent times. It's as if the University has joined forces with its student body to oppress students from disadvantaged backgrounds. According to research conducted by NUJS, the study found that in the seven-point grading system followed by the law school, more than 50% of students belonging to Scheduled Tribes and almost 35% belonging to Scheduled Castes had scored below 3; no ST-student had scored above 5 and only one SC student had scored above⁷.

According to Amala Dasarathi, "As a law student belonging to an upper caste, I have the benefit of not feeling my caste in any institution."⁸ Students from lower social castes who attend top law schools, on the other hand, report encountering discrimination and casteism during their time in college. For example, Akhil Kang, a Dalit who graduated from NALSAR, a prestigious law school in Hyderabad, writes about how his classmates would look directly at him while speaking about how "some lower caste" individuals do not deserve the opportunity to study in an institution such as NALSAR. Kang was a target of these comments. Sumit Baudh, a Dalit who received his degree from NLSIU in Bangalore, has written about something that he calls the "roll call of shame." The names of students who fell under the general category were listed first, followed by the names of students who fell under the SC/ST category, also known as the "reserved category." A rehearsal of (the institution's) merit and casteism, attendance would be taken daily before each of their classes, and the names of the students would be read out in this sequence as part of the process. In this way, students continued to belong to the caste in which they had entered law school, despite the fact that they were now attending a prestigious legal institution. Anoop Kumar also takes note of the resistance and skepticism shown by upper-caste students when they are told that caste still persists even in urban places and is not only tied to poverty but also to broader forms of structural oppression. He says, "This is news to us."

Conclusion

⁵*Ibid.*

⁶ALMAS SHAIKH, dismantling casteism: role of law in protecting students, June 22, 2021, Almas Shaikh is a human rights lawyer from India. She is currently reading for a D.Phil. in Law at the University of Oxford.

⁷Ijas Muhammed, Concept of Law and Schools of Jurisprudence, Legal Writer at Legal Desire Media & Insights, 2018

⁸Devrupa Rakshit, Marginalizing the Marginalized, Making Indian Legal Education More Inclusive as Key to Building a More Equitable Judicial System, June 22, 2021.

Every person in India has the fundamental right to receive an education. When it comes to getting a legal education, there are multiple degrees of it that may be pursued at universities. Let's begin by defining what we mean when we say "legal education." When we talk about getting a legal education, we are referring to the process of learning about all aspects of the law in order to earn a degree in law and work as a legal professional. On the other hand, each and every citizen of India has the right to receive a legal education. To be more specific, British India was responsible for establishing the modern system of legal education, which connected people with the law and how the nation should be governed. However, for a variety of different reasons, these legally sanctioned educational institutions become hotbeds of caste patronage. Access to legal education is still heavily influenced by the traditional caste-based opportunity structures that have been in place for centuries. Despite the fact that the most prestigious law schools assert that they do not practice caste or class discrimination, caste is still very much alive and well in these institutions, and it has a significant impact on the final makeup of the legal community in the country.

The National Law School, also known as Modern Law School, was a dream institute of Dr. Madhav Menon, and it is still a dream for students from marginalised areas and those who are not proficient in the English language but are skilled in regional languages. The registration price, which ranges from INR 3,500 to 4,000, is out of reach for many people, and the CLAT examination is constructed in such a way that students from non-English speaking or non-elite backgrounds do not succeed in clearing the paper. Since 2009, the examination question has been contentious for one or more of a variety of reasons. Students face a second significant obstacle in the form of high tuition costs. Since scholarships are not given much attention, the emphasis is placed on education loans, which prevents people from low-income groups from enrolling. National law schools are not immune to the pervasive sexism and regionalism in the legal profession, and they are gradually moving toward the model of the old law college. There is a lack of motivation on the part of the government and administration to properly manage the National Law School, despite the fact that they have shown interest in establishing one. It is high time that we revisit the idea of making it available to everyone. The International Diversity and Inclusion Association (IDIA) made the observation that "law schools serve as the gateway to the legal profession," and if there was a lack of diversity and representation at law schools, it could only mean that the legal profession would end up with an elitist and exclusive workforce.

Suggestions:

- ✓ Modern law schools have to find ways to ensure meaningful inclusivity in all academic endeavors.
- ✓ The application of differentiated teaching-learning pedagogy may bring responsible inclusivity to these institutions, and faculty members and staff may be trained toward this mission.
- ✓ The gross disconnect between the academic elite and the academic poor has to be seriously discussed to ensure the doctrine of rule of law and equality.
- ✓ Customized tutorials, remedial classes, and special mentoring sessions may empower these excluded students to hope up the academic pressure.

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