

**Comparative Teaching & Research Pedagogy**

**and**

**Legal Education Reforms in India and China**

**(For the SPARC-IITK Kgp Research Project -2019-23)**

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## PREFACE

In the context of the mandate of the Scheme for Promotion of Academic and Research Collaboration (SPARC), a comparative study of teaching, research pedagogies, and reforms in India and China is undertaken. There are several universities in China that have been recognised globally for their quality education and research. Indian institutions of higher education would benefit immensely from the best practices in China.

Research is a *sine qua non* in the field of education, and it is an unceasing process for a successful professional existence, irrespective of the field. It is a scientific and systematic search for relevant information on a specific topic. The constant search for information through an objective and systematic method in order to find solutions to a relevant problem is research. It is imperative to add to the existing pool of knowledge and advance the understanding of humans.

Comparative teaching with academicians from other parts of the world, teaching and collaborating in research with their Indian counterparts, will go a long way in increasing the qualitative standards of higher education in India. Many Chinese Universities have been included in the Worlds Ranking of the top five hundred Universities, which reflects upon their quality

This Monograph aims to be of considerable importance in improving the research ecosystem of India's higher educational institutions. Skill development in legal education and research is adversely affected, especially in developing nations, due to improper teaching techniques, which primarily focus only on the theoretical aspect of legal education. This Monograph will be an attempt to conclude the best teaching & research practices followed by global law schools in China & India.

The objective of the research monograph is to understand the existing legal education systems in the two countries and arrive at solutions for overcoming the shortcomings of the existing systems through comparative analysis. In addition to the comparative analysis, inspiration has also been taken from the global best practices in this domain. Further, recommendations for empowering legal research in India and China and a model scheme for the governance of legal education in India have been formulated based on the

research. The monograph would act as a helpful guide for legal academicians, scholars, and policymakers interested in bringing about reforms in legal education and research because the monograph adopts a futuristic outlook in its recommendations considering the recent changes in the policies and governance.

This Monograph consists of 7 Chapters, arranged in a systematic manner. **Introduction to the legal education system in India** elucidates the details about the legal education system in India and the various phases it has seen, starting from Ancient India, the Mughal Era to the Post Independence era. The statutory bodies that were established to increase the standards of legal education, the universities that are the direct source of imparting legal education to the students and the reforms that were brought by the government to increase the standards of legal education.

**Teaching and research pedagogy in China** explains in detail about the legal courses and their system of admission in China, and their major focus is on research and publication as it is the foundation of their legal education, as a result of which their publications increase manifold every year. Moot Court activities are also ubiquitous in their law schools, however, moot court is only seen as an activity and not as a full-fledged course. This Chapter also details about the accountability of teachers.

**Teaching and research pedagogy in India** deals with research pedagogy followed in law schools in India, and it talks about the importance of research in higher education, the techniques adapted by teachers in India and the steps taken by the education system to bridge the gap between theoretical imparting of knowledge and practical experience by including moot court activities, compulsory internships, and seminars in the curriculum. The infrastructural requirements, including moot courts, legal aid clinics, have become imperative in recognition of a law college. The limitations and the measures that should be taken to overcome them have also been pointed out.

**Comparative Scrutiny of Best Practices** gives us a comparative analysis of the practices followed worldwide with specific reference to India and China, the similarities and differences in their course structure, and this provides an insight into the education system of other countries and the practices followed

by them, which helps us to come to a reasonable conclusion that whether they can be incorporated into our education system. After the advent of the pandemic, the use of technology in teaching has become the need of the hour, so this chapter also talks about how technology has changed the face of legal education.

**Findings of The Research on Teaching and Learning Methodology and Empowering Research Culture in India and China** throw light on the research findings on the learning and teaching methodology followed in India and China. Legal Research and interdisciplinary projects have been categorically emphasised to improve the standards of legal education. The teaching process, admission process of law schools, and assessment process in law schools are in a way similar in both countries. This Chapter also talks about the policy challenges or hindrances that the countries are facing in order to reform the legal education system so it is abreast with the changing times.

**Recommendations on empowering research culture in India and China** critically analyse the legal education system and provides certain recommendations based on a comparative study of legal education in both countries, which will have the potential to empower research culture in both countries. Quality research correlates with the increase in standards of legal education, so legal research needs to be encouraged among young professionals by offering various incentives. Digital Resources should be used to their optimum capacity in order to impart knowledge.

**Drafting a Model Scheme on Legal Education, Teaching and Research Governance in India** provides for a model scheme on legal education, teaching and research Governance in India, and it talks about the New Education Policy, 2020, which has suggested significant changes even in the legal field, the chapter has delineated certain suggestions including collaboration with the relevant industry and think tanks, the introduction of hybrid courses etc.

The research and drafting of the monograph would not have been possible without the constant support of Prof. (Dr.) Sri Krishna Deva Rao, Vice-Chancellor, National Law University, Delhi and Prof. Zhang hong, Beijing Normal University. The research support by Luyao Sun, Research Scholar at

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## CHAPTER I

### INTRODUCTION TO THE LEGAL EDUCATION SYSTEM IN INDIA

#### Abstract

*Legal education and research have multiple dimensions that transcend law, as legal education is intricately linked with the country's socio-cultural context. The purpose of legal education and research is not merely to impart knowledge but also to further the development of the legal system and the society at large in line with the changes in technology, politics, culture, society, and economy. One of the approaches to education and research that greatly facilitates legal development is the comparative approach, where the legal systems of different countries are studied and analysed to develop and borrow best practices. When it comes to legal education and research, such an approach could be of utmost relevance. To undertake a comparative analysis, it is pertinent to understand the institutional framework of the legal education system in the countries at the outset. This Chapter speaks in detail about the legal and institutional framework in India, from where it originated and the changes it underwent to take the existing shape. It specifies the developments that the government has taken in recent times to enhance the standards of legal education and bridge the gap between theory, research and professional training.*

#### 1. EVOLUTION OF THE LEGAL EDUCATION IN INDIA

To study the higher education system of modern India, an understanding of the historical development of education in the country is required to put things into context. Historically, in India, education was passed on through certain institutions called “gurukuls,” where children were admitted from a young age to be trained in every aspect of life.<sup>1</sup>

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<sup>1</sup> Swapna S Prabhu and Niranjan Mohapatra, *The New Private Sector in Higher Education in India: Challenges and Prospects* 3(1) GNLU Journal of Law Development and Politics 6, 69 (2013).

## 1.1. Ancient India

The origin of legal education in India goes back to the Vedic age. In the Vedic era, education was synonymous with 'dharma', and its purpose was to guide light for human conduct in various spheres of life.<sup>2</sup> However, legal education at that time was not formalised, and the learning was mainly through self-discovery by the individual and not through tutelage.

The Vedas are considered to be the original source of law in India. The teachings in them were passed on in the form of the *Smritis*, the unwritten part of the Vedas transmitted through word of mouth.<sup>3</sup> The *Smritikars* professed the *Smritis* and were considered the Vedic literature's commentators or "jurists" of those times.<sup>4</sup> The administration of justice was centred around the rules; the king either dispensed justice himself or was advised by a *Sabha* (committee of people holding powerful positions in the kingdom), which had both advisory and executive functions.<sup>5</sup>

Legal education did not emerge as a separate branch of study or teaching until that time because the need was not felt. Dharma encompassed the norms of society that were incorporated into the customs and rituals of that time. The rules were entrenched in the everyday standards of conduct and were known to all and not just to specially trained experts. Thus, no separate institutions existed for legal teaching. Formal legal education did not develop for centuries to come; under different dynasties administration of justice was dealt with differently. It always remained a part of the general education and religious teachings imparted by the institutions of that time. These institutions in ancient India were remarkable as they attracted scholars from across the world; for instance, Takshashila and Nalanda attracted many scholars from

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2 Madhubrata Mohanty, *Establishment of Lawyers' Academy to Promote Legal Education - The Need of the Day*, 4(2) Asian Journal of Legal Education 176, 181 (2017).

3 Nidhi Sharma, *Clinical Legal Education in India: A Contemporary Legal Pedagogy*, 8 Indian Journal of Law and Justice 165, 181 (2017).

4 Ibid.

5 Frank S Bloch and M R K Prasad, *Institutionalizing a Social Justice Mission for Clinical Legal Education: Cross-National Currents from India and the United States* 13 Clinical L Rev 165 (2006).

other countries.<sup>6</sup> Chinese scholars like Xuanzangor Huen Tsang (629-645 CE), I-Tsing or Yijing (671-695 CE), and Fa-Hien (399–412 CE) visited these traditional centres of education where the law was one of the disciplines that were taught.<sup>7</sup>

## 1.2. Mughal Era

The judicial administration underwent a drastic change under the Mughal rule. Although the Emperor remained the head of the judiciary in this period, a system of courts was created to decide different types of cases.<sup>8</sup> The local disputes were decided by the ‘Panchayats’ (the governing institutions at the village level), but appeals from their decisions could be brought before the specialised courts.<sup>9</sup>

New types of courts began to spring up; however, the system of courts was not streamlined or regulated, and the king had an enormous role to play.<sup>10</sup> These institutional changes created the need for professionals, lawyers, and judges to study the laws and operationalise them.<sup>11</sup> Many of the terms used pertaining to lower courts have a history linked to the court administration under Mughal rulers.

## 1.3. British Period

The British inherited the legal and judicial administration system put in place by the Mughal rulers and modified it as per their requirements and convenience. For a long time, even under British rule in Bengal, the courts established by Mughal rulers continued to administer justice.<sup>12</sup> Initially, the

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6 C. Raj Kumar (ed.), *The Future of Indian Universities: Comparative and International Perspectives*, Oxford Scholarship Online (2018).

7 Vijaya Lakshmi Pandit, *India's Foreign Policy*, 34 *Foreign Affairs* 432, 440 (1956).

8 Nandini Chatterjee, *Reflections on Religious Difference and Permissive Inclusion in Mughal Law* 29(3) *Journal of Law and Religion* 396, 403 (2014).

9 *Ibid.*

10 Philip B Calkins, *A Note on Lawyers in Muslim India* 3(2) *Law & Society Review* 403, 406 (1969).

11 Mr. Justice S. S. Dhavan, *The Indian Judicial System: A Historical Survey*, Allahabad High Court, available at

[http://www.allahabadhighcourt.in/event/TheIndianJudicialSystem\\_SSDhavan.pdf](http://www.allahabadhighcourt.in/event/TheIndianJudicialSystem_SSDhavan.pdf), last seen on 25/02/2021.

12 *Ibid.*

courts were presided over by merchants; however, as they were not men of law, a need was felt for trained judges.<sup>13</sup> In 1726, Mayor's courts were established in the Presidency Towns, and these courts were authorised to determine the qualifications and eligibility of the persons allowed to argue before them. Since the procedure of courts and substantive laws were complex, legal assistance became necessary for the administration of justice.<sup>14</sup>

The first significant reform for regulating the legal profession was initiated through the Regulating Act of 1773. It is often termed as the pre-cursor to the Advocates Act 1961; it established the Supreme Court at Fort William at Kolkata and established its jurisdiction over "civil, criminal, admiralty and ecclesiastical matters."<sup>15</sup> Further, it authorised the enrolment of advocates and attorneys to the Supreme Court.<sup>16</sup>

Unfortunately, Indian legal practitioners could not appear before the Supreme Court, and the definition of advocate and attorney included only British-trained lawyers. It was only after the enactment of the Bengal Regulation VII of 1793 that Indian lawyers were allowed to plead before the civil courts of the East India Company.<sup>17</sup> Until 1793, Indian pleaders argued before the lower courts; however, they were not trained professionals but mostly servants, agents, or relatives of the parties. It changed after 1793 because the regulation laid the foundation for the formalisation of the native legal practitioners; courts began licensing the Indian lawyers. One of the eligibility criteria laid down by the regulation for the license was that the practitioner must graduate or possess sufficient education.<sup>18</sup>

Eventually, the Indian legal practitioners grew to become better educated and developed expertise in the laws and procedures to evolve into full-time

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13 Durga Charan Banerji, *Demand for Indian Judges* 4(8) Allahabad Law Journal 131 (1907).

14 Larby, C. J. B., *The Centenary of the High Courts of Calcutta, Bombay and Madras*, 12(3) The International and Comparative Law Quarterly 1044, 1048 (1963).

15 Veeraraghavan, A.N., *Legal Profession and the Advocates Act, 1961* 14(2) Journal of the Indian Law Institute 228, 262 (1972).

16 Ibid, at 231

17 Ibid, at 229

18 Ibid, at 231, 232.

professionals. With the advent of the three High courts established at Calcutta, Madras and Bombay in 1861, the Indian legal practitioners were allowed to appear before them (referred to as “Vakils”), marking a striking change in gaining their reputation. Now, two categories of legal professionals existed at that time, one consisted of British-educated trained advocates and attorneys, and the other consisted of native practitioners.

More developments took place in this regard over the years, as the Legal Practitioners Act 1879 further added the requirement of a law degree from Indian universities for enrolment.<sup>19</sup> Among the Indian lawyers, two categories were created: Vakils of the High Court and second, Pleaders licensed by the lower courts.<sup>20</sup> The eligibility of women as legal practitioners was clarified in 1923, and they were allowed to be enrolled in legal practice.<sup>21</sup> Further, in 1926, the two categories of Indian practitioners (Vakils and Pleaders) were merged.<sup>22</sup> It also laid down the provision for the Bar Councils to make rules for legal education and training. However, the demand for doing away with the distinction between the barristers and Indian lawyers was not heeded.<sup>23</sup> This is the legal education and training upon which the foundation of modern Indian legal education was built. It is evident from the role played by the Bar Councils even today in designing the curriculum for legal education and regulating the conduct of the lawyers.

In the late 19<sup>th</sup> century, the judicial administration under the British was in dire need of a class of legal professionals that would assist the work of the courts; that is why legal education attracted some attention. The Indian population at that time was predominantly uneducated; thus, formal legal education and training began to be institutionalised. The beginning of formal

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19 Supra note 14, at 230.

20 Ibid, at 229.

21 Ibid, at 232.

22 Indian Bar Councils Act, 1926.

23 In 1923, the Chamier Committee reported that it was unpracticable to merge the two categories.

legal education in India can be traced back to the 1850s, when many other reforms took place in terms of railways, industries, education, etc. Law faculties were established in several universities across the presidency towns.<sup>24</sup> The medium of instruction was English because the laws were drafted in English.<sup>25</sup> Higher studies in law could only be done in Britain by joining the professional associations (Inns of Court) there; however, most Indians could not afford it.<sup>26</sup> Until India's independence, the legal education system remained almost the same, with a fixed curriculum of mandatory subjects taught through the lecture method for two years.<sup>27</sup>

The need for reforms in legal education was felt even before independence. The first and foremost committee established to review legal education was the Saddler University Commission (also known as Calcutta University Commission)<sup>28</sup> in 1917. This commission studied university education in general and the condition of "arts colleges" in great depth. It also collected data pertaining to legal education and analysed the impact of arts colleges on professional legal training.<sup>29</sup>

#### 1.4. Post-Independence Era

The reforms in the legal education system continued after the independence with the appointment of the University Education Commission in 1948 under the Chairmanship of Dr. Sarvapalli Radhakrishnan.<sup>30</sup> The Commission

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<sup>24</sup> *Education and Culture*, Maharashtra State Gazetteers, Greater Bombay District, available at [https://cultural.maharashtra.gov.in/english/gazetteer/greater\\_bombay/education.html](https://cultural.maharashtra.gov.in/english/gazetteer/greater_bombay/education.html), last seen on 26/01/2021. Also, see Brief History of Presidency, Presidency University Kolkata, available at [https://www.presiuniv.ac.in/web/presidency\\_history.php](https://www.presiuniv.ac.in/web/presidency_history.php), last seen on 26/01/2021.

<sup>25</sup> Ibid.

<sup>26</sup> *History of the Legal Profession*, The Bar Council of India, available at <http://www.barcouncilofindia.org/about/about-the-legal-profession/history-of-the-legal-profession/>, last seen on 27/01/2021.

<sup>27</sup> Arpita Sengupta and Devrupa Rakshit, *Modernization of Legal Education in India: The Interdisciplinary Approach to Education* 2(1) Asian Journal of Legal Education 57, 59 (2015).

<sup>28</sup> Sadler M.E., et al., Report of the Saddler University Commission 1917-19 (1920), available at <http://csfrepository.nvli.in/handle/123456789/2189>, last seen on 27/01/2021.

<sup>29</sup> Ibid.

<sup>30</sup> Supra Note 27, at 59.

focused on the changes needed in university education. The Commission underlined the significance of legal education on the one hand and lamented the status of legal education in the country on the other. It was found that the law colleges were in a dismal condition overall, yet few universities were identified which were working satisfactorily.<sup>31</sup> It was further highlighted that the law colleges were not held in high repute within or outside India.

Consequently, in 1949, the Bombay Legal Education Committee was set up to review the status and promote legal education.<sup>32</sup> It covered several parameters, including the stage of admission, course duration, teaching methods, qualifications of teachers, etc., and made recommendations on the same.<sup>33</sup> Nevertheless, another remarkable development took place in 1951 when the All-India Bar Committee was constituted under the chairmanship of Justice S.R. Das.<sup>34</sup> The mandate of this committee was to make recommendations on the governance of the legal profession in India.<sup>35</sup> It paved the way for the establishment of a unified bar for the whole country.

The status of the legal education system has also been reviewed and scrutinized by the Law Commission of India in its reports, the first one being the 14<sup>th</sup> Report (1958) under M.C. Setalvad, which was titled 'Reform of Judicial Administration.' On the eligibility for admission to a law course, it recommended that only graduates should be eligible.<sup>36</sup> It also distinguished between the substantive and procedural aspects of laws and suggested that the theoretical aspects should be taught at law schools and the practical dimensions by the Bar dividing the course into 2+1 years where 2 years were allocated to the academics at the law school and 1 year to the practical training at the Bar.

The report was visionary as it recommended supplementing the teaching with lectures, seminars, moot courts, case studies, and so on. It also suggested that

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31 Ibid.

32 Bombay Government Central Press, *Report of the Bombay Legal Education Committee, 1949*, available at <https://dspace.gipe.ac.in/xmlui/bitstream/handle/10973/33646/GIPE-048058.pdf?sequence=2&isAllowed=y>, last seen on 27/01/2021.

33 Ibid.

34 Supra note 26.

35 Ibid.

36 Ibid.

the All-India Bar should be empowered to monitor the law schools on the implementation of legal education standards and refuse the grant of recognition in case the set standards were not met. These recommendations were well received by the All-India Law Conference (1959) and the All-India Law Teachers Association.<sup>37</sup> Thus, the Bar Council of India (BCI) was established under the Advocates Act 1961, and it became the front runner in the regulation of legal education in India as it was authorised to lay down the standards of legal education. In 1967, BCI established the three-year L.L.B. course spanning annual assessments.<sup>38</sup> It also prescribed the courses to be as compulsory and optional.

Further, in its 184<sup>th</sup> Report (2002)<sup>39</sup>, the Commission suggested various amendments to some of the laws governing legal education, such as the Advocates Act, 1961 and the UGC Act, 1956, to delineate the powers of the regulatory bodies, viz. the BCI and the UGC, and ensure higher coordination between them.

## **2. INSTITUTIONAL FRAMEWORK OF LEGAL EDUCATION SYSTEM IN INDIA**

The modern institutional framework of legal education and research is a legacy of British rule in India; however, major restructuring took place towards the 20<sup>th</sup> century. Independent India's judicial and legislative structure is built upon the machinery that existed under British rule with necessary amendments. However, with ongoing reforms and changes, the legal education system was tailored to meet the demand of an emerging economy and developing society.

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37 Supra note 34.

38 Gurjeet Singh, *Revamping Professional Legal Education: Some Observations on Revised L.L.B. Curriculum of Bar Council of India*, 41(2) Journal of the Indian Law Institute 237, 255 (1999).

39 184<sup>th</sup> Law Commission Report, *The Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956*, Law Commission of India, December 2002, available at <http://lawcommissionofindia.nic.in/reports/184threport-parti.pdf>, last seen on 27/01/2021.



The present institutional framework of legal education and research is composed of multiple institutions, but the following bodies constitute the bedrock of the whole system:

### **2.1. University Grants Commission (“UGC”)**

It is the supreme regulatory body established under parliamentary legislation in 1956.<sup>40</sup> The purpose of its inception was to regulate higher education in India. It regulates the dissemination of funds and other operating functions, such as the appointment of faculty. The post-graduation courses and doctoral programmes in law are squarely within its ambit; however, it also oversees the graduation level studies in law in unison with the BCI.

### **2.2. Bar Council of India (“BCI”)**

It was established under the Advocates Act 1961 to prescribe the standards of the legal profession. It also promotes legal education and maintains the standards for legal education.<sup>41</sup> It is responsible for designing and modifying the curriculum for the LLB level studies and recognising the degree for enrolment of advocates at the bar.

The regulating and monitoring body under the BCI concerning legal education is the Legal Education Committee (“LEC”). It is composed of five members of the Bar Council of India nominated by the Bar Council of India and five co-opted members comprising the Chairperson, who has to be a former Judge of the Supreme Court of India, a sitting Hon’ble Chief Justice of the High Court, distinguished Professor of Law, the Law Secretary and the UGC Chairman. The Committee is authorised to have some permanent invitees proposed by the BCI.<sup>42</sup> Another organ of BCI, the Directorate of Legal Education, has been established to organise, teachers’ training, specialised courses, legal research, seminars, workshops, etc.<sup>43</sup>

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40 University Grants Commission Act, 1956.

41 Section 7(h), section 49(d) of the Advocates Act, 1961.

42 BCI Rules of Legal Education, 2008, Rule 2(xvi).

43 BCI Rules of Legal Education, 2008, Rule 34.

Sweeping reforms in the Indian legal education system came upon the recommendations of the Legal Education Committee (LEC) of the BCI in 1984.<sup>44</sup> These recommendations ushered a new era in legal education with the advent of the National Law Schools. The LEC recommended introducing a new integrated five-year course in law for students who had completed school education.<sup>45</sup> This course combined the bachelor level study in Arts, Science, Social Science, Commerce, Management or other such courses with the study of law. New integrated degrees like B.A. L.L.B., B.B.A. L.L.B., B.Sc. L.L.B. etc., began to be awarded by the national law schools and, resultantly, cut down the time taken in securing graduation in law.

For those graduate programs, the duration of which is 3 years, their duration in the integrated course would be reduced by 1 year, that is, 2 years, for example, Bachelor of Arts course, and the total duration would be 5 years (3+3-1) while for courses with duration of 4 years like Bachelor of Technology (B. Tech.), an integrated course of B. Tech. LL.B. would span over 6 years (4+3-1) as the duration of the B. Tech course would come down by 1 year.

The universities can design their law courses, but courses stipulated by the BCI must be included.<sup>46</sup> In integrated courses, one major and two minor subjects (from the Arts, Commerce, Sciences, etc.) and any other optional course are to be undertaken in addition to a course in English. For the three-year LL.B. course as well as the five-year integrated course, students have to take at least 28 law courses consisting of 18 compulsory courses, 6 optional courses and 4 clinical courses (namely, Drafting, Pleading and Conveyance, Professional Ethics & Professional Accounting system, Alternate Dispute Resolution, Moot court exercise, and Internship).<sup>47</sup> For honours courses, a minimum of 36 papers must be taken, including an additional 8 courses. The medium of instruction is English; however, law schools can opt for instruction in any other language provided that a compulsory English paper is passed by the students.

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44 Supra Note 36.

45 Ibid.

46 BCI Rules of Legal Education, 2008, Schedule II.

47 Ibid.

*Table 1 Indicative list of non- law courses available for the integrated law course*

<b>An indicative list of Courses in liberal disciplines available for the integrated law course</b>			
<b>Social Sciences &amp; Language (B.A. LL.B.)</b>	<b>Sciences (B.Sc. LL.B.)</b>	<b>Business Management (B.BA. LL.B.)</b>	<b>Commerce (B. Com. LL.B.)</b>
Economics, Political Science, Philosophy, Journalism & Mass Communication and History. English can also be taken as a major.	Physics, Chemistry, Bio-Science, Mathematics, Environmental Science and Geological Science	Business Communication, Business Mathematics, Quantitative Analysis, Business Statistics, Business Environment, Accounts and Finance, Management Theory and Practice, Human Resource Management, and Marketing Management	Accounts, Advanced Accounting, Secretarial Practice, Business Administration, Management Accounting, Audit Practice etc.

*Table 2 List of Compulsory Courses for law<sup>48</sup>*

<b>List of Compulsory Courses for law courses</b>	
<b>S. No.</b>	<b>Name of the Course</b>
1.	Jurisprudence (Legal method, Indian legal system, and basic theory of law)
2.	Law of Contracts
3.	Special Contract
4.	Law of Tort, including MV Accident and Consumer Protection Laws
5.	Family Law I
6.	Family Law II
7.	Law of Crimes Paper I: Penal Code
8.	Law of Crime Paper II: Criminal Procedure Code
9.	Constitutional Law I
10.	Constitutional Law II
11.	Property Law
12.	Law of Evidence
13.	Civil Procedure Code and Limitation Act
14.	Administrative Law

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48 Ibid.

15.	Company Law
16.	Public International Law
17.	Principles of Taxation Law
18.	Environmental Law
19.	Labour and Industrial Law I
20.	Labour and Industrial Law II

*Table 3 List of Optional Courses for all law courses*

<b>S. no.</b>	<b>Course Category</b>	<b>Name of Courses Available</b>
1.	Constitutional Law	Legal Philosophy including the theory of Justice, Indian Federalism, Affirmative Action and Discriminative Justice, Comparative Constitution, Human Right Law and Practice, Gender Justice and Feminist Jurisprudence, Fiscal Responsibility & Management, Local Self Government including Panchayat Administration, Right to Information, Civil Society & Public grievance, Government Accounts & Audit Law on Education, Media & Law, Health Law, Citizenship & Emigration Law, Interpretation of Statutes and Principle of Legislative drafting.
2.	Business Law	Law and Economics, Banking Law, Investment Law, Financial Market Regulation, Foreign

		Trade, Law of Carriage, Transportation Law, Insurance Law, Bankruptcy & Insolvency, Corporate Governance, Merger & Acquisition, Competition Law, Information Technology Law, Direct Taxation, Indirect Taxation, Equity and Trust, Law on Project Finance, Law on Corporate Finance, Law on Infrastructure Development and Special Contract.
3.	International Trade Law	International Trade Economics, General Agreement on Tariff & Trade, Double Taxation, Dumping, and Countervailing Duty, Trade in Services & Emigration Law, Cross Border Investment, Agriculture, Dispute Resolution, International Monetary Fund, Trade in Intellectual Property and International Banking & Finance.
4.	Crime & Criminology	Criminal Psychology, Forensic Science, International Criminal Law, Prison Administration, Penology & Victimology, Offences Against Child & Juvenile Offence, Women & Criminal Law, IT Offences, Probation and Parole, Criminal Sociology, Comparative Criminal Procedure, Financial and Systemic Fraud, and White-collar Crime.
5.	International Law	International Organization, International Human Rights, Private International Law, International Environmental Law, IMF & World Bank, Regional Agreement & Regionalization, UNCITRAL Model Codes, International Labour Organization & Labour Laws, International Dispute Resolution Bodies,

		Maritime Law, Law of the Sea and International River, Humanitarian and Refugee Law and International Criminal Law & International Criminal Court
6.	Law & Agriculture	Land Laws, including Tenure & Tenancy system, Law on Agriculture Infrastructure: seed, water, fertilizer, pesticide, etc., Law on Agricultural Finance, Law on Agricultural Labour, Agricultural Marketing Farming & Cultivation Farmer and Breeders' Right Cooperative and Corporatization of Agriculture Dispute Resolution and Legal aid, Agricultural Insurance Law on SMEs on agricultural processing and rural industry.
7.	Intellectual Property Law	Patent Right creation and Registration, Patent Drafting and Specification Writing, IPR Management, Copyright, Trademark and Design, Trade Secret and Technology transfer, Other Forms of IPR creation and registration, IPR Litigation, IPR Transactions, Life Patent, Farmers and Breeders right, Bio-Diversity protection, Information Technology, IPR in Pharma Industry and IPR in SMEs.

Before the advent of integrated courses in law, all the law colleges offered three-year courses to graduates. The reform intended to make legal education more attractive to young minds and diversify the talent in law colleges.<sup>49</sup> The pioneer institution was established in Bengaluru, the National Law School of

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<sup>49</sup> Ibid. Also, see Ramanuj, *What is the purpose of establishing National Law Universities in India?*, iPleaders Blog, available at <https://blog.ipleaders.in/national-law-universities/>, last seen on 29/01/2021.

India University.<sup>50</sup> After this, there was no looking back, and National Law Schools emerged in almost every state as time passed and became the epicentre of professional legal education and research. Over time, the admission process was streamlined through a national-level entrance examination (Common Law Admission Test since 2008).<sup>51</sup>

Prior to introducing the five-year law course, only a handful of professional courses were available to undergraduates in India, predominantly in the field of engineering and medicine. Since the admission process was made competitive on an All-India basis, the selection became more competitive. The new course also introduced novel teaching methods and programs for practical training like moot courts, legal clinics, etc.<sup>52</sup> In this manner, the erstwhile regime of legal education was revolutionised.

Simultaneously, the economic liberalisation process was initiated, adding to the positive consequences of the reforms.<sup>53</sup> For instance, with the economic reforms in 1993, Indian corporates proliferated, and more foreign companies entered the Indian market. As a result, the demand for corporate lawyers increased manifold, and it was fulfilled by the fresh graduates from the new generation of law schools.

The Indian legal education scenario consists of two categories<sup>54</sup> of educational institutions that impart graduation-level, post-graduation level, and doctoral-level programmes to students of law:

### 2.3. National Law Schools

These autonomous government institutions offer a 5-year integrated degree program<sup>55</sup> in law. Each law school is autonomous because it is constituted as

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50 The National Law School of India Act, 1986.

51 Brief History, Consortium of NLU's, available at <https://consortiumofnlus.ac.in/clat-2021/history.html>, last seen on 29/01/2021.

52 Jane E. Schukoske, *Legal Education Reform in India: Dialogue Among Indian Law Teachers*, Jindal Global Law Review, University of Baltimore Legal Studies Research Paper No. 2009-27.

53 Amanpreet Chhina, *Liberalisation of Indian Legal Services: Politics and Challenges*, 12 Oxf. Uni. Commonwealth L. J. 295 (2012).

54 BCI Rules of Legal Education, 2008, Rule 2(iv).

55 BCI Rules of Legal Education, 2008, Rule 4(b), 5(b).



a university under an Act of the concerned State Legislature. Earlier, there was an age limit for admission to the 5-year integrated course; however, it was done away with opening up these law schools to everyone.<sup>56</sup> These schools also used to offer one-year post-graduation courses (until 2021) and doctoral programmes in law. However, with the new BCI rules (refer to section IV), the duration of the LL.M. course has been raised to two years.

#### **2.4. Colleges and Departments of Law in Universities**

They function under the umbrella of the concerned university and impart legal education predominantly through the three-year graduation course (also known as the LL.B. course)<sup>57</sup>; however, many also offer the 5-year integrated course. Master's courses were offered as a one-year or a two-year programme in addition to doctoral programs until 2021, which from now, would have to be for a minimum of 2 years. It includes public as well as private universities (and deemed universities). They are recognised by the BCI as well as UGC to conduct these courses.

Some Indian law schools enjoy immense prestige within India; however, at the international level, they have not made their mark yet. National law schools are expected to earn global repute; however, most of them are still in the infancy stage, and it may take a long while to realise such a reputation. Among the new-generation law schools, two Indian law schools recently made it to the world rankings by Quacquarelli Symonds.<sup>58</sup> Most Indian law schools do not feature in these rankings due to issues pertaining to administration, autonomy, funding, and so on.

While only 165 institutions from India (across all disciplines) were considered for ranking by QS, almost double the number of institutions was

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56 Kshitij Sharma v. Bar Council of India, D.B. Writ (PIL) Petition No. 2497/2015 (Rajasthan High Court, 04/03/2015); Devasheesh Pathak v. Bar Council of India, Writ Petition No. 5219/2015 (Allahabad High Court). See UG Eligibility, Consortium of NLUs, available at <https://consortiumofnlus.ac.in/clat-2021/ug-eligibility.html>, last seen on 26/01/2021.

57 BCI Rules of Legal Education, 2008, Rule 5(a), 4(a).

58 *In a first, two Indian law schools feature in QS World University Rankings*, The Week, available at <https://www.theweek.in/news/india/2020/03/04/in-a-first-two-indian-law-schools-feature-in-qs-world-university-rankings.html>, last seen on 03/02/2021.

considered from China. Indian educational institutions, in general, have struggled to attain ranks in the world rankings. Some lessons can be learned from foreign institutions in improving their standing globally.

### 3. NATIONAL EDUCATION POLICY, 2020

The most recent development concerning reforms in higher education in India is the New Education Policy, which envisions legal education and research to keep pace with the changing times. It aims to establish an India-centred education system that contributes directly to transforming our nation sustainably into an equitable and vibrant knowledge society by providing high-quality education to all.

The Committee that drafted the policy was headed by K. Kasturirangan and consisted of 7 outstanding academicians from different fields: Vasudha Kamat, Manjul Bhargava, Ram Shankar Kureel, T.V. Kattimani, Krishna Mohan Tripathy, Mazhar Asif, and M.K. Sridhar. The Committee studied the Committee for Evolution of the New Education Policy' report under the Chairmanship of Late Shri T.S.R. Subramanian (Former Cabinet Secretary), which submitted its report in 2016.<sup>59</sup> The policy is based on the foundational pillars of "Access, Equity, Quality, Affordability, and Accountability."<sup>60</sup>

The policy has renewed the focus of higher education institutions on research. The policy provides for establishing the National Research Foundation, an apex body proposed for creating a strong research culture and building research capacity across higher education.<sup>61</sup>

Further, one of the policy's stipulations is that all higher and professional educational institutions must strive to become multi-disciplinary. There is

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<sup>59</sup> Dr K. Kasturirangan Committee submits the Draft National Education Policy to the Union HRD Minister, Press Information Bureau, Government of India, Ministry of Education, available at <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1573031>, last seen on 15/02/2021.

<sup>60</sup> Ibid.

<sup>61</sup> Ministry of Human Resource Development, Government of India, *National Education Policy 2020*, available at [https://www.education.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf), last seen on 15/02/2021.

also a provision that requires state institutions to offer Ph.D. in multi-disciplinary programs.<sup>62</sup> It would ring in a positive culture of interdisciplinary research, especially in the National Law Schools that have only focused on legal education and research. However, it would also pose challenges to the National Law Schools because opening up multiple departments would require different infrastructure and more funds. These funds would have to come from the respective State Governments; otherwise, the students would have to bear the burden of high fees. The cluster approach mentioned in the policy would be the way ahead as it would be complicated for standalone institutions like National Law Schools to grow into multi-disciplinary institutions on their own.

The policy has also reformed the role of the regulatory bodies. The policy envisages separation of the regulatory, funding, standard-setting, and accreditation functions. Thus, the UGC will only remain a funding body as per the policy, and it will give away its regulatory powers to the National Higher Education Regulatory Authority (“NHERA”). However, as per the policy, an exception has been created for legal education, and the BCI would retain the sole power to set standards for the legal profession and regulate the higher education institutions offering legal education.<sup>63</sup>

Another remarkable change would be concerning the medium of instruction. The policy advises state institutions to offer bilingual education. This could be monumental in taking legal education to the last mile, as with the introduction of regional languages, legal education would become more accessible. Moreover, the policy is futuristic as it envisions the incorporation of online education modules in undergraduate and vocational studies. It also aims to make legal education in India globally competitive by focusing on a curriculum that reflects the socio-cultural reality while ensuring that the learning is evidence-based. However, it remains to be seen how and when the policy will translate into action.

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62 Ibid.

63 Supra Note 59.

#### 4. BCI: REFORMS IN HIGHER LEGAL EDUCATION, 2021

A remarkable shift in the regulation of post-graduate studies in law has taken place as the Ministry of Human Resource Development (now Ministry of Education), Government of India, University Grants Commission, and Association of Indian Universities are of the view that the Bar Council of India should also regulate Postgraduate and Other Higher education in law. In this light, the BCI has formulated new rules concerning post-graduate and higher education in law, notified in early 2021.<sup>64</sup> With the enactment of these rules, only law graduates are allowed to study post-graduation in law (LL.M.). The rules abolish the one-year LL.M. program in India and require that the entrance examination for admission to the master's course be conducted by the BCI (referred to as Post Graduate Common Entrance Test in Law). A writ petition has been filed by the Consortium of NLUs (that conducts the law entrance examination for UG and PG courses in the NLUs) before the Supreme Court challenging the new rules that do away with one year LL.M. course for lack of consultation with the universities.<sup>65</sup> However, the decision of the apex court on this matter is yet to be pronounced.

The rules even provide for an executive LL.M. program that would span over three years and be conducted through weekend classes. There is also a provision for refresher courses of short durations for practising advocates. There are other programs, as well, for advocates for continuing education, like the Associate of BCI, a three-year course for registered lawyers, and the research fellowship of BCI, which would be similar to a Ph.D. in law. These courses try to bridge the gap between professional training and legal education & research.

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<sup>64</sup> Bar Council of India Legal Education (Post-Graduate, Doctoral, Executive, Vocational, Clinical and other Continuing Education), Rules, 2020, Bar Council of India, January 2, 2021, F.No. BCI:D: 2/2021, available at [https://www.livelaw.in/pdf\\_upload/pdf\\_upload-386894.pdf](https://www.livelaw.in/pdf_upload/pdf_upload-386894.pdf), last seen on 15/02/2021.

<sup>65</sup> "BCI Has No Power To Regulate LLM Course"; *NLU Consortium Tells Supreme Court, Hearing For Interim Relief Tomorrow*, Live Law News Network: Top Stories, available at <https://www.livelaw.in/top-stories/one-year-llm-supreme-court-bar-council-of-india-bci-no-power-169649>, last seen on 16/02/2021

## CHAPTER II

### TEACHING AND RESEARCH PEDAGOGY IN CHINA

#### Abstract

*Historically, in China, teaching has been a teacher-centric activity where the teacher passes on the knowledge and skills to the pupils using different methods. For law education, apprenticeship (that too mostly, within the family, from generation to generation) had been the most commonly used teaching method across countries until formal educational institutions cropped up.<sup>1</sup>*

*The teaching of law involves instruction in theory as well as practice. A mere lecture on legal theory without any explanation of the law's application would make the whole exercise redundant. This makes teaching methods and research pedagogy crucial to the outcome of legal education. This chapter deals with an array of teaching methods and techniques that are used in law schools in China to ensure effective legal education and research training. With fast-changing technologies, methods and techniques are also changing. China has incorporated technology to make teaching more effective, like 'rain classroom,' online courses etc. This Chapter also talks about certain shortcomings that are faced by Chinese legal education.*

#### 1. TEACHING METHODS: TOOLS & TECHNIQUES

Classroom lecture is the predominant method of teaching in Chinese law schools. The teachers explain legal concepts, doctrines and theories through lectures with regular assessments in written assignments or examinations.<sup>2</sup>The entire teaching activity takes the teacher as the centre, and the students follow the teacher's thinking. This method often turns into boring

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1 Hou Xinyi, *Modern Legal Education in China* 31(2) Oklahoma City University Law Review 293 (2006).

2 Section of Criminal Law & Civil Law, Department of Law, East China University of Politics & Law, Dadan Tansuo, Yongyu Shijian, Kaichuang Xinlu - Anli Jiaoxuefa Shijian Yu Tihui, *Experience on Case Law Teaching Methodology*, 54(3) Zhengfa Gaojiao Yanjiu [Research on Higher Legal Education] 224 (1998).

“indoctrination teaching.” However, besides the traditional teaching methods, the following methods are also employed.

### **1.1. Case Analysis Teaching Method**

This is a teaching method strongly advocated in recent years. In this method, the teachers can bring out some typical, representative and complex cases for students to analyse and discuss to understand legal theory and principles more thoroughly. This method focuses on the application part of the law and inculcates the practice of identifying the relevant applicable laws and understanding their consequences.

### **1.2. Research and Teaching Method**

This method involves learning through focused research on a particular issue. This kind of teaching method is mostly applied to students with specific scientific research abilities, and teachers can communicate with them directly, answer their questions and provide guidance for them to write papers.<sup>3</sup> It has the benefit of allowing in-depth research on the subject matter; however, it is time taking and not every topic can be taught using this method.

In addition to the traditional teaching tools and methods, some intelligent teaching tools are also used, such as:

### **1.3. Rain Classroom**

Rain classroom is one of the most widely used teaching tools in higher education in China. It is praised as “the symbol of the new development stage of teaching informatization in Chinese universities” by education informatization experts. It is a teaching assistant tool jointly developed by the Online Education Office of Tsinghua University and XuetaoX online.

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<sup>3</sup> Yi Bo and Zeng Hao, *Research on the Reform of Law Teaching Method Using the Technology Tools in the Background of 'Internet +'*, 1 Journal of Southeast Jurisprudence 162, 178 (2016).

Relying on Wechat, which teachers and students mostly use, rain classroom provides a platform for teaching and learning.<sup>4</sup>

It offers many advantages as it effectively guides self-study and enhances classroom vitality. Many college students lack the driving force of autonomous learning and are forced to accept the knowledge in class. Rain Classroom can play the role of supervision and mobilization and actively guide the students to lead the learning by pushing the relevant legal case videos, social hot news events, and other resources to the students.

It also plays a significant role in enriching teaching resources and devising innovative teaching methods. Teachers can integrate teaching resources, push ppt courseware, relevant legal documents, case videos, Massive Open Online Course (“MOOC”) videos, legal examination handout videos, and other resources to students, and expand the teaching resources.

However, it suffers from various shortcomings as it is easily affected by the network environment and its promotion and application are limited. Due to the limited network coverage and speed of the teaching building, the teaching effect is affected. Most computer systems do not install the rain classroom plug-in, so teachers have to provide their computers to connect to the multimedia large screen or change to the information room for class, which lacks the support of the school-based environment. The practice is short, and the teaching design is not mature. The rain classroom version is also updating the function, and some functions are not familiar to the users.

#### **1.4. Massive Open Online Courses**

Massive Open Online Course (“MOOC”) refers to a large-scale open online course. MOOC resolves access to education as it is made available to the public free of cost, but MOOC on every topic may not be available. MOOC has the advantages of rich choice, flexible time and place, novel teaching methods, and resource sharing. Nevertheless, some problems exist, such as the lack of actual types, the lack of synchronization of teacher-student interaction, the lack of coherence of content, etc. Although law teachers in

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<sup>4</sup> Mou Dan and Gao Juying, *Research on the Application of Rain Classroom Model in Law Teaching in Colleges and Universities*, 1 Journal of Telecom World 266, 267 (2020).

China are adequately aware of MOOCs and the country ranks at the top in the number of MOOCs offered, unfortunately, the usage rate of MOOCs was only 7.43%.<sup>5</sup> Although these courses can be accessed at any time and completed at the students' place, MOOCs' usage and completion rates remain significantly low.

### **1.5. Internet Database**

In the era of the information explosion, law teachers and students must find the required information accurately and quickly. Internet databases primarily used in China include public databases such as Baidu, Google, Sogou, Bing, etc. These also include professional databases on laws, regulations and judicial documents. These databases make the research convenient and less time-consuming. However, most databases require a subscription through payment, and it depends on the concerned institution as to which all databases it subscribes to. Further, some of these databases are complex and require some training and orientation to prepare the students to utilise them.

### **1.6. Convenient Note-Taking Tools: Evernote and Work Flow**

Evernote is a popular note-taking application all over the world. It can record all kinds of information, including text, pictures, web pages and voice, add any format document or attachment, and synchronize to any device in a flash. For law teachers and law students, this application is convenient as it can be accessed through different devices, making it very convenient to update and share notes or information at any time.

Workflow is another application that is used for listing and grading information. It is one of the most straightforward applications that can be used to take notes or create assignments such as enter, shift + enter tab, shift + tab, delete, and mouse drag. These six operation keys are the foundational keys for the operation, and you can quickly get started.

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<sup>5</sup> Zhao Yin, *The Role Transformation Path of University Law Teachers from the Perspective of MOOC*, 2 Journal of Research on Legal Education in China 118, 138 (2019).



### 1.7. Visualization tool of Complex Legal Relationship Through Visio

Visio is an office software of Microsoft office, convenient for law professionals to visualise, analyse and communicate complex information systems and processes. The application can formulate a diagrammatic representation of complicated factual and legal relations of a case or the development of a legal issue. It can be of great significance for studying judicial trends and complex criminal cases involving many facts and details. However, the tool can also devise problems for public policy problems by converting the problem into a visual format.

## 2. EMPIRICAL/DOCTRINAL RESEARCH

China's legal empirical research started late. Legal empirical research, in essence, is primarily centred on data analysis.<sup>6</sup> In the early 21st century, the empirical study of law in China rose, initially in the field of criminal law. With the increasingly prominent effect of empirical research, the application of empirical paradigm began to appear in civil & commercial law, constitution, administrative law and even jurisprudence. There are many publications, academic conferences, textbooks, etc., with an interest in empirical research in China. For example, the journal of Empirical Research on Chinese Law and the journal of Empirical Law are publications focusing on empirical research. There are some academic conferences about empirical research as well, such as China Annual Conference on Legal empirical research, International Conference on Legal empirical research, etc.<sup>7</sup> From 2000 to 2022, the number of articles on "empirical research of law" in the Chinese Social Sciences Citation Index (CSSCI) is 1127 and in the core journals of Peking University is 1043.<sup>8</sup>

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6 Zuo Weimin, *A New Paradigm Revolution? Interpretation of the Empirical Study of Chinese Law*, 3 Journal of Tsinghua Law 17, 61 (2017).

7 Zuo Weimin, *Empirical Research: A Rising New Paradigm of Law*, 6 Journal of China Law Review 1, 4 (2019).

8 *Empirical Research in Law in China as per Chinese Social Sciences Citation Index and core journals of Peking University*, Wanfang Data, available at

<http://s.wanfangdata.com.cn/advanced-search/paper>, last seen on 28/12/2020.

Figure 1 below shows the trend of the number of papers on the theme of “empirical research of law” from 2000 to 2022:

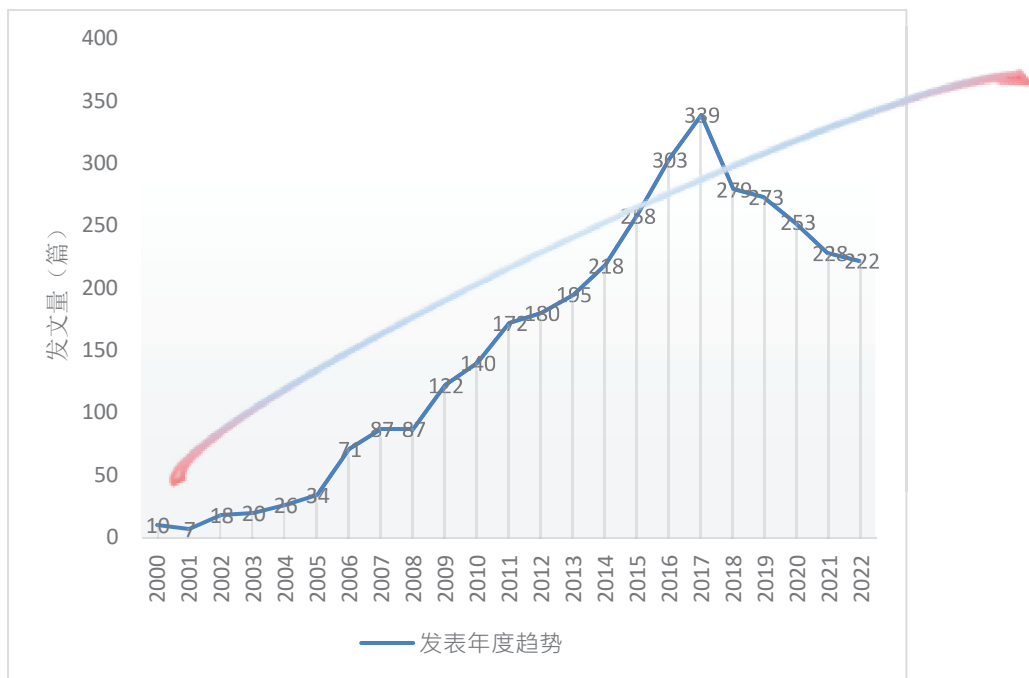


Figure 1 Trend of the number of papers on the theme of “empirical research of law” from 2000 to 2020 in China

The uneven distribution of disciplines characterizes empirical legal research in China. The research in traditional fields such as procedural law, judicial system, etc. is in line with international standards and synchronized. However, in areas such as, in the field of the constitutional law, economic law (focus only on the field of finance and securities) and administrative law the empirical research is relatively scattered. In addition, the empirical research in the field of international law and legal history is comparatively more weak.<sup>9</sup>

<sup>9</sup> Zhao Jun, *The Return and Transcendence of China's Legal Empirical Research*, 2 Journal of Political and Legal Forum 3, 14 (2013).

### 3. RESEARCH PUBLICATIONS

Law books and journals form an essential part of the legal literature in China. These incorporate empirical as well as doctrinal legal research in China. They also form the foundation of legal education and teaching as they serve as the primary sources of legal information for teaching purposes.

#### 3.1. Law Books

The Classification of the National Library of China is the general classification of books in China. It means that books of all disciplines are divided into five major categories and 22 basic categories by a logical method according to the content, form, genre and reader usage of books. The Chinese Library Classification (“CLC”) adopts a mixed number of Chinese Pinyin letters and Arabic numerals. One letter represents a significant category. The sub-disciplines under the major category are composed of Arabic numerals, and Category D is “politics and law.”

According to China Statistical Yearbook, 2010-2019<sup>10</sup>, category D books are increasing rapidly from 2010 to 2016, and after 2016, they are increasing steadily. See table 4 and figure 2:

Years	Number Publications(kind)	of Printed Copies (10 000 copies)
2019	17939	34380
2018	18972	29125
2017	18256	24765

<sup>10</sup> *Statistics on Books Published in China by Categories (2010-19)*, China Statistical Yearbook 2010-2019, available at <https://govt.chinadaily.com.cn/s/202006/29/WS5ef995fd498ed1e2f34075ef/china-statistical-yearbook-2010-2019.html>, last seen on 16/02/2021.

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2016	19015	29297
2015	19051	18544
2014	18005	17712
2013	17481	16438
2012	16791	15551
2011	15669	14017
2010	13903	12832

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*Figure 2 Publication of Category D Books in China<sup>11</sup>*




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<sup>11</sup> Ibid.

The National Library of China collection is rich, with a complete range of ancient and modern Chinese. There are more than 35 million books in the library, and the number is increasing at the rate of one million every year. Among them, the Chinese literature collection ranks first globally, and the foreign literature collection ranks first in China.

Based on the Chinese library classification number, 10711 kinds of D90, D91, D92, and D99 documents were found in the National Library of China. As shown in table 5:

*Table 4 Chinese Publications as per National Library of China*

<b>Chinese Library Classification Number</b>	<b>Chinese Literature Database (unit: kind)</b>	<b>Foreign Language Literature Database (unit: kind)</b>	<b>Total</b>
D90 Theory of law (jurisprudence)	3612	2497	6109
D91 Law departments	2119	213	2332
D92 Chinese law	3157	124	3281
D99 International Law	1888	1702	3590
<b>Total</b>	<b>10776</b>	<b>4536</b>	<b>15312</b>

### 3.2. Law Journals

There are three kinds of legal journals in China: specialized legal journals, comprehensive journals in the field of Humanities and Social Sciences and theoretical pages of newspapers and non-academic journals.

Chinese core journals are a database developed by Peking University Library. The latest edition (ninth edition, 2021) of “Overview of Chinese Core Journals” (2018) includes 28 legal journals.<sup>12</sup> CSSCI is a database developed by the Chinese Social Science Research and Evaluation Centre of Nanjing University, which is used to retrieve papers and citations in Chinese social science. At present, it contains 24 kinds of law journals.<sup>13</sup> The source of scientific research evaluation of core journals of China law school is the journal directory used by China law innovation network to evaluate the situation of various branches of law and various legal research institutions. At present, there are 24 kinds of legal journals as per the CSSCI.

*Table 5 Core publications of CSSCI*

<b>Order Number</b>	<b>Journal Name</b>	<b>Sponsor</b>	<b>CN Number</b>
1	Journal of Comparative Law	Institute of Comparative Law of China University of Political Science and Law	CN11-3171/D
2	Contemporary Law Review	Jilin University	CN22-1051/D

<sup>12</sup> Peking University Chinese Core Journal Catalog, 2018 Eighth Edition, available at [www.yueqikan.com/hexinqikanmulu.html](http://www.yueqikan.com/hexinqikanmulu.html), last seen on 28/08/2023.

<sup>13</sup> CSSCI Source Journal Directory (2021-2022), available at <https://cssrac.nju.edu.cn/njdx/DFS//file/2020/08/14/2020081414402106323dzkz.pdf>, last seen on 28/08/2023.

3	Oriental Law	Shanghai Law Society	CN31-2008/D
4	Science of Law	Northwest University of Political Science and Law	CN61-1470/D
5	Studies of Law and Business	Zhongnan University of Economics and Law	CN42-1664/D
6	Law Science	East China University of Political Science and Law	CN31-1050/D
7	The Jurist	Renmin University of China	CN11-3212/D
8	Legal Forum	Shandong Law Society	CN37-1343/D
9	Law Review	Wuhan University	CN42-1086/D
10	Chinese Journal of Law	Institute of Law of the Chinese Academy of Social Sciences	CN11-1162/D
11	Law Science Magazine	Beijing Law Society	CN11-1648/D
12	Law and Social Development	Jilin University	CN22-1243/D

13	Journal of National Prosecutors College	National Prosecutors College	CN11-3194/D
14	Administrative Law Review	China University of Political Science and Law	CN11-3110/D
15	ECUPL Journal	East China University of Political Science and Law	CN31-2005/D
16	Global Law Review	Institute of Law of the Chinese Academy of Social Sciences	CN11-4560/D
17	Tsinghua University Law Journal	Tsinghua University	CN11-5594/D
18	Modern Law Science	Southwest University of Political Science & Law	CN50-1020/D
19	Journal of Political Science and Law	Shandong University of Political Science and Law	CN37-1016/D
20	Political and Legal Forum	China University of Political Science and Law	CN11-5608/D
21	Political Science	Institute of Law,	CN31-1106/D



	and Law	Shanghai Academy of Social Sciences	
22	China Legal Science	China Law Society	CN11-1030/D
23	Criminal Science	Institute of Prosecutorial Theory of the Supreme People's Procuratorate	CN11-3891/D
24	Peking University Law Journal	Peking University	CN11-2447/D

The comprehensive journals in the field of humanities and social sciences are mainly social science comprehensive journals organized by the Provincial Academies of Social Sciences and Federation of Social Sciences, such as Exploration and Free Views, Open Times, Jianghai Academic Journal, etc. and journals organized by various comprehensive universities, such as journal of Renmin University of China, Journal of Shandong University, Journal of Hebei University of Science and Technology, etc. In this category, Chinese Social Sciences, sponsored by the Chinese Academy of Social Sciences, is regarded as the top publication in the whole field of Humanities and social sciences.<sup>14</sup>

Some non-academic journals of newspapers have particular theoretical pages and will publish some ideological or academic articles, such as People's Daily, Guangming Daily, etc. In addition, there are local newspapers, such as Yangcheng Evening News and Beijing Youth Daily, etc. Some scholars' views on some hot social issues may be published in popular newspapers, however, in most cases, academic articles are first published in academic

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<sup>14</sup> He Haibo, *Law Thesis Writing*, 1 Peking University Press 67 (2014).

journals, and only the popular and reduced editions are published in a newspaper.

#### **4. MOOT COURT ACTIVITIES**

Moot courts allow students to get the courtroom experience and thereby develop lawyering skills. Here is the current situation of Moot Court Activities in China:

##### **4.1. The Popularity of Moot Courts and the High Participation of Students**

Law schools in colleges and universities all over the country organise moot court activities. According to an investigation of the development of moot court activities in some universities,<sup>15</sup> including Jilin University, Tongji University, Northeast Normal University, Shanghai University, Northeast Forestry University, Hebei Engineering University, etc., all these universities have mock courts, and the percentage of students' participation is close to 100%.<sup>16</sup>

##### **4.2. Takeaways for the Students**

The moot court serves as an additional activity to ensure improved learning and understanding of law while also developing necessary skills. However, the learning differs for students as they participate in different roles. Taking the criminal procedure as an example, in simulating the trial, the students play the roles of the presiding judge, the people's jurors, the public prosecutors, the suspects, the defenders, the clerks, the witnesses, the bailiffs, and so on. The chief judge and the suspects have more 'dramas,' witnesses are relatively short in appearance, and the bailiffs play shorter roles. Therefore, the supporting role players with more minor 'parts' cannot exercise their legal practice ability through a moot court.

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15 Wan Kefei, *The Current Situation and Development of Moot Court Teaching Activities in Colleges and Universities*, 6 Journal of Anhui Police Officer Vocational College 102, 105 (2017).

16 Ibid.

### **4.3. Moot Court as an ‘Activity’ and not a ‘Course.’**

Even in China’s well-known law schools, more than half of them do not have moot court courses, which are only used as practical teaching links or second classes, such as the Intel excellent legal talents training base of Jilin University, and many law schools only teach moot court courses as optional courses. The absence of courses implies that the moot court experience is not as structured, and it implies different outcomes for different students. Those who only play various roles may not benefit as much in terms of research and argumentation skills. Therefore, the development of moot court courses still needs further exploration.

### **4.4. Frequency of Moot Courts in a Semester**

As the moot court is only an activity and not a full-fledged course in China, the number of moot courts organised in law schools is different. While in some law schools, it may be a regular exercise, it may be a one-time activity in others. After the completion of a law course, many law schools only arrange for students to participate in a moot court trial exercise one time, and during this period, the mutual discussion, case analysis, legal text interpretation, plea, legal document writing, and other links are ignored.<sup>17</sup>

### **4.5. Lack of Experienced Mentors**

The preparation for the moot courts requires expert guidance and support because there is extensive research and drafting involved. The students may not be well-equipped to undertake these activities independently. It needs to have rich judicial practice experience and the expertise of the primary substantive law and procedural law, and the control and skills in operation. A law teacher with good teaching design and diversified methods and means or a practising law professional would be well-placed to guide the students for the moot courts. However, no mechanism is in place to ensure such moot court mentorship for law students, individual law schools have devised their

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17 Xia Limin, *On the Reform of Teaching Mode and Method of Moot Court Course*, 12 *Journal of China University Teaching* 51, 55 (2015).

mechanisms to prepare the students, and thus, the support depends on the respective law school and the faculty.

## 5. COURSES TAUGHT IN UG/PG/ PH.D. AND OTHER DEGREE COURSES

Law schools in China offer a variety of courses at the graduate (LL.B., J.M., J.D.<sup>18</sup>), post-graduate (LL.M.), and doctorate levels (LL.D./Ph.D.). The LL.B. course is a four-year undergraduate course open to students who pass the high school examination. J.M. is a master's degree that inducts law and non-law graduates. Only one law school in China offers the American-styled J.D., which is open to graduates from all fields.<sup>19</sup> For all these courses, admission happens through a competitive entrance examination.<sup>20</sup>

### 5.1. The Introduction to Undergraduate Courses of Law in China

On the whole, the professional courses of law undergraduates include theoretical teaching courses and practical teaching courses.<sup>21</sup> The theoretical teaching curriculum system includes ideological and political theory curriculum, general education curriculum, and professional curriculum; the practical teaching curriculum system includes experiment and training courses, professional practice, social practice, and graduation thesis (design).

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18 Peking University School of Transnational Law (STL) is the only law school in the world that combines an American-style Juris Doctor degree (J.D.) with a China law Juris Master degree (J.M.). STL provides an academically rigorous, bilingual four-year program of legal education that prepares students for the mixture of Common Law, civil law, and Chinese legal traditions increasingly characteristic of the global economy. Information, available at [19 Ibid.](https://stl.pku.edu.cn/programs/jd-jm/international-students/#:~:text=Peking%20University%20School%20of%20Transnational,Juris%20Master%20degree%20,last seen on 01/02/2021.</a></p></div><div data-bbox=)

20 *About GaoKao*, College Entrance Examination Information Disclosure, available at <https://gaokao.chsi.com.cn/>, last seen on 16/02/2021.

21 Ministry of Education, People's Republic of China, *National Report on Teaching Quality in Undergraduate Programs 2018*, available at [http://en.moe.gov.cn/news/press\\_releases/202007/t20200702\\_469885.html](http://en.moe.gov.cn/news/press_releases/202007/t20200702_469885.html), last seen on 16/02/2021.

The total credits of the law major training program are about 160 credits, of which the accumulated credits of practical teaching courses are not less than 15% of the total credits, as shown in Table 7 below:

*Table 6 The professional courses of law in China*

<b>The Professional Courses of Law Undergraduates (about 160 credits)</b>	Theoretical Teaching Courses	Ideological and Political Theory Curriculum
		General Education Curriculum
		Professional Curriculum
	Practical Teaching Courses not less than 15% of the total credits )	Experiment and Training Courses
		Professional Practice
		Social Practice and Graduation Thesis (Design)

### ***5.1.1. Theoretical Teaching Courses***

General courses generally include foreign languages, physical education, computer courses, logic courses, etc. The core courses of law major adopt the mode of “10 + X”. “10” means that law students must complete 10 professional compulsory courses, including Jurisprudence, Constitutional Law, Chinese Legal History, Criminal Law, Civil Law, Criminal Procedure Law, Civil Procedure Law, Administrative Law and Administrative

Procedure Law, International Law and Legal Professional Ethics. “X” refers to other professional compulsory courses set up by colleges and universities according to their characteristics, including Economic Law, Property Law, Intellectual Property Law, Commercial Law, Private International Law, International Economic Law, Environmental Resources Law, Labour and Social Security Law and Evidence Law.

### ***5.1.2. Practical Teaching Courses***

Law undergraduates must practice in moot courts, law clinics, professional laboratories, training bases, and off-campus practice bases. The length of professional practice should not be less than 10 weeks. Law schools should organize various forms of legal publicity and education activities so that law students can understand social life and develop a sense of responsibility. The duration of social practice should not be less than four weeks. Law undergraduates must complete the graduation thesis (design), including academic thesis, case analysis, graduation design, research report, and other forms. When students prepare their graduation thesis (Design), the law school will determine a tutor for students to guide them in topic selection, opening, and writing.

### **5.2. The Introduction to China’s Master of Law (non-law) Course in China**

In 1996, the Master of Law Education was established in China. The first batch of Master of Law Professional degree authorization points were only 8, including Peking University, Renmin University of China, China University of Political Science and Law, University of International Business and Economics, Jilin University, Wuhan University, East China University of Political Science and Law, as well as Southwest University of Political Science and Law..<sup>22</sup>

There are two types of Master of Law in China, namely Master of Law (law) and Master of Law (non-law). The enrolment objects of Master of Law (non-

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<sup>22</sup> National JM Education Steering Committee, *List of National Law Master Training Units*, 2019, available at <http://www.china-jm.org/article/?id=701>, last seen on 02/02/2021.

law) are undergraduates whose majors are not law majors, such as economics, foreign language, computer, etc., and it has become a meaningful way to cultivate compound legal talents in China.

China's Master of Law (non-law) training content consists of three parts, namely curriculum, practical teaching and training, and dissertation, with a total of 73 credits. As shown in the following table 8:

*Table 7 The training content of China's Master of Law (non-law)*

<b>The Training Content</b>	<b>Credits (73)</b>
Curriculum	no less than 53
Practical Teaching and Training	no less than 15
Dissertation	5

The courses are divided into compulsory courses and elective courses (including recommended elective courses and characteristic elective courses), as shown in the following table 9:

*Table 8 Compulsory Courses and Elective Courses in China*

<b>Curriculum</b>	<b>Course name</b>	<b>Credits (no less than 53)</b>
Compulsory Courses	Research on the theory and practice of socialism with Chinese characteristics	2
	Foreign Languages	3

	Legal professional ethics	2
	Jurisprudence	2
	History of the Chinese legal system	2
	Constitutional law	2
	Civil law	4
	criminal jurisprudence	4
	Civil procedural law	2
	Criminal Procedure Law	2
	Administrative law and administrative procedural law	2
	Economic Law	3
	International Law	2
Elective Courses	History of the foreign legal system	2
	commercial jurisprudence	2
	science of international economic law	2



	science of private international law	2
	Intellectual property law	2
	Environmental resources law	2
	Labour and social security law	2
	Legal methods	2
	Evidence law	2
	Characteristic elective courses	8

The content of practical teaching and training consists of five parts, including legal writing, legal retrieval, legal negotiation, etc., as shown in the following **table 10**:

*Table 9 The content of practical teaching and training*

	Course name	Credits (no less than 15)
Practical Teaching and Training	Legal Writing	2
	Legal Search	2
	Moot court, Moot Arbitration, Moot Mediation, etc. (organized by teachers)	3

	and assisted by legal practice experts)	
	Legal Negotiation	2
	Professional Practice	6

### 5.3. The Introduction to the Course of Doctor of Law in China

During studying for a doctorate, Chinese law doctoral students must obtain the course credits required by the university, and the credit range is 12 credits to 25 credits. For example, the credit requirement for China University of Political Science and Law is 15 credits, that of Tsinghua University is 12 credits, and that of Beijing Normal University is 21 credits.

In terms of curriculum, it can be divided into three categories, namely public courses, degree courses, and compulsory links. Among them, public courses include politics, foreign languages, methods, and academic literacy courses; degree courses include introductory theory courses, professional basic courses, and related interdisciplinary professional courses; compulsory links include scientific research activities, international experience, qualification examination, social practice, literature review, and topic selection report, etc. These courses have corresponding credits, but the specific course content and credit requirements vary from school to school.

#### 5.3.1. *Interim Assessment*

The mid-term assessment will be conducted in the second semester or the third semester of the admission of the Doctor of Law Students. It is a comprehensive examination of disciplines before the Doctor of Law Students formally enters the dissertation research stage. The contents of the assessment include a comprehensive examination, scientific research achievements,<sup>23</sup> etc. . The purpose of the examination is to check whether doctoral students

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<sup>23</sup> Scientific research achievements generally include papers or works published by students during their studies.

have a solid disciplinary foundation and expertise, whether they can comprehensively use professional knowledge to analyze and solve problems, and whether they can carry out innovative research.

Results of mid-term assessment. If students pass the mid-term assessment, they can enter the opening report stage; if failed, they have one more chance; if they fail again, they might encounter dropping out.

### ***5.3.2. Opening Report***

In principle, the time from the passing of the opening report to the application for thesis defense is generally not less than one year. The assessment team of the opening report is composed of doctoral tutors and members of the steering group, and there are no less than three teachers with doctoral guidance qualifications. The opening report that has passed the evaluation shall be submitted to the college or department in written form for the record.

### ***5.3.3. Anonymous Evaluation System of Graduation Thesis Defense***

To ensure the quality of legal doctor training, the graduation thesis needs to meet the minimum number of words (generally not less than 100000 to 150000) and pass the anonymous evaluation.

Anonymous review, also known as the blind review of papers, refers to giving papers to three off-campus reviewers for review, senior professors in a field, and other universities. Neither the tutor nor the author of the paper knows who the reviewer is, and neither does the reviewer know who wrote the paper. This is a two-way anonymous review. If one of the three reviewers disagrees, the thesis defense will be suspended. If the students pass the blind review, they can enter the thesis defense link.

Besides, strictly control the quality of the thesis and comprehensively improve the level of the doctoral dissertation. China's colleges and universities have built a perfect pre-defence system, academic misconduct detection system, supplement and modification system after dissertation

defense, strengthening the spot check system after doctoral dissertation defense and doctoral supervisor interview system.<sup>24</sup>

## 6. SYSTEM OF ADMISSION TO THE PROFESSIONAL COURSES

Admission to the LL.B. courses in China is through the National College Entrance Examination (also known as GaoKao),<sup>25</sup> held annually in July. Since 2000, some provinces in China have also examined in January (Spring Gaokao) so that those who miss or fail the July examination have another opportunity.<sup>26</sup> This examination is open to all students who graduate high school and tests them in Chinese Language, Mathematics, foreign language, and other subjects depending on the track chosen (liberal arts or sciences).<sup>27</sup>

The 3+X formula is employed for Gaokao, where students are tested on three core subjects, namely, Chinese Language, English Language, and Mathematics, and 1 or more optional subject(s). Sometimes, X consists of subjects like politics, history, geography, physics, chemistry, and biology. However, individual universities enjoy the discretion to decide the weightage of 3+X subjects.<sup>28</sup>

For LL.M., a graduate who has completed four years of education in any discipline can apply. The admission to the master's course is also through an entrance examination (Gaokao 2.0)<sup>29</sup>, which comprises tests on English and Politics, among other subjects of law (law schools enjoy discretion in choosing which laws to test in the entrance examination). The students must pass these two subjects to secure admission to any law school.

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24 Ministry of Education of the People's Republic of China, *Experiences and Practices of the Pilot Comprehensive Reform of Doctoral Education of Renmin University*, 2019, [www.moe.gov.cn/s78/A22/A22\\_ztzt/ztzl\\_bsyjsjyzhgg/201901/t20190124\\_367964.html](http://www.moe.gov.cn/s78/A22/A22_ztzt/ztzl_bsyjsjyzhgg/201901/t20190124_367964.html), last seen on 24/12/2020.

25 Supra note 21.

26 Ibid.

27 Ibid.

28 *Education in China: A Snapshot*, OECD 2016, available at

<https://www.oecd.org/china/Education-in-China-a-snapshot.pdf>, last seen on 17/02/2021.

29 *SCNU sees another boost in application for postgraduate studies*, South China Normal University Website, available at <http://english.scnu.edu.cn/a/20210101/505.html>, last seen on 17/02/2021.

For the Ph.D. program, there is a national-level entrance test on the same lines as for LL.M. The candidates must qualify for the English and Politics test and tests on law subjects prescribed by the individual law schools.

Efforts are being made to explore the multiple admission mechanism based on unified college entrance examination and high school academic level examination results and comprehensive quality evaluation. According to the orientation of running a school and professional training, colleges and universities should study and put forward the application requirements and comprehensive quality evaluation methods for the subjects of high school academic level examination and announce them in advance.

In 2014, the State Council (akin to the central government) issued a document that outlined reforms to China's exam-based admissions system, designed to address perceived shortcomings in the Gaokao and make the test more holistic to ensure the development of individual competencies across a broader range of areas.<sup>30</sup> Shanghai and Zhejiang being the pilot provinces for the reforms, introduced the comprehensive reform of the college entrance examination pilot program, starting in 2014, to new high school first-year students. The pilot project provides the basis for the reform of the college entrance examination in other provinces.

## **7. TEACHERS' ACCOUNTABILITY: LAW AND PRACTICE**

It is important to establish the accountability of the teachers in institutions of higher education as they shape the youth of the country. In China, the teachers of all professional courses are required to adhere to specific standards of conduct laid down by the Communist Party of China.<sup>31</sup> There are ten Standards of Professional Conduct for College Teachers. There is also a mechanism in place at the institutional level to ensure accountability in

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30 *Gaokao reform significant for enhancing social equity*, China Daily (05/09/2014), available at [https://www.chinadaily.com.cn/china/2014-09/05/content\\_18556433.htm](https://www.chinadaily.com.cn/china/2014-09/05/content_18556433.htm), last seen on 17/02/2021.

31 The Higher Education Law of the People's Republic of China (1999), adopted at the 4th Meeting of the Standing Committee of the 9th National People's Congress, August 29, 1998, The Standing Committee of the National People's Congress, Order of the President of the People's Republic of China No.7, available at <http://www.asianlii.org/cn/legis/cen/laws/helotproc422/>, last seen on 17/02/2021.

teaching. An Action Plan of Education Innovation 2003–2007 was formulated by the Ministry of Education in 2004 that requires all higher education institutions to undergo a quality evaluation every five years.<sup>32</sup> Further, a Higher Education Evaluation Center (HEEC) was also established in 2004 to serve as the national coordinating body to evaluate teaching in higher education.<sup>33</sup>

As per the standards laid down by the Communist Party of China, teachers are required to undertake several duties and responsibilities.

### **7.1. Firm Political Direction**

The teachers are required to:

- Adhere to the guidance of Xi Jinping’s socialist thought with Chinese characteristics in the new era, support the leadership of the Communist Party of China, and implement the Party’s educational policy.
- Not to damage the authority of the Party Central Committee, contrary to the Party’s lines, principles, policies, words and deeds in education and teaching activities and other occasions.

### **7.2. Consciously Patriotic and Law-Abiding**

It is required that the teachers are loyal to the motherland, the people, abide by the principles of the Constitution, abide by laws and regulations, and perform the duties of teachers according to law; do not harm the interests of the state, the public interest of society, or violate the public order and good customs of society.

### **7.3. Spread Excellent Culture**

It is incumbent on the teachers to the lead in practising socialist core values, carrying forward truth, goodness, and beauty, and transmitting positive

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32 Palle Rasmussen, Yihuan Zou, *The Development of Educational Accountability in China and Denmark*, 22(121) Education Policy Analysis Archives (2014).

33 Ibid.

energy; they are prohibited from publishing or forwarding erroneous views through classes, forums, lectures, information networks, and other channels, or fabricating and disseminating false and lousy information.

#### **7.4. Concentrate on Teaching and Educating People**

The teachers are to carry out the fundamental task of creating people by virtue, to follow the law of education and the law of students' growth, to teach students according to their aptitude, and to teach each other; not to violate teaching discipline, perfunctory teaching, or to engage in part-time and paid behaviour that affects the work of education and teaching without authorization.

#### **7.5. Care for Students**

The teachers are expected to show kindness, indefatigable teaching, sincere care for students, strict requirements for students, and good teachers and friends.

#### **7.6. Stick to Words and Deeds**

The norm is to be a good teacher, set an example, behave in a civilized manner, behave decently, respect oneself for self-love; do not have any improper relationship with students, and prohibit any form of indecent assault or sexual harassment.

#### **7.7. Be Fair and Honest**

The teachers are required to adhere to the principle of fairness above board, and integrity, not in the recruitment, examination, promotion, research, employment, performance appraisal, job recruitment, job title evaluation, evaluation of awards, and other work favouritism fraud.

#### **7.8. Stick to Integrity and Self-Discipline**

The teachers are to be strict and teach cleanly. They are not to ask for or accept property from students and parents and not participate in banquets,

travel, entertainment, and leisure activities paid for by students and parents or use parents' resources for personal gain to prevent any conflict of interest.

### **7.9. Active Dedication to Society**

The teachers are under a compulsion to fulfil their social responsibilities, contribute wisdom and wisdom, establish a correct view of righteousness and benefit, and not use the name of the school or its name, emblem, patent, place, and other resources to seek personal interests without authorization.<sup>34</sup>

On December 8, 2020, the Ministry of Education publicly exposed eight typical cases, all in violation of the ten guidelines for teachers' professional conduct. At present, teachers and related responsible persons have been seriously dealt with. The Ministry of Education reiterated the issue of teacher ethics violations of "zero tolerance."<sup>35</sup>

## **8. SEMINAR/WORKSHOP/COLLOQUIUM**

In addition to classroom teaching, moot court, and assessment, there are seminars, workshops, and colloquiums that form an integral part of the law education system in China. The organisation of seminars and workshops is primarily done by the Chinese Law Society and the respective law schools.

### **8.1. Chinese Law Society**

The Chinese Law Society is a people's organization led by the Communist Party of China. It is the official organisation of Chinese legal academic professionals.<sup>36</sup> It is an important part of the national mass organizations, academic organizations, and the political and legal front of the legal

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34 Jiao yu bu guan yu yin fa xin shi dai gao xiao jiao shi zhi ye xing wei shi xiang zhun ze [Circular of the Ministry of Education on the Issuance of the Ten Guidelines on Professional Conduct of College Teachers in the New Era] (promulgated by the Ministry of Education, November 8, 2018, effective November 8, 2018) (P. R. C.).

35 *Laws and Regulations*, Peking University Website, available at <https://www.pkulaw.com/pal/a3ecfd5d734f711d222e3bccc1d6f7bbc7d9ef1adfac074dbdfb.html>, last seen on 25/02/2021.

36 *China Law Society aims for think tank of law-based governance*, The National People's Congress of the People's Republic of China, available at <http://www.npc.gov.cn/englishnpc/c2767/201904/d3b0243f3156445ca2254236b1ce71cb.shtml>, last seen on 25/02/2021.



profession. It organises several seminars and workshops on legal issues in China. The local law society is the local organization of the Chinese law society. Currently, there are 3080 local law societies, among them 32 provincial law societies, 15 deputy provincial and metropolitan law societies, 403 local (municipal) law societies, and County (city) level law societies 2630.<sup>37</sup>

It covers the main subjects of law and the marginal subjects of law. In prosperity law studies, having actively organized the vast number of legal workers and lawyers to carry out multidisciplinary, multi-level, and wide-field legal research around the central work of the Party and the state, a series of innovative research results have been obtained. A total of 80 seminars on various legal disciplines organized by the Chinese Law Society and the Local Law Society in 2020 included expert seminars on the National Flag Law (Draft Amendment), the National Emblem Law (Draft Amendment), the Personal Information Protection Law (Draft), and the Civil Code on major legislative events.<sup>38</sup>

## **8.2. Conferences, Lectures and Seminars at Law Schools of Higher Education in 2020**

69 academic conferences organized by the Institute of Law,<sup>39</sup> Chinese Academy of Social Sciences, 32 lectures at the Law School of China University of Political Science and Law,<sup>40</sup> Wuhan University Law School held a total of 27 forums,<sup>41</sup> 24 academic lectures at Beijing Normal University Law School and 23 academic lectures at Peking University Law School.<sup>42</sup> Affected by COVID-19, the teaching order was restored in the

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37 Ibid.

38 *Academic Lectures*, China Law Society, available at <https://www.chinalaw.org.cn/portal/search/index.html?keyword=%E7%A0%94%E8%AE%A8%E4%BC%9A&page=1>, last seen on 25/02/2021.

39 *Homepage*, China Social Science Network, available at <http://iolaw.cssn.cn/xshy/>, last seen on 25/02/2021.

40 *Homepage*, Law School of China University of Political Science and Law, available at <http://fxy.cupl.edu.cn/index/jzxx.htm>, last seen on 25/02/2021.

41 *Seminars & Lectures*, School of Law Wuhan University, available at <http://law.whu.edu.cn/dzhh.htm>, last seen on 25/02/2021.

42 *Academic Lectures*, Peking University Law School, available at <https://www.law.pku.edu.cn/xwzx/ggtz/xzjz/index.htm>, last seen on 25/02/2021

second half of 2020, and most of the lectures or seminars held by college law schools began in September of the autumn semester of 2020.

## **9. USE OF ICT IN LEGAL EDUCATION AND RESEARCH**

The use of technology has increased in all dimensions of life, including teaching and research and education in general. Deep integration of modern information technology and education and teaching has become the norm; however, not all higher educational institutions can access ICT or possess the funds to incorporate ICT in their teaching and research methods. Despite that, the future of education cannot be conceptualized without the use of ICT tools.

### **9.1. The form of Education and Teaching**

There is a visible effort on the part of the institutions of higher education to form multiple cooperation, rich content, wide application, timely service cloud service system of higher education, to create a wisdom classroom, wisdom laboratory, wisdom campus to meet the needs of students' autonomous learning, independent management, independent service. Efforts are also being made to promote the Internet, big data, artificial intelligence, virtual reality, and other modern technologies in teaching and management, explore the implementation of network, digital, intelligent, personalized education, promote the formation of "Internet + higher education" new form, with modern information technology are being made to promote the quality of higher education "derailment overtaking."<sup>43</sup>

### **9.2. Construction of Open Courses and Virtual Simulation Experiment**

China has launched many open online courses, especially during the COVID-19 pandemic; more courses were launched to ensure continued learning through high-quality online open courses. The Ministry of Education recommended 22 online learning platforms that provide around 24000 free

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43 Jiao yu bu guan yu jia kuai jian she gao shui ping ben ke jiao yu quan mian ti gao ren cai pei yang neng li de yi jian [Opinions of the Ministry of Education on Speeding up the Construction of Higher-Level Undergraduate Education to Improve the Ability of Personnel Training] (promulgated by the Ministry of Education, September 17, 2018, effective September 17, 2018) (P. R. C.).

courses for university-level students.<sup>44</sup> There is also scope for constructing national virtual simulation experimental teaching projects to improve the quality and level of experimental teaching.

### **9.3. Quality Educational Resources**

To ensure the quality of online courses, efforts are made to establish a credit recognition system. For instance, 10,000 national and 10,000 provincial first-class online and offline high-quality courses have been prepared and made available to ensure the open sharing of high-quality curriculum resources.<sup>45</sup> Teachers are being encouraged to apply multi-mode learning and further encourage students to learn in various forms to improve the level of public service. The objective is to promote a new universal learning environment that supports learners to learn by all, everywhere, and from time to time.

## **10. INFRASTRUCTURE FACILITIES**

Infrastructure in the context of education entails building infrastructure in the form of classrooms, moot court halls, conference halls, and other infrastructure such as reading material, libraries equipped with necessary online databases, internet connection, teacher availability, etc. The infrastructure of higher educational institutions is also an essential aspect of education. Adequate infrastructure is required to ensure quality teaching and research. The availability of such infrastructure depends on the funding and autonomy of the institution.

### **10.1. Basic School Conditions Indicators**

The conditions for running a school in public colleges and universities are composed of primary school conditions (including the ratio of students to teachers, the proportion of teachers with a graduate degree to full-time teachers, the average teaching and research equipment of students, the

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<sup>44</sup> Ministry of Education, People's Republic of China, *Guiding Opinions of the MoE's leading group on responding to the COVID-19 outbreak on the management of higher education online education during the epidemic outbreak period*, 2020, available at [http://www.moe.gov.cn/srbsite/A08/s7056/202002/t20200205\\_418138.html](http://www.moe.gov.cn/srbsite/A08/s7056/202002/t20200205_418138.html), last seen on 17/02/2021.

<sup>45</sup> Ibid.

average teaching and research instruments and equipment of students, and the average books of students) and monitoring school conditions (including the proportion of teachers with senior positions to full-time teachers, the average area of students, the average dormitory area of students, the number of computers for teaching for 100 students, the number of multimedia classrooms and phonetic laboratory seats for 100 students, the proportion of new teaching and scientific research instruments and equipment, and the number of annual books for students). These indicators are an essential basis for measuring the primary conditions of running colleges and universities and provide a basis for comprehensively analysing the conditions of running colleges and universities and introducing social supervision mechanisms.<sup>46</sup>

## **10.2. Statistical Indicators for Education Monitoring and Evaluation**

In the Statistical Index System of Education Monitoring and Evaluation in China (Trial Implementation), the conditions of running a school include 38 indexes in four dimensions: teaching staff, school building occupation, education funds, and school teaching equipment. In the Yearbook of Education Statistics of China, the contents related to the conditions of running a school include the building area of the school, the building area of the school building, the teaching and extra room, the administrative office room, the living room, other rooms, the sports venues, the number of teaching computers, the volume of books, the electronic collection of books, the total value of fixed assets, and so on.

The Statistical Yearbook of China's Education Funds includes the State's monetary funds for education, funds for education within the budget, taxes and fees levied by governments at all levels for education, enterprise allocations for running schools, funds for social donations, income from undertakings, other income, expenditure on utility funds, public expenditure, budgetary expenditure on education and expenditure on infrastructure.

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46 Jiao yu bu guan yu yin fa pu tong gao deng xue xiao ji ben ban xue tiao jian zhi biao (shi xing) tong zhi [Notice of the Ministry of Education on issuing the Basic Conditions for Running Colleges and Universities (Trial Implementation)] (promulgated by the State Council, February 6, 2004, effective February 6, 2004) (P. R. C.).

The improvement of running conditions in colleges and universities is not only restricted by the level of economic development but also influenced by many factors, such as the degree of attention paid by local leaders, the rationality and implementation of educational policies, the intensity of financial input, the level of government management, the characteristics of population structure, the social and cultural environment, the situation of urban and rural differences, and the level of cultural development.<sup>47</sup>

## 11. POLICY REGULATING/PROMOTING LEGAL EDUCATION

It is pertinent to understand the policy governing legal education to gauge its direction and objectives and examine whether the policy is visionary to keep pace with the changing environment of higher education. In every education system, certain regulators and institutions govern the system and lay down the policy. In China, this role is played by the Ministry of Education, and its policy is referred to as “Gao jiao 40”.

### 11.1. “Gao jiao (Higher Education) 40” in the New Era

On September 17, 2018, the Ministry of Education issued Opinions on Speeding up the Construction of Higher-level Undergraduate Education to Improve the Ability of Personnel Training in an All-round Way.<sup>48</sup> Focusing on the core point of improving the ability of personnel training in an all-round way, the Ministry of Education will speed up the formation of a high-level personnel training system and train socialist builders and successors with all-round development of moral, intellectual, physical, labour, and put forward ten opinions on the higher-level undergraduate education and comprehensively improving the personnel training, with a total of forty specific requirements:

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47 Gao Bingcheng, *Wo guo pu tong gao xiao ban xue tiao jian de ce ping yan jiu* [A Study on the Evaluation of the Conditions of Running a School in Chinese Universities], 2014: 2 Da xue [University (Academic Edition)] p. 57.

48 *Jiao yu bu guan yu jia kuai jian she gao shui ping ben ke jiao yu quan mian ti gao ren cai pei yang neng li de yi jian* [Opinions of the Ministry of Education on Speeding up the Construction of Higher-Level Undergraduate Education to Improve the Ability of Personnel Training] (promulgated by the Ministry of Education, September 17, 2018, effective September 17, 2018) (P. R. C.).

- Construction of high-level undergraduate education significance and situation requirements: Article 1-2.
- Construction of high-level undergraduate education guiding ideology and objective principles: Article 3-5.
- Ideological and political education runs through the whole process of high-level undergraduate education: Article 6-9.
- To deepen teaching reform around stimulating students' interest and potential in learning: Article 10-15.
- Comprehensive improvement of teachers' ability to teach and educate people: Article 16-19.
- Vigorously promote first-class professional construction: Article 20-23.
- Promote the deep integration of modern information technology and education and teaching: Article 24-26.
- To construct a new mechanism of co-education: Article 27-31.
- Strengthening quality culture construction in universities: Article 32-35.
- Do a good job constructing high-level undergraduate education, organization, and implementation of the same: article 36-40.

The Gao jiao 40 in the new era can be divided into four parts,<sup>49</sup> as shown in table 11:

*Table 10 Gao jiao 40 in the new era*

<b>Contents</b>	<b>Articles</b>	<b>Abstract</b>
Significance and situational requirements	1-2	The Significance and New Requirements of Building High-Level Undergraduate Education
Guiding principles and objectives	3-5	This paper puts forward the guiding ideology of building high-level undergraduate education, establishes the stage goal of the next five years and the overall goal of 2035, and puts forward five basic principles for implementation
Primary mission	6-35	The main tasks and key measures of constructing the talent training system of high-level undergraduate education are clarified

49 The head of the Department of Higher Education of the Ministry of Education answered the reporter's question on the "Opinions on Speeding up the Construction of High-level Undergraduate Education to Improve the Ability of Personnel Training in an All-round Way" and other documents, [http://www.moe.gov.cn/jyb\\_xwfb/s271/201810/t20181017\\_351821.html](http://www.moe.gov.cn/jyb_xwfb/s271/201810/t20181017_351821.html), last seen on 22/01/2021.

Strengthening  
organizational  
implementation

36-40

From the five aspects of strengthening organizational leadership, strengthening the responsibility of the main body, strengthening the overall planning of departments, strengthening support and security, and paying attention to summing up propaganda, the work requirements are clarified

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## **11.2. Education and Training for Outstanding Rule of Law Personnel 2.0**

On October 8, 2018, the Ministry of Education and the Central Committee of Political Science and Law issued the “Opinions on Persisting in the Implementation of the Education and Training Plan for Outstanding Rule of Law Talents.”<sup>50</sup> The goal is to establish a system for the training of legal talents that highlights the characteristics of the times and embodies Chinese characteristics after five years of hard work. Eight reform tasks and key measures are put forward, focusing on constructing about 120 state-level first-class law professional points, improving the two-way communication

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50 Guan yu jian chi de fa jian xiu shizhuo yue fa zhi ren cai jiao yu pei yang ji hua 2.0 de yi jian [*Opinions on Persisting in the Implementation of Education and Training Plan 2.0 for Outstanding Rule of Law Talents*] (promulgated by the Ministry of Education and CPC Central Committee Political and Law Commission, September 17, 2018, effective September 17, 2018) (P. R. C.).



mechanism between law colleges and law enforcement departments, and so on. The contents are summarized in table 2:

*Table 11 Contents of Education and Training for Outstanding Rule of Law Personnel*

<b>Contents</b>	<b>Abstract</b>
General thinking	Guided by Marxist Legal Thought and Theory of Socialist Rule of Law with Chinese Characteristics
Target requirements	After five years of hard work, we have established a training system for legal talents that highlights the characteristics of the times and embodies Chinese characteristics
Reform mandates and priority initiatives	Thick moral education casts the soul of the rule of law talent.  Strong professional, building the foundation of law education.  Emphasis on practice strengthens law education.  Deep cooperation breaks down the barriers to training mechanisms.  Strengthen moral ability, and strengthen the construction of law teachers.  Development of “Internet Law

Education.”

Promote opening up, and build a new pattern of foreign rule of law personnel training.

Establish standards and strengthen the quality culture of law education.

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Organization and implementation

Construction of a three-level implementation system.

Strengthening policy funding.

Strengthening supervision and inspection.

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### **11.3. Provincial Legal Education Administration**

On 21 October 1992, the Ministry of Justice issued the Provisions on the Administration of Legal Education by the Judicial Departments (bureaus) of provinces, autonomous regions, and municipalities directly under the Central Government.<sup>51</sup> Article 2 stipulates that the judicial departments (bureaus) of provinces, autonomous regions, and municipalities directly under the Central Government are the competent departments of legal education of provinces, autonomous regions, and municipalities directly under the Central Government, whose main duties are:

- To administer the teaching work of the political and legal colleges and institutions of the local judicial administration system and to guide the law education work of the prefectures and cities.

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51 Guan yu sheng, zi zhi qu, zhi xia shi si fa ting (ju) guan li fa xue jiao yu gong zuo de gui ding [Provisions on the Administration of Law Education by the Judicial Department (Bureau) of the Province, Autonomous Region or municipality directly under the Central Government] (promulgated by the Ministry of Justice, October 21, 1992, effective October 21, 1992) (P. R. C.).

- To contact the relevant departments of education, planning, personnel establishment, and finance to solve the problems and difficulties in the enrolment, distribution, and running of schools in the local colleges and universities; to coordinate the relationship with the employing departments and to organize and implement the education and training plan.
- Responsible for the department directly affiliated colleges and universities in the region of enrolment publicity and examination work, and assist the relevant departments to do an excellent job in the department directly affiliated colleges and universities of the graduation assignment of students.

## 12. POLICY REGULATING/PROMOTING LEGAL RESEARCH

The State Council gives the Ministry of Justice the function of guiding legal research. On 26 November 2020, the Ministry of Justice issued the Measures for the Management of Scientific Research Projects at the Ministerial Level in the Construction of the Rule of Law and the Study of Legal Theory (starting now referred to as the Measures), according which the scientific research projects at the ministerial level are divided into critical projects, general projects, youth projects, and special task projects.<sup>52</sup>

The ministerial-level scientific research project implements the management mode of combining expert review and administration and establishes the ministerial-level scientific research project expert consultation and evaluation committee. The Ministry of Justice has the responsibility of supervision and management, tracking and managing the whole process of scientific research projects at the ministerial level, and carrying out spot checks on the opening and progress of the project. According to law and judicial administration, the Ministry of Justice may set up major entrustment projects according to the country's actual needs.

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<sup>52</sup> Fa zhi jian she yu fa xue li lun yan jiu bu ji ke yan xiang mu guan li ban fa [Measures for the Management of Scientific Research Projects at the Ministerial Level in the Construction of Rule of Law and the Study of Legal Theory] Art. 6 (promulgated by the Ministry of Justice, November 26, 2020, effective November 26, 2020) (P. R. C.).

### 13. CONDUCTING EXAMS- POLICY AND PRACTICE

The assessment of learning at regular intervals is crucial to ensure adequate education. It can take different forms, such as written assignments, examinations, project works, case studies, moot courts, viva voce, and so on at the higher education level. The design of the assessment and its frequency depends on some factors. In China, the universities lay down the structure of assessment for different courses.

The contents involved in the examination of undergraduate courses are stipulated in the documents at the school level, such as the measures for the management of undergraduate student status.<sup>53</sup> Some colleges and universities have formulated detailed rules for examining undergraduate courses, such as Peking University's measures for evaluating and recording undergraduate students' achievements and Nanjing University's regulations on managing undergraduate teaching achievements.

### 14. STUDENTS ASSESSMENT- POLICY AND PRACTICE

Assessment takes various forms, mainly including homework, tests, midterm exams, and classroom performance. Taking the Renmin University of China as an example, the routine examination is divided into three parts: course assignment, classroom performance, and mid-term examination. Among them, the specific contents and implementation requirements of course assignments are carried out concerning the *course assignment management method*; the teacher gives classroom performance according to the student attendance rate, class discussion, and the comprehensive performance of the class presentation; the mid-term examination can be carried out by closed-book examination, open-book examination, oral examination, course paper, etc.<sup>54</sup> Concerning the final examination, each university has different

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53 *Rules and regulations*, Peking University Undergraduate Student Status Management Measures (revised 2019), available at

[http://www.dean.pku.edu.cn/web/rules\\_info.php?id=20](http://www.dean.pku.edu.cn/web/rules_info.php?id=20), last seen on 26/01/2021.

54 Wei Qi, Jiang Miao, *Exploration on the Examination Reform of Chinese Law Undergraduate Course -Based on the Empirical Analysis of 40 Universities*, 3 Journal of Changchun Institute of Education 34 (2020).

practices, including written examination, oral examination, functional examination, course paper, investigation report, etc.

*Table 12 Examination Form of Undergraduate Course*

Total points	Assessment at ordinary times		Final Examination	
	General assessment (30%)	Practical assessment (20%)	Written examination (25%)	Oral examination (25%)

## **15. LEGAL EDUCATION AND GOVERNANCE ISSUES**

The legal education system exists in a governance structure composed of several institutions and governmental policies. The objective of the policies and institutions is to ensure the efficiency of the education system; however, various challenges emerge in the functioning of the institutions and implementation of the policies.

### **15.1. Evaluation System of Law Teachers in Colleges and Universities**

The construction of the appraisal system for law teachers in colleges and universities is not sufficient, mainly attached to the application of the macro and holistic appraisal system, and the relevant legislation is scattered and unsystematic. There is no single effective method for assessing law teachers, and there is no mandatory and normative restriction.

Teachers' evaluation system in colleges and universities is either dominated by teaching performance or focused on scientific research results. Its value orientation is mostly weighed between teaching and scientific research, and

teachers' practical teaching ability is rarely included in it.<sup>55</sup> In evaluating teachers in colleges and universities, we should pay more attention to the qualifications and abilities, the number of achievements, and the cultivation of teachers' ethics.

### **15.2. Lack of Accreditation and Assessment of the Legal Profession**

Due to the lack of legal professional certification and evaluation at the domestic level, Chinese law education cannot guarantee the quality of law education through standardized management. Up to now, China already has 652 undergraduate degree authorization units. In recent years, the extensive growth of law education has slowed down, but the overall development of law education and the quality of talent training in different law schools is uneven.<sup>56</sup>

### **15.3. Problems of Legal Digital Resource Allocation**

The phenomenon of repeated purchases of resources is serious, and resources in critical disciplines are not prominent. Due to the limitation of funds and the difference in user utilization level, the purchase of specialized databases of law and some other languages other than English is relatively small, and the key subjects of each school are not highlighted in the allocation of digital resources.<sup>57</sup>

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55 Zhao Yin, Zhang Can [赵吟·张灿], Hu lian wang shi dai gao xiao fa xue jiao shi kao he ping jia ti xi zhi gou jian [*Construction of Evaluation System of Law Teachers in Colleges and Universities in Internet Age*], 2009: 4 An hui jing guan zhi ye xue yuan xue bao [Journal of Anhui Police Vocational College 安徽警官职业学院学报] p. 92-93.

56 Liu Kunlun, Zhong guo te se she hui zhu yi fa xue jiao yu ren zheng yu ping gu ti xi de gou jian [*Construction of Legal Education Certification and Evaluation System of Socialism with Chinese Characteristics*], 2019: 12 Ren min fa zhi [Rule of law for the people 《人民法治》] p. 106.

57 Fan Jingyi [范静怡], Fa xue yuan xiao tu shu guan shu zi yuan you hua pei zhi de si kao [*Reflections on the Optimal Allocation of Digital Resources in Library of Law Colleges*], 2014: 8 Tu shu guan xue kan [Library Journal 《图书馆学刊》] p. 42.

#### **15.4. National Steering Committee for Master of Law Professional Education**

A professional organisation established by the Committee to guide the education of master's degrees in law at the national level, approved by the Academic Degrees Committee of the State Council, the National Education Committee, and the Ministry of Justice. The main functions of the steering committee are:

- To guide and coordinate the national activities of professional degree education for master of law.
- To strengthen the links between training units and practical departments of law.
- To promote international exchanges and cooperation in law education; and
- to promote the continuous improvement of the level of professional degree education for Master of Law in China.

#### **15.5. 2018-2022 Teaching Steering Committee of Law Major in Colleges and Universities of the Ministry of Education**

On December 8, 2018, the committee was formally established with the following main tasks: one is to speed up the education and training plan for outstanding legal talents 2.0, the other is to promote first-class professional construction actively, the third is to participate in the three-level certification of law majors actively, the fourth is to build a “golden course” in law, the fifth is to pay close attention to legal professional ethics education, the sixth is to organize a series of teacher training, the seventh is to promote the implementation of national standards, and the eighth is to carry out in-depth research and submit high-quality advisory reports. It is hoped that the Law Education Commission will give full play to the role of the staff department, the advisory group, the guidance group, and the promotion team and lead China's law education to become more stable, faster, and higher.

## **15.6. Law Education Innovation Alliance**

In June 2020, the law education innovation alliance was established in Tianjin. Launched by nearly 20 well-known law schools, the alliance is open to all colleges and universities interested in promoting the reform and innovation of law higher education in China. It aims to build a platform for colleges and universities to explore the opportunities and challenges of law education and share the experience of law education reform and innovation. In the future, the alliance colleges and universities will explore a new mode of law education, study the new content according to the requirements of the times in the research direction and speciality setting of law, connect law education with frontier science and technology, and train compound talents.<sup>58</sup>

## **16. HINDRANCES AND REMEDIAL MEASURES TO PROMOTE LEGAL EDUCATION AND RESEARCH**

Despite the efforts on the part of the policy makers to ensure an effective and smooth legal education and research ecosystem in China, several obstacles exist that impede the development of the Chinese legal education system. At the same time, efforts to remedy these challenges have also been undertaken.

### **16.1. Main Obstacles**

- There is no clear definition of the training goal and curriculum content of undergraduate and law master students, which leads to the fact that the high-level legal, vocational education system has not been formed.
- The teaching method is mainly “full of irrigation,” focusing on reciting the text, standard answers to answers, and lack of professional literacy and skills training.
- The subject setting, teaching methods, and so on are more conformist, out of touch with legal practice and social needs, and far from international standards.

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<sup>58</sup> Law Education Innovation Alliance was established in Tianjin University, <http://www.tju.edu.cn/info/1026/3162.htm>, last seen on 21/01/2021.



- In the sharp increase of law schools, the emphasis on quantity is strong, which leads to the popularization of the same mode of low-cost expansion reproduction.

## 16.2. Main Remedies

The challenges can be overcome by focusing on professional legal ethics and other educational subjects and social public welfare activities to strengthen identity and basic quality edification. Although the legal idea is abstract and elusive, it is of great significance to explain community formation, the cultivation of outstanding talents, the promotion of insight, and comprehensive judgment.

There is a need to improve the curriculum, teaching materials, reference materials, and a series of supporting measures to establish a sound basic knowledge system of law, in addition to 16 core courses, but also appropriate interdisciplinary courses, comprehensive application courses, and knowledge frontier courses.

Another dimension that requires attention is the training of vocational skills through case-based teaching, dialogue-based education, negotiation-based teaching, clinic-based teaching, simulation-based teaching, and case-solving workshop teaching, and to encourage teachers of substantive and procedural law, full-time teachers, and part-time teachers of substantive departments to jointly offer “united front” courses in order to enhance students’ ability to break down established discipline barriers and freely apply all kinds of knowledge and experience to solve practical problems.

To expand the scope of students’ global vision and choice of ideas, it is necessary to attach importance to international law, comparative law, and national law, strengthen exchanges with relevant foreign institutions and provide opportunities for studying abroad and visiting schools.<sup>59</sup>

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59 Ji Weidong, *Wo guo fa xue jiao yu gai ge de li nian he lu jing* [*The Idea and Path of Legal Education Reform in China*], 2013: 12 *Zhongguo gao deng jiao yu* [Higher Education in China] p. 31.

### **16.3. Other Innovative Remedies**

Lessons can be drawn from some innovative models of teaching and learning in China:

#### ***16.3.1. Innovative Practice of Shanghai Jiaotong University Law School: “3+3 Training Model.”***

The School of Law of Shanghai Jiaotong University began to organize the “Three Three Systems” (3+3) in the 2009 Falcot class, which adopts the training method of Ben Shuo, which allows students to receive high-level legal vocational education. The first “3” is a three-year undergraduate course in law, and the second “3” is “1 + 2”, that is, one year of law undergraduate fourth-grade study and two years of law master's degree study.

Compared to the mode “4+2”, the “3+3” model avoids the waste of time, such as extensive practice in the fourth year of law undergraduates, so that the high-level legal and vocational education can better link up in time, fuller in content, and be able to provide more reasonable institutional arrangements for the semi-annual systematic practice training and the study or study of famous overseas schools.

#### ***16.3.2. Legal Experimental Teaching and Training Centre***

According to the need to train outstanding legal talents, the Kaiyuan Law School of Shanghai Jiaotong University has made a significant reform of the curriculum, strengthened the training of practical skills, and set up a law experimental teaching and training centre. The training centre has five teachers dedicated to this work. It has carefully constructed a new teaching model, providing students with several attractive course selection menus, covering practical courses, clinic education, mock courts, negotiation training, competition projects, legal aid centres, and other different modules.

## CHAPTER III

### TEACHING AND RESEARCH PEDAGOGY IN INDIA

#### Abstract

*The teaching and research pedagogy in India has transformed over the years. Historically, education in India was transmitted through the “gurukul system,” where young children were sent to gain knowledge and experience in all aspects of life. Legal Education in India was also historically passed on through this tradition. However, modern legal education began with an informal system of apprenticeship or training under a practising lawyer. With the emergence of formal institutions of law administration and justice, lawyers' need for formal training and education arose. That is when the focus shifted from practical training to classroom learning in law, like other disciplines.*

*Research, both doctrinal and empirical, should be an essential part of the curriculum; this chapter emphasises the importance of research and its publications in the field of legal studies and the accountability of teachers in India.*

#### 1. TEACHING METHODS: TOOLS AND TECHNIQUES

In India, the predominant method of teaching is classroom-based and lecture-based. However, other methods and techniques are also employed by teachers for effective learning. The other methods include classroom discussions, case methods, tools like PowerPoint presentations, videos, or documentaries on relevant topics, etc.

For a classroom discussion, reading material is provided to the students beforehand, and the students are expected to read the material on the given topic for the discussion to take place. Some law schools and, at times, the law faculty designate classroom participation as part of the assessment, making it incumbent on the students to actively participate in classroom discussions.

The case method involves an in-depth analysis of a case to understand a legal theory in practice in the context of its interpretation by the court. It assumes

great significance in the Indian legal education system because India is a common law country where the doctrine of judicial precedent is followed. In this method, the students must read the judgments and opinions and analyze the same. It was recommended by the Gajendragadkar Committee as well.<sup>1</sup>

PowerPoint presentation is a popular method of classroom instruction where a software tool for making a presentation is used. It allows for the effective use of audio-visual tools that help improve communication and retention while making the lecture more interactive. Skill-based courses are best taught using such interactive teaching methods. Further, the presentation can be stored and shared as part of the reading material for the students.

The BCI Regulations direct the universities to supplement the lecture method with other techniques such as case method, tutorial, and other modern techniques.<sup>2</sup> There are efforts on the part of the law teachers to make the classroom more interactive and engaging by displaying relevant videos and documentaries on relevant topics.<sup>3</sup> However, not all law schools are infrastructurally equipped to employ this technique of teaching.<sup>4</sup>

## 2. EMPIRICAL AND DOCTRINAL RESEARCH

Doctrinal research means research carried out on legal propositions; that is, doctrinal research asks what the law is on a particular issue and its analysis, development, and application.<sup>5</sup> This method provides researchers with the required tools in the form of traditional legal doctrines and interpretations in judicial precedents to reach their destination within a limited time frame. It is purely a theoretical research method, and its dimensions are limited or restricted. The doctrinal legal research method mainly concerns itself with the analysis of legal propositions or legal doctrine. The legal concepts and

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1 Report of the Committee on the Reorganisation of Legal Education, University of Delhi, 1964.

2 Krushna Chandra Jena, *Role of Bar Councils and Universities for Promoting Legal Education in India*, 44 (4) *Journal of the Indian Law Institute* 555, 568 (2002).

3 Prabir Kumar Pattnaik, *Introduction of Audio-Visual System in Legal Education* (1990), 32(2) *Journal of the Indian Law Institute* 239.

4 *Ibid.*

5 Vijay M Gawas, *Doctrinal legal research method a guiding principle in reforming the law and legal system towards the research development*, 3(5) *International Journal of Law* 128, 130 (2017).

principles of all types of cases, statutes, and rules are used in doctrinal legal research.<sup>6</sup> These legal principles and concepts may include administrative rules and regulations, legal propositions from enactments, cases law of courts, etc. can be a part of doctrinal legal research.

On the other hand, empirical research relies on experience and observation and not merely on a laid down theory. In legal research, empirical research can be of great value in studying the implementation and effectiveness of particular law (action-oriented research). Further, such research can also help identify the legal loopholes of vacuum in law. Empirical evidence can be collected quantitatively or qualitatively. Empirical research is research that is conducted by employing empirical data. It is a way of gaining knowledge employing direct and indirect observation or experience. For conducting empirical research, a researcher primarily collects data or information from a first-hand study and, after that analysis, interprets the data received and reaches the conclusion of the research work.

In order to achieve the ultimate objective of the law, both types of research methods are employed in India. The law journals accept both types of research papers as both offer certain advantages. Legal research holds importance not only for the students of law but also for lawmakers and policymakers.

### **3. RESEARCH PUBLICATIONS**

In India, most of the Law schools usually have their own national/international journals. Even within different law schools, different research centres also run dedicated journals in various domains of law.<sup>7</sup> Most of these journals accept papers from students, research scholars or professors,

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6 Ibid.

7 National Law School of India Review, National Law School Journal, Journal of Law and Public Policy and Journal of Environmental Law, Policy and Development are some of the journals of National Law Schools of India University, Bengaluru, available at <http://nlspub.ac.in/>, last seen on 22/02/2021; NLUJ Student Law Journal, NLUJ Journal of Legal Studies, Journal of Victimology and Victim Justice, Indian Journal of Criminology and International Journal on Transparency and Accountability in Governance are some of the journals of National Law University, Delhi, available at <https://nlu-delhi.ac.in/res-pub-ins.aspx>, last seen on 22/02/2021.

etc., belonging to any field of Law or Social Sciences (depending on the journal's mandate). Most of these journals are approved by the UGC (University Grants Commission)<sup>8</sup>, which is a statutory body under the government of India responsible for the maintenance of standards of university education in India.

In addition to this, contribution to legal research is also made by various NGOs and think tanks like the Centre for Civil Society, Centre for Policy Research, Observer Research Foundation, and so on in the form of articles, reports, books, etc.

Law journals employ peer-review or a double-blind review process for maintaining transparency and quality of research. Such a review process involves a process where complete anonymity is maintained concerning the reviewer's and the author's identities. These journals also maintain a strict standard of originality of work as they do not accept research works that show high similarity with previously published research publications.

Furthermore, UGC, the regulatory body for higher education, established the Consortium for Academic Research & Ethics, which maintains a list of quality journals referred to as the UGC CARE (Consortium for Academic Research & Ethics) List.<sup>9</sup> The list is classified into Sciences, Social Sciences, Arts & Humanities, and Multidisciplinary.<sup>10</sup> It is divided into four groups. Group A comprises journals of Science, Engineering, Technology, Agriculture, and Biomedical Sciences that are indexed in SCOPUS (the largest abstract and citation database of peer-reviewed literature in the world)

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<sup>8</sup> International Journal of Transparency and Accountability in Governance, Journal of National Law University, Delhi, Dr. Ram Manohar Lohiya National Law University Journal, Indian Journal of Criminology, NLUJ Law Review, National Law School Journal and Indian Journal of Law and Technology, National Law School of India University, ILI Law Review, Journal of Indian Law Institute, Indian Law Institute, GNLU Journal of Law, Development and Politics, Gujarat National Law University etc.

<sup>9</sup> Ibid. See, *Public Notice on Academic Integrity*, University Grants Commission, MHRD, Government of India, 2018, available at [https://www.ugc.ac.in/pdfnews/6315352\\_UGC-Public-Notice-CARE.pdf](https://www.ugc.ac.in/pdfnews/6315352_UGC-Public-Notice-CARE.pdf), last seen on 23/02/2021.

<sup>10</sup> The most recent version of the UGC CARE List is available at [https://tiss.edu/uploads/files/List-of-ugc-approved-journal\\_2020pdf.pdf](https://tiss.edu/uploads/files/List-of-ugc-approved-journal_2020pdf.pdf), last seen on 23/02/2021.

and/or Web of Science. The journals in this category are automatically included in the UGC CARE List. Group B consists of journals that are included in the list after analysis by the UGC. Group C contains journals from Social Sciences, Humanities, Languages, and Indian Knowledge Systems. Group D consists of journals submitted by the four universities identified by the UGC as CARE universities.<sup>11</sup>

With changing times, the legal research ecosystem is also evolving, with Universities focusing on setting up journals and dedicated blogs that are more concise and less formal than articles and research papers published in journals. The referencing and formatting of the blogs are also different and more flexible. Instead of using footnotes, most blogs rely on embedding hyperlinks and endnotes that are easier to browse. Many of the established journals have also started their blogs to keep pace with time.<sup>12</sup> Publishing blogs is less time-taking than publishing a journal and can be easily undertaken by student groups/bodies. Moreover, many journals have also started publishing their online versions, which follow different formats and guidelines for publications.

#### **4. MOOT COURT ACTIVITIES**

Commonly, the Moot courts are based on hypothetical scenarios that involve the contemporary or the unsettled areas of law to expose Law students to the nuances of the judicial system. The students are assessed on the basis of their research, the memorandum submitted, and the oral arguments presented. In India, Moot Courts are an integrated feature of the legal education system. Moot Court activities are taken up & taught as a subject to the law students to provide them with first-hand learning and practical court experience and hone their advocacy skills.

Moot court infrastructure is a prerequisite for the recognition and accreditation of a law school in India. The BCI regulations lay down that

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<sup>11</sup> Ibid.

<sup>12</sup> National Law School of India University, *Bengaluru's NLS Business Law Review* available at <https://nlsblr.com/blog-page/>, last seen on 23/02/2021, National Academy of Legal Studies and Research (NALSAR), Hyderabad, *Tech Law Forum*, available at <https://www.nalsar.ac.in/tech-law-forum>, last seen on 23/02/2021.

Moot Court is a compulsory clinical course for undergraduate students.<sup>13</sup> A rough framework of the course is laid down wherein there would be a moot court for 30 marks, observance of trial in two cases, one civil and one criminal for 30 marks, observation of interviewing techniques and pre-trial preparations, and maintenance of an internship diary for 30 marks and a viva voce for 10 marks.

However, moot courts are more popular as a co-curricular activity, and that is why separate Moot Court committees are constituted at law schools where students from all years participate. These committees lay down the procedure for allocating moot courts to teams or individuals, and the procedure is often based on an intra-college moot court competition. Generally, a team of 3 students is constituted representing each side of the petitioner or respondent, which comprises 2 speakers and 1 researcher. Moot Court competitions are conducted at the law school level, national level, and international Level.

## **5. COURSES TAUGHT IN UG/PG/PH.D. AND OTHER DEGREES COURSES**

Law schools in India offer various courses at different levels of higher education. Initially, the graduate course in law was only open to graduates from different disciplines, as is the case in the USA. However, with the advent of the integrated five-year law program, law as a discipline was opened up for undergraduates. The integrated course is available in various forms by combining different subjects of arts and humanities, science, and commerce. Courses such as B.A. LL.B., B.B.A. LL.B., B.Sc. LL. B, B. tech, LL. B, B.S.L., LL.B. B. Com. LL.B., etc., are offered to undergraduates. Those who already hold a graduation degree can opt for the three-year graduation program in law that is offered in most central and state universities. The graduation program consists of a mix of compulsory and optional courses.<sup>14</sup>

At the post-graduate level, the LL.M. program is offered by law schools. The duration of this program has been recently changed to two years at the minimum. Previously, most law schools offered a one-year LL.M. program,

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<sup>13</sup> BCI Rules on Legal Education, Schedule II, Part IIB, 24.

<sup>14</sup> Refer to Table 1, Table 2, Table 3 in Chapter 1.



while some offered a two-year course. The curriculum for the master's program consists of 3 Foundation or Compulsory Papers (three credits each), 6 Optional or Specialization Papers (two credits each), and a Dissertation (three credits).<sup>15</sup>

*Table 13 List of Compulsory Courses for LL.M. Course*

S. No.	Compulsory Courses
1.	Research Methods and Legal Writing
2.	Comparative Public Law/Systems of Governance
3.	Law and Justice in a Globalizing World

Most law schools also offer a doctoral program in law, and the duration of the program is a minimum of 3 years and a maximum of 6 years.<sup>16</sup> The duration is extendable for specific categories of scholars like women scholars and persons with disabilities. There is a requirement for introductory coursework for the Ph.D. program in addition to the research work and the thesis. A research supervisor is assigned to each Ph.D. scholar, depending on the area of the research work.

## **6. SYSTEM OF ADMISSION TO THE PROFESSIONAL COURSES**

Admission to undergraduate courses happens directly after completing high school education through the Common Law Admission Test (CLAT-UG, that is, CLAT for under) or a separate examination conducted by the respective

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15 University Grants Commission, *Guidelines for introduction of One Year LL.M. Degree Programme*, 2012, available at [https://www.ugc.ac.in/pdfnews/4968873\\_LLM\\_one-year.pdf](https://www.ugc.ac.in/pdfnews/4968873_LLM_one-year.pdf), last seen on 23/03/2021.

16 Ministry of Human Resource Development, Government of India, *University Grants Commission (Minimum Standards and Procedure for Award of M.PHIL./PH.D Degrees) Regulations*, 2016 available at [https://www.ugc.ac.in/pdfnews/4952604\\_UGC-\(M.PHIL.-PH.D-DEGREES\)-REGULATIONS,-2016.pdf](https://www.ugc.ac.in/pdfnews/4952604_UGC-(M.PHIL.-PH.D-DEGREES)-REGULATIONS,-2016.pdf), last seen on 23/02/2021.

university<sup>17</sup>. Even those law schools that are not part of the Consortium of the National Law Universities accept the CLAT score and admit students on the basis of the same.<sup>18</sup> However, some law colleges admit students on the basis of the marks in the qualifying examination (high school examination); however, as admission to law courses is becoming more and more competitive in India, most colleges have adopted the approach of conducting an entrance examination or relying on the CLAT score.<sup>19</sup>

Before establishing the Consortium of NLUs, CLAT was organised in 2008 under a Memorandum of Understanding signed by a group of NLUs. However, with the establishment of the consortium in 2018, a permanent legal entity was incorporated to conduct CLAT and manage the related affairs.

Admission to post-graduate courses also happens through an entrance examination. For admission to the NLUs, the examination is conducted by the Consortium of NLUs, as in the case of undergraduates. For other law colleges, either separate entrance examinations are conducted or CLAT-PG scores are accepted for admission. For Non-Resident Indian students or students sponsored by Non-Resident Indians seeking admission to the National Law Universities, admission takes place directly under the NRI quota.

For the Ph.D. courses, admission takes place through an Entrance Test conducted at the individual institution level. The institution may decide separate terms and conditions for the Ph.D. entrance tests for those students who qualify for UGC-NET (including JRF) or have passed the M.Phil. programme.

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<sup>17</sup> There are 23 National Law Universities in India out of which 22 select students for admission on the basis of CLAT. NLU Delhi conducts its own separate examination. *Brief History*, Consortium of NLUs Website, available at <https://consortiumofnlus.ac.in/clat-2021/history.html>, last seen on 23/02/2021.

<sup>18</sup> UPES, Dehradun; SRM University, Sonapat; Alliance University, Bangalore; LPU, Punjab; Jagannath University, Jaipur; Guru Gobind Singh Indraprastha University, De lhi, Jaipur National University, Jaipur etc.

<sup>19</sup> ILS Law College, Pune used to admit students on the basis of merit of score in Class XIIth Examination until 2015 as per the information, available at <https://ilslaw.edu/wp-content/uploads/2019/03/6-Prospects-2016-17.pdf>, last seen on 24/02/2021.

## 7. TEACHERS' ACCOUNTABILITY: LAW AND PRACTICE

The accountability of law teachers in India is dealt with under the UGC regulations.<sup>20</sup> However, this situation may change with the implementation of the New Education Policy as it would take away such powers from the UGC. The regulations specify the minimum teaching days as 180 days in a year (6 days per week for 30 weeks).<sup>21</sup> The regulations also lay down a code of ethics which expects the teachers to be calm, patient, communicative and amiable.<sup>22</sup> They are required to conduct themselves in a dignified manner, but they are also free to voice their opinions at seminars, conferences, etc. The teachers are to be a part of classroom learning and the organisation of co-curricular events. The teachers in India are to act as guides and mentors to the students as they have to teach law and advise and counsel the students on matters related to their education. Teaching in India is a public service, and the teachers are required to sensitise the general public to educational programs and undertake activities towards resolving social problems. In India, the promotion of teachers in higher education is linked with their individual growth in their respective disciplines. For instance, the pay scales for the professors are linked with completing higher academic degrees as per the UGC norms. For the evaluation and appraisal of teachers, UGC has laid down a framework of Academic Performance Indicators (APIs) and a Career Advancement Scheme (CAS).<sup>23</sup>

API system encourages research and makes career progression dependent upon the publications by the faculty members. The academic performance of the teachers is evaluated on several parameters such as lectures, seminars, use of participative methodologies, examination duties, and so on.<sup>24</sup> The UGC norms also lay down a minimum API score for:

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20 University Grants Commission, *UGC Regulations on Minimum Qualifications for Appointment of Teachers & Other Academic Staff in Universities & Colleges and Measures for the Maintenance of Standards in Higher Education*, 2010.

21 Ibid.

22 Ibid.

23 Ibid, Schedule III.

24 Ibid.

- teaching, learning, and evaluation-related activities
- co-curricular, extension, and professional development-related activities
- research and academic contributions

The API scores are relied upon for the promotion and career advancement of the professors.

## 8. SEMINAR/WORKSHOP/COLLOQUIUM/ETC.

Besides the classroom teaching, assessments, and other co-curricular activities, learning also takes place through Seminars, Workshops, Colloquiums, etc., for law students on different law topics for a practical and better understanding of the subject by the students. As per the BCI Regulations, the minimum class hours per week include classroom teaching and tutorials, moot courts, and seminars.<sup>25</sup> Seminars, workshops, and conferences offer the advantage of congregating legal minds and luminaries in a single place to brainstorm and deliberate over contemporary issues of law. Such activities also help arrive at solutions to various socio-legal problems and keep the students and law professionals abreast with the latest developments in the law.<sup>26</sup> As per the New Education Policy, 2020, conferences, seminars, symposia, workshops, etc., for all disciplines would be funded by the NRF.<sup>27</sup>

Most often, the outcome document of the seminars and conferences also adds to the existing research and fills the existing knowledge gaps. Moreover, workshops are an effective tool for imparting skill-based training to budding lawyers. For instance, workshops on conducting legal research, legal drafting,

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<sup>25</sup> BCI Rules on Legal Education, 2008, Rule 10.

<sup>26</sup> Anirban Chakraborty, Yashomati Ghosh, *Promoting Continuing Legal Education: A Step Towards Implementing the Second-Generation Legal Reforms for Creating Competent Lawyers in the New Century*, 2(1) Asian Journal of Legal Education 29, 45 (2015).

<sup>27</sup> National Research Foundation, Detailed Project Report, Developed by The Prime Minister's Science, Technology and Innovation Advisory Council (PM-STIAC) in Consultation with The Ministry of Human Resource Development Department of Higher Education, 2019, available at <https://www.psa.gov.in/psa-prod/2020-11/English%20NRF.pdf>, last seen on 25/02/2021.

legal writing, client counselling, etc. All the law colleges in India organise or enable their students and faculties to participate in seminars, conferences, workshops, colloquiums, etc. Some institutions, like the Indian Law Institute, have become the hub of such capacity-building activities over the years.<sup>28</sup> It acts as a supplementary tool to transmit knowledge and build skills and improve the overall quality of the lawyers and law teachers.

## 9. USE OF ICT IN THE LEGAL EDUCATION

Information and Communication Technology (“ICT”) is being embraced in all walks of life with globalization. India's legal system is no exception to it, and the judicial machinery is trying to incorporate the use of more and more digital tools to make the judicial administration smoother and more efficient. Even in law education, the use of ICT is increasing with each passing day. This is also reflected in the BCI Regulations, which lay down that availability of computers and access to the internet in the library are part of the minimum infrastructure required by a law school.<sup>29</sup> Further, the New Education Policy also recognises the role of technology in education and intends to prepare higher education institutions to embrace the technological tools for more effective delivery of education.

Legal education has to keep up with technology in the judicial system and education in general. For instance, now that the decisions of the higher courts in India are available on online databases such as Manupatra, SCCOnline, LexisNexis, etc., the basic skills of using these databases have to be imparted by the law schools to enable future lawyers to make use of such search tools. These technological tools are beneficial in timely and accurate case research. Similarly, technological tools in other domains of legal education also hold great value, like software programs for checking the similarity index of research papers. Technological applications and tools offer convenience, comfort, access, and accuracy in legal research and education. The Indian law schools are making efforts to provide the students with the experience of

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<sup>28</sup> Jayanth K Krishnan, *From the ALI to the ILI: The Efforts to Export an American Legal Institution* 38(5) *Vanderbilt Journal of Transnational Law* 1255 (2005).

<sup>29</sup> BCI Rules on Legal Education 2008, Schedule III.

“smart classrooms” that can help improve the learning outcomes of law students.

## 10. INFRASTRUCTURE FACILITIES

As the law schools in India predominantly undertake classroom-based learning, there is a certain kind of infrastructure necessary for legal education, such as adequately sized classrooms, libraries, hostels, laboratories, etc. The BCI Regulations lay down the minimum infrastructural requirement that a law school has to fulfil. Such requirements are divided into two categories: physical infrastructure and academic infrastructure.<sup>30</sup> The physical infrastructure includes capital fund, land/property, Library, Moot Court room, legal aid clinic, academic building, hostels, sports facilities, etc., while the academic infrastructure covers literature available in the library, adequate faculty availability, salary scale, etc.

Further, there is a provision for inspection (under the BCI Regulations) concerning the course design, teaching and learning process, evaluation system, infrastructure layout, and other necessary conditions vis-à-vis a university seeking recognition of its law degree.<sup>31</sup>

## 11. POLICY REGULATING/PROMOTING LEGAL EDUCATION

The institutions that lay down the policy and ensure legal education in India are UGC, BCI, and the Ministry of Education. BCI is the only body amongst these that is solely focused on legal education. The universities must adhere to the BCI's policies and standards with respect to affiliation, inspection, teaching, and evaluation.<sup>32</sup> UGC Guidelines are to be adhered to with respect to the curriculum, library facilities, faculty appointment, continuation, etc. UGC regulations also provide for a grant of seed funding for research projects to the faculty members to promote research.<sup>33</sup> At the university level, each university has some autonomy to decide on matters like the number of

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30 Ibid.

31 BCI Rules on Legal Education 2008, Rule 18.

32 Supra Note 4.

33 Supra Note 23.

students enrolled, examination procedure, provision of materials at the library, additional optional courses, measures for teacher training, etc.

## **12. POLICY REGULATING/PROMOTING LEGAL RESEARCH**

The UGC governs the research degree programs in higher educational institutions in India at present. However, with the advent of the New Education Policy, the research function is posited by the National Research Foundation (NRF). NRF is to fund and mentor research in sciences, social sciences, arts, and humanities to foster a culture of quality research. Legal research would also fall in NRF's domain. The research ecosystem in India suffers from a lack of funds as well as lower human resources because research is not a lucrative career for most graduates.

NRF would grant fellowships at doctoral and post-doctoral levels to promote research. It would also facilitate research at state and central universities. It would include the research undertaken by the research centres at various law schools. Further, BCI is also set to play an essential role in promoting legal research with its new rules (on LL.M. and higher education in law) that provide a research fellowship similar to a Ph.D. in law.<sup>34</sup>

## **13. CONDUCTING EXAMS-POLICY AND PRACTICE**

The broad guidelines for conducting examinations are laid by the Bar Council of India. Ordinarily, the examination is to be held at the end of every semester.<sup>35</sup> The examinations may be conducted either on the trimester, semester, or yearly pattern for both undergraduate and post-graduate courses. The universities have the freedom to decide the examination rules as well as course allocation for the examinations. Further, the such allocation for each term is to be communicated to the BCI.

Examinations are most commonly conducted in the form of a written test; however, they may be composed of project paper submissions, class

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34 Hou Xinyi, *Modern Legal Education in China* 31(2) Oklahoma City University Law Review 293 (2006).

35 BCI Rules on Legal Education 2008, Rule 19.

presentations, case-study, viva, and periodical problem solutions besides the written tests. Conventionally, examinations were conducted only in offline mode; however, with changing times and especially in the context of the pandemic, universities adapted by conducting examinations in online mode. The examinations in this mode mainly test the application of the law. Several checks and balances are also put in place by the universities to ensure transparency in the whole process.

#### **14. STUDENT ASSESSMENT-POLICY AND PRACTICE**

The learning assessment is a crucial stage of education as it determines the effectiveness of the education system. The student assessment policy rules are laid by the Bar Council of India and the universities themselves. In this respect, the faculty exercise considerable autonomy. Most universities allow teachers to decide the method of assessment. The assessment takes place on various parameters such as class participation, examinations, assignments, presentations, viva voce, project work, etc. Some teachers organise the students into groups for group activities like legal aid, moot courts, research projects, client counselling, etc., for assessment. The marks allocated to different parameters also depend on the individual university and, in some cases, on the respective faculty. Such flexibility is essential as the assessment for different law subjects can be undertaken differently for an accurate understanding. For instance, in papers like legal methodology, it would be more appropriate to include a practical element in the assessment process, perhaps in the form of a research project.

#### **15. LEGAL EDUCATION AND GOVERNANCE ISSUES**

Every education system faces some governance challenges as there are multiple stakeholders involved, often with competing interests and authority.

##### **15.1. Dichotomy of Regulation**

There is a dichotomy in the governance of legal education in India with two bodies: UGC and BCI.<sup>36</sup> The presence of multiple regulatory authorities

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36 Susmitha P. Mallaya, *Contouring Legal Education In India: An Analysis Of Challenges Posed By Covid-19*, ILI Law Review, Special Issue (2020).



creates confusion and unnecessary friction. However, the New Education Policy 2020 strives to do away with that by giving the BCI the sole regulatory authority over legal education at all levels, from graduation to doctorate studies. It will take some time for the new policy to be implemented, but the current rules of BCI on the LL.M. The program indicates that a beginning has been made towards remedying the dichotomy. The new policy retains UGC as only a funding agency and takes away all the other regulatory powers.<sup>37</sup> Considering that the power of funding can be leveraged to exercise influence, it is not clear if it would completely resolve the dichotomy of legal education governance in India.

## 15.2. Funding Crunch

Further, other than the friction between regulatory bodies, funding, in general, is a major problem for higher education institutions in India. Education gets only a tiny fraction of the budgetary allocation in India, and research is granted an even lesser amount of funds. In fact, the New Education Policy acknowledges that the budgetary allocation to research has further gone down over the years.<sup>38</sup>

The new policy tries to tackle this problem by making the institutions more autonomous in raising their funding; however, not all law schools in India enjoy such autonomy. UGC would remain the sole agency handling the funding to higher education institutions as per the new policy. If the situation remains today, many law colleges will starve for funds to provide the necessities to their students.

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37 Dr K. Kasturirangan Committee submits the Draft National Education Policy to the Union HRD Minister, Press Information Bureau, Government of India, Ministry of Education, available at <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1573031>, last seen on 15/02/2021.

38 *What is National Research Foundation?* The Indian Express (15/08/2020), available at [https://indianexpress.com/article/education/what-is-national-research-foundation-nrf-6125159/#:~:text=The%20National%20Research%20Foundation%20\(NRF,Education%20Policy%20\(NEP\)%202020.&text=The%20NRF%20aims%20to%20fund%20researchers%20working%20across%20streams%20in%20India](https://indianexpress.com/article/education/what-is-national-research-foundation-nrf-6125159/#:~:text=The%20National%20Research%20Foundation%20(NRF,Education%20Policy%20(NEP)%202020.&text=The%20NRF%20aims%20to%20fund%20researchers%20working%20across%20streams%20in%20India), last seen on 25/02/2021.

### **15.3. Promotion of Research**

A new body would be established to handle the promotion of research in higher education. So far, individual universities and faculty members have taken the initiative to undertake research projects in law; however, all universities must promote legal research so that quality research can be fomented.

## **16. HINDRANCES AND REMEDIAL MEASURES TO PROMOTE LEGAL EDUCATION**

The Indian legal education system is still evolving, and it suffers from various shortcomings that need to be overcome to establish world-class institutions and produce world-class legal professionals.

### **16.1. Funding and Related Constraints**

Due to a lack of funds, most law schools suffer from inadequate infrastructure, expert faculties, lack of library facilities, and access to online databases. The monetisation of legal education by private colleges, dispensing of legal education without proper procedure, the intake of too many students without a proper selection process (no entrance examination), and direct selection to courses also create low-quality law graduates.

The separation of the regulatory and funding functions under the New Education Policy, 2020, would help tackle the problem of lack of uniformity in funding. The new policy also allows the universities to raise funds independently, which may also help overcome the fund crunch. However, it may make legal education less accessible if the universities merely raise the fees.

### **16.2. Outdated Teaching Methodologies and Technological Skills**

The predominant teaching method is classroom-based lectures. However, changing times require a change in the teaching pedagogy. There is a need to focus on the capacity building of the faculty as well as students with respect to the use of technology in teaching and learning. These skills are crucial for

the students as they would be essential for carrying out their professional responsibilities as lawyers.

### **16.3. Issues Related to Legal Research**

Being a social science, research in law does not get as much policy attention as pure sciences. However, legal research can prove to be monumental concerning various socio-economic problems of Indian society. Establishing a distinct body to promote research in higher education as per the New Education Policy 2020 may prove to help overcome this challenge.

### **16.4. Lack of Feedback Mechanism**

The Indian legal education system lacks a streamlined mechanism of feedback by the students. The feedback is needed at the individual college or university level and the regional or national level. It would ensure a check and balance of the educational services offered at the law colleges in India because students would be able to express their dissatisfaction as well as an appreciation of the quality of educational services. However, there is an accreditation (like National Assessment & Accreditation Council, and a ranking system in place (like National Institute Ranking Framework).<sup>39</sup> However, a direct feedback mechanism for the students at the national level is absent.

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<sup>39</sup> *About*, National Institutional Ranking Framework  
Ministry of Education  
Government of India, available at <https://www.nirfindia.org/About>, last seen on 25/02/2021.



## CHAPTER IV

### COMPARATIVE SCRUTINY OF THE BEST PRACTICES

#### Abstract

*To make the most of the changing global economy and society, law schools worldwide need to evolve and adapt to the changes. Today, jurisprudence and legal development in one country can directly affect the interpretation of the law in other countries.*

*Various best practices pertaining to legal education and research can be borrowed from across the globe to ensure improved learning and training of law students and researchers. Law schools across the world require a curriculum that integrates knowledge, skills, and professionalism.<sup>1</sup>*

#### **1. BEST PRACTICES IN TEACHING AND RESEARCH IN INDIA AND CHINA**

The legal education and research ecosystems in India and China have specific characteristics that can be considered their best practices. First and foremost, the approach of pedagogy in India and China is focused on teaching the fundamentals, and after that, the discussion on the other aspects is undertaken. The approach emphasizes the theoretical part of discipline and prepares individuals to become a competent and independent legal professionals.

Second, the education systems in India and China have reformed the courses offered over the years to match the requirements of the changing times. For instance, the five-year integrated course in India offers the advantage of two degrees in an integrated manner. Similarly, in China, a four-year undergraduate course is offered. Moreover, there are efforts to offer quality online courses to students and even entire degree programs in online mode.

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<sup>1</sup> Judith Welch Wegner, *The Carnegie Foundation's Educating Lawyers: Four Questions for Bar Examiners*, The Bar Examiner (2011), available at [https://law.ubalt.edu/academics/pdfs/Carnegie%20Report%20article\\_final.pdf](https://law.ubalt.edu/academics/pdfs/Carnegie%20Report%20article_final.pdf), last seen on 04/02/2021.

China has also experimented with the American-styled *Juris Doctor* program.<sup>2</sup>

Third, the evaluation and appraisal system in China is also a commendable practice.<sup>3</sup> The evaluation takes place both at the individual and institutional levels and offers an efficient mechanism to hold the teachers and institutions accountable. Another area where China has set a standard for law schools is adopting technological tools in education. The rain classroom application prevalent in higher education institutions in China is a great example. Similar software tools can be utilised by law schools everywhere.

## **2. COMPARATIVE STUDY OF BEST PRACTICES IN GLOBALLY RENOWNED LAW SCHOOLS**

Numerous best practices can be borrowed from law schools across the globe. Law schools in different countries approach education and research differently. Even the curriculum of the law programs differs from place to place. In this light, it becomes significant to study such relevant best practices and understand whether they could be incorporated into the Indian and Chinese legal education ecosystems.

### **2.1. Online Education**

Selective law courses and even complete degree programmes at undergraduate, post-graduate, and doctoral levels can be offered online. For instance, Jindal Global Law School has launched an online LL.M. program recently.<sup>4</sup> It has been established that online education increases access to education, especially for the historically disadvantaged groups of the

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2 Anne M. Burr, *Law and Harmony: An In-Depth Look at China's First American-Style Law School* 28(1) UCLA Pacific Basin Law Journal 25 (2010).

3 *China Law Society aims for think tank of law-based governance*, The National People's Congress of the People's Republic of China, available at <http://www.npc.gov.cn/englishnpc/c2767/201904/d3b0243f3156445ca2254236b1ce71cb.shtml>, last seen on 25/02/2021.

4 *Inside JGU 2020 - Issue 6 (June)*, O.P. Jindal Global University, available at <https://jgu.edu.in/jgu-launches-online-llm-and-mba-programmes-in-partnership-with-upgrad/>, last seen on 04/02/2021

population.<sup>5</sup> Moreover, partly online courses can also be introduced, like in the USA, where some portion of the degree can be allowed to be completed through online courses.<sup>6</sup>

## 2.2. Outcome-Based Approach to Legal Pedagogy

The curriculum must be designed keeping in mind the learning objectives. It is the responsibility of the faculty to devise outcomes-based course designs, in which they first set desirable course objectives, then develop formative and summative assessment methods that will measure those objectives, add content and instructional strategies, and finally, evaluate their courses.<sup>7</sup> This approach is employed in several law schools in the USA, where a law degree is attained only after graduation (as a second degree), and the objectives of law education are demarcated.<sup>8</sup>

## 2.3. Experiential & Entrepreneurial Education

Experiential learning can come in many forms. Experiential learning is more than active learning, and the experiential learning model may be summarized in three stages that form a cycle: Do, Reflect, and Hypothesize.<sup>9</sup> Clinical Legal Education forms a crucial part of experiential learning for law students. The best practices with respect to clinical legal education show that it is best to streamline the clinics and categorize them into criminal law clinics and

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5 Victoria Sutton, *Asynchronous, E-Learning in Legal Education: A Comparative Study with the Traditional Classroom* 70(1) *Syracuse Law Review* 143 (2020)

6 Jordan Friedman, *Law Schools Experiment with Partially Online Learning*, U.S. News & World Report (07/11/2016), available at <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2016-11-07/law-schools-experiment-with-partially-online-learning>, last seen on 03/02/2021.

7 Justin W Evans and Anthony L Gabel, *Preparing Legal Entrepreneurs as Global Strategists: The Case for Entrepreneurial Legal Education* 32(3) *Arizona Journal of International and Comparative Law* 727 (2015).

8 Gregory M. Duhl, *Equipping Our Lawyers: Mitchell's Outcomes-based Approach To Legal Education*, 38(3) *William Mitchell Law Review* 906, 927.

9 Carole Silver, *Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S.*, 24 *Stan. L. & Pol'y Rev.* 457, 459 (2013)

civil law clinics. Even in India, eminent jurists have suggested establishing specially dedicated clinics for specific laws like labour laws.<sup>10</sup>

Entrepreneurship pedagogy can be blended with experiential legal education in an explicitly global and cross-cultural context.<sup>11</sup> As legal education prepares a student to perform the role of an advocate, an entrepreneurial approach to legal education would ensure that lawyers are efficient in running their independent firms and even the clients' firms.<sup>12</sup> The idea is based on the inherent relationship between law and economy.

## 2.4. Lawyering Skills

Additional courses on lawyering skills can be incorporated right from the beginning, training the students on the necessary skills of drafting, researching, and argumentation. In the USA, the course on lawyering skills prepares students on several aspects like a lawyer's relationship with clients, opposing parties, and counsel.<sup>13</sup> Various tools like videotapes, live demonstrations, readings, class discussions, and student performance are employed to deliver courses on lawyering skills.<sup>14</sup> Further, there is a course on Writing and Representation: Advice and Persuasion ("WRAP") and Advocacy that can be emulated, as it is well designed to develop fundamental research, analysis, writing, and client counselling skills for the students.<sup>15</sup> This course also inculcates the skills needed for practising alternative modes of dispute resolution, such as negotiation, mediation, and arbitration. In the

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10 Prof. Dr. Srikrishna Deva Rao, *National Webinar on COVID19 Pandemic & Enforcement of Labour Law: Challenges and Remedies*, Speech, (2021)

11 People's Republic of China, Ministry of Education, *Guiding Opinions of the MoE's leading group on responding to the COVID-19 outbreak on the management of higher education online education during the epidemic outbreak period* (2020), available at [http://www.moe.gov.cn/srcsite/A08/s7056/202002/t20200205\\_418138.html](http://www.moe.gov.cn/srcsite/A08/s7056/202002/t20200205_418138.html), last seen on 17/02/2021.

12 Ibid.

13 Jiao yu bu guan yu yin fa pu tong gao deng xue xiao ji ben ban xue tiao jian zhi biao (shixing) tong zhi [*Notice of the Ministry of Education on issuing the Basic Conditions for Running Colleges and Universities (Trial Implementation)*] (promulgated by the State Council, February 6, 2004, effective February 6, 2004) (P. R. C.).

14 Ibid.

15 Ibid.



USA, this course spans over two semesters and is taught by practising lawyers.

## **2.5. Externship Courses**

These courses are a hybrid between a classroom course and an internship, as the students work under a “field supervisor” and a faculty member.<sup>16</sup> There is generally autonomy given to the students to undertake independent field studies under the supervision of the faculty. These courses can effectively impart research skills to the students as they experience planning, designing, and conducting research. Such courses can enrich not only the skills of the students but also law research in general.

## **2.6. Transactions and Settlements**

It is similar to “lawyering skills” except that it is tailored to impart skills required for a commercial lawyer. It focuses on interviewing, counselling, negotiating, and drafting in the transaction and settlement contexts. This course places heavy emphasis on negotiating and drafting, which require substantial practice to learn effectively. It is a great medium to teach drafting skills; in the USA, such courses usually use a collaborative approach where the students, under the guidance of faculty members, draft agreements.

## **2.7. Interdisciplinary Research**

The trajectory of the development of legal research has moved from the traditional approach that considers law as an autonomous field towards an interdisciplinary approach where the research is undertaken concerning other disciplines.<sup>17</sup> The law school at Princeton University is one of the pioneers as it has fully embraced interdisciplinary research as opposed to other institutions where such research exists alongside pure doctrinal legal research.<sup>18</sup> In a globalized world, there is a need for legal research to be conducted not in silos but in the context of economic and technological

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16 Ibid.

17 David A. Hollander, *Interdisciplinary Legal Scholarship: What Can We Learn from Princeton's Long-standing Tradition?* 99(4) Law Library Journal (Princeton University Press) 773, 792 (2007).

18 Ibid.

developments; therefore, both countries have much to learn from the practice of interdisciplinary research.

## 2.8. Feedback Mechanism

Another best practice not specific to legal education but higher education, in general, is of setting up a credible feedback mechanism from the students. To assess the students' perception, a streamlined feedback mechanism is required. It can be modelled on the UK's National Student Survey,<sup>19</sup> takes the students' feedback, and the result of the survey is made public. This creates a competitive environment and an obligation on higher education institutions to ensure a good student experience. Moreover, the survey can be detailed to include parameters pertaining to faculty performance and courses taught, among others. Similarly, in the USA, law schools emphasize the feedback of the students and teachers; such feedback is of great value to the concerned institution.<sup>20</sup>

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<sup>19</sup> *About the NSS*, National Student Survey Website (UK), available at <https://www.thestudentsurvey.com/about-the-nss/>, last seen on 02/02/2021.

<sup>20</sup> Sean Darling-Hammond and Kristen Holmquist, *Creating Wise Classrooms to Empower Diverse Law Students: Lessons in Pedagogy from Transformative Law Professors* 17(1) *Berkeley Journal of African-American Law & Policy* 47 (2016).

## CHAPTER V

### FINDINGS OF THE RESEARCH ON TEACHING AND LEARNING METHODOLOGY AND EMPOWERING RESEARCH CULTURE IN INDIA AND CHINA

#### Abstract

*The legal education systems in India and China evolved similarly over the years, beginning from the historical education system, which was teacher-centric, to a modern system that strives to function in a student-centric manner. There are several similarities in the legal education and research ecosystems in India and China. However, there are remarkable differences that can be insightful for both countries to observe and emulate, if possible.*

*The teaching methods of both countries are strikingly similar, with the usage of technology being more in China. The capacity of legal research is increasing every year, with interdisciplinary research taking centre stage. Moot Court activities have been streamlined; vast courses are being offered in legal education to make education more student-centric so that every student can live up to his full potential.*

#### 1. TEACHING METHODS

The predominant teaching method in both countries involves instructional teaching in classrooms through the lecture method. Law schools in both countries utilise the case analysis method and discussion method. Research-based teaching is also common in both educational systems. There is a plethora of internet databases available for legal research in both countries. MOOCs are also available to law students in both countries, but the usage and completion rates remain pretty low.<sup>1</sup>

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<sup>1</sup> Dr K. Kasturirangan Committee submits the Draft National Education Policy to the Union HRD Minister, Press Information Bureau, Government of India, Ministry of Education, available at <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1573031>, last seen on 15/02/2021. See, Priyanka Pani, *Has MOOC lived up to its expectations?* The Hindu Business Line (23/04/2019), available at <https://www.thehindubusinessline.com/info-tech/has-mooc-lived-up-to-its-expectations/article26923928.ece>, last seen on 07/02/2021; Siddharth Jain, *Overview and Growth Potential of MOOCs in India*, SSRN (21/06/2018),

However, Chinese law schools took well to software tools for teaching; there is an innovative software program referred to as “rain classroom” and a visualisation program known as “Visio” used in Chinese higher education to ensure personalised learning outside the classroom. In India, technological tools for legal education are increasing, but software programs tailored for law students could prove to be a game-changer.

## **2. RESEARCH ECOSYSTEMS**

The legal research in both countries is growing with more books being published, new law journals being introduced, new blogs, and the promotion of empirical legal research. Many law schools have undertaken collaborative projects with government bodies and non-government organisations to conduct quality research. A welcome trend in legal research is the proliferation of interdisciplinary research, as analysing the laws or legal systems in silos does not paint a comprehensive picture.<sup>2</sup> Moreover, law schools have also become active participants in project-based research. The use of technology and online databases has revolutionised the research processes across the world, and the research ecosystems in India and China have also benefitted from them. Both countries can benefit from more comparative law research that would add value to their legal systems.

Seminars, Conferences and Colloquiums are frequently organised by law schools as well as other judicial training institutions where legal minds converge and deliberate on adding to the existing research.

## **3. STREAMLINING MOOT COURT ACTIVITIES**

It is similar in India and China, as not all law schools have moot court activities as compulsory courses. While in some law schools, it is an extra-curricular activity; it is a mandatory course for others. Thus, not all law

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available at [https://papers.ssm.com/sol3/papers.cfm?abstract\\_id=3192747](https://papers.ssm.com/sol3/papers.cfm?abstract_id=3192747), last seen on 08/02/2021.

<sup>2</sup> International Journal of Law and Interdisciplinary Legal Studies, Indian Contemporary Law Review, Antardrishti IUD Journal of Interdisciplinary Research, Journal of Empirical Legal Studies, Legal Ethics Journal, etc. in India. Studies in Law and Business, Law Science, Jurists Review, Contemporary Law Review, Journal of Political Science and Law etc. in China.

students learn from the experience of moot courts. Further, the availability of mentors to the students participating in moot courts is an issue. In India, BCI's Rules on Legal Education 2008<sup>3</sup> require moot court as a compulsory clinical course; however, it is seen that law colleges enjoy flexibility in this respect.

#### **4. COURSES OFFERED**

The law schools in India and China offer various courses at undergraduate, post-graduate, and doctoral levels delivered through offline mode. Law schools in both countries offer courses on law that induct students right after their school education. Besides, some courses can be pursued after graduation. Peking University offers an American J.D.-styled course that equips students in Chinese law and American law. The idea behind the course is to attract international students and prepare global lawyers. When it comes to innovative degree courses, some Indian law schools are now offering full-time online courses. When it comes to master's degrees, in India, only law graduates are eligible to pursue these courses, while in China, even non-law graduates can apply. The doctoral studies follow more or less the same pattern in both countries.

As to the course content, the pattern is similar. The compulsory courses consist of a mix of language courses, computer skills programs, and various substantive and procedural laws of the respective countries. The system is similar in both countries, where there is a mix of compulsory and elective law courses that have to be completed to attain the degree. However, in their integrated course, Indian law schools also offer non-law subjects like sciences, humanities, business, and other such courses.

#### **5. SYSTEM OF ADMISSION AND ASSESSMENT PROCESS AT LAW SCHOOLS**

The admission process to the law courses is also similar in India and China. The subjects tested in the entrance examination differ. In China, the entrance examination tries to align with the subjects of the study at the high school level, whereas in India, the subjects that the entrance examination (CLAT)

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<sup>3</sup> BCI Rules on Legal Education, 2008, Schedule II.

tests are not necessarily, the same as opted by the students at 10+2 level because students from all streams are eligible to sit for the entrance examination. The new education policy provides for a single entrance examination, like in the USA and China, for all graduate-level courses, but it is to be seen how and when implemented. Like in China, there should be efforts to make the selection process more comprehensive by including elements other than the entrance examination to assess the aptitude and inclination of the students.

At the law colleges in India and China, the assessment process is similar. The assessment is done based on written and oral examinations and presentations consisting of general and practical tests. Law schools often divide the assessment process into final and mid-term components. The final examination is a written test that tests the general theoretical capabilities, while the mid-term component may span over a written assignment or case study analysis, a moot court, or a class presentation. In China, most universities divide the assessment into course assignments, classroom performance, and mid-term examinations. The universities in both countries enjoy autonomy in this respect to deciding the assessment process.

There is a requirement to clear an examination at the national level to qualify for professional practice. In India, it is known as the All-India Bar Examination, while in China, the students may appear for the National Judicial Examination (Zhongguo guojia sifa kaoshi) or the State Judicial Examination.

## **6. TEACHERS' ACCOUNTABILITY**

In China, all the teachers at the university level owe allegiance to the ruling political party in addition to the norms of ethical conduct. Further, there is an accountability mechanism at the institutional level as well. Other than the standards of ethical conduct that bind the law teachers in India (as per the UGC guidelines),<sup>4</sup> they are not bound by any political ideology but are

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<sup>4</sup> UGC Regulations on Minimum Qualifications for Appointment of Teachers & Other Academic Staff in Universities & Colleges and Measures for the Maintenance of Standards in Higher Education, 2010.

supposed to act as agents of social change through their teaching (public service).

## **7. INFRASTRUCTURE AND USE OF INFORMATION AND COMMUNICATION TECHNOLOGY**

There are specific basic infrastructure requirements laid down by the governing authorities for law colleges and institutions of higher education in general. In China, the infrastructural requirements include more technological tools that are necessary for legal education. Moreover, there is an index to monitor the status of infrastructure across law schools.

In India, the Universities and the BCI lay down the infrastructural requirements.<sup>5</sup> The rules pertaining to infrastructure in India deal more with the physical infrastructure (capital fund, academic building, classroom size, etc.) and academic infrastructure (library, core faculty, etc.) and not the technical aspects such as the availability of multi-media classrooms. For instance, law schools that offer integrated courses such as B.Sc. LL.B. are required to establish and maintain adequate laboratories for the practical teaching of science subjects.

The authorities in both countries have realised the value of the internet in higher education, and efforts are being made to utilise more technological tools in teaching by making the infrastructure available, training the teachers and students, and connecting the law schools with the judicial organs through technology for improved and efficient learning.

## **8. POLICY AND GOVERNANCE CHALLENGES**

The policies governing legal education in both countries have been re-invigorated recently. In China, the Ministry of Education issued the Opinions on Persisting in the Implementation of the Education and Training Plan for Outstanding Rule of Law Talents in 2018, while in India, the New Education Policy was brought about in 2020. The intent of both instruments is to

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<sup>5</sup> BCI Rules on Legal Education, 2008, Rule 11 and Schedule III.

strengthen and reform the higher education system to keep pace with the dynamic environment.

The policy measures in China are focused on revamping teacher training and the use of digital tools in legal education directed at producing exceptional “rule of law talent.” Several challenges in China exist pertaining to the lack of outcome-oriented teaching, teaching evaluation, lack of authorising units for law education despite the proliferation of law schools, and digital law resources allocation in law schools. The situation is similar in India, where the number of law schools has grown exponentially, but the quality has not matched up to the global standards of law schools.

In India, significant challenges exist with respect to the lack of streamlined teacher training and the absence of outcome-oriented course curricula. There are also governance challenges that exist due to the regulatory powers of BCI and UGC. Not all law schools across India have adequate infrastructure, especially for the use of ICT, and the problem of lack of funds with the public-funded institutions of higher education makes matters worse.<sup>6</sup> A unique problem that has emerged with respect to the national law schools in India is that they have been said to be creating a culture of elitism because those from the weaker sections cannot afford to pay the high fees.<sup>7</sup> Law schools in both countries emphasize theoretical learning through conventional methods compared to practical skill training.

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<sup>6</sup> Sidharth Chauhan, *Crisis in legal studies in India*, Frontline (27/03/2020), available at <https://frontline.thehindu.com/the-nation/education/article31039043.ece>, last seen on 08/02/2021.

<sup>7</sup> Ibid.



## CHAPTER VI

### RECOMMENDATIONS ON EMPOWERING RESEARCH CULTURE IN INDIA AND CHINA

#### Abstract

*Good quality research directly correlates with the rise in teaching quality and the general standards of legal education.<sup>1</sup> The research-based degrees in law are often pursued by professionals who pursue them part-time only for career growth and not to pursue research. The government funds most of the research in social sciences in India. The Department of Justice (Ministry of Law), Ministry of Human Resources Development, UGC, and the Indian Council of Social Science Research (ICSSR), among other public institutions. Many civil society organisations (national and international) and think tanks are also involved in legal research in India, such as PRS Legislative Research, Centre for Law and Policy Research, Vidhi Centre for Legal Policy, etc. In China as well, legal research is funded and monitored by the state through the Ministry of Justice. To enhance the quality and quantity of legal research, some inevitable changes must be incorporated.*

#### 1. HIGHER AUTONOMY AND FUNDING FOR LAW SCHOOLS

The biggest problem with state-funded research is that there is a shortage of funds allocated for research.<sup>2</sup> Moreover, the research is often concentrated in a few institutions. The centralised nature of the research ecosystem discourages independent and innovative research that is only possible when law schools enjoy autonomy and have adequate funds available to undertake research projects independently or in collaboration with private institutions.

There is a need to create more scholarships and fellowships in the domain of legal research because such research facilitates smooth governance and, ultimately, the country's progress. Like in the case of scientific research, more industry partnerships will boost legal research. Further, more autonomy for

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1 Lovely Dasgupta, *Reforming Indian Legal Education: Linking Research and Teaching*, 59(3) *Journal of Legal Education* 432 (2010).

2 Rajeev Dhavan, *Means, Motives and Opportunities: Reflecting on Legal Research in India* 50(6) *Modern Law Review* 725 (1987).

the law schools regarding establishing research centres and dedicated law journals would serve in the long run. A UGC-constituted committee had recommended providing competitive seed funding to newly appointed professors for conducting research.<sup>3</sup>

Even if adequate funds are made available for research projects, law students and lawyers must be skilled to undertake research.

## 2. RESEARCH AS PART OF THE CURRICULUM

In India, legal research is not a compulsory subject at the graduation level, and it is a compulsory subject at the master's level. The same is the situation in China, as legal research is not one of the 10 mandatory papers. Devoted courses on legal research should be introduced at the graduation stage itself. All career options after the law degree require some form of research skills; therefore, it is reasonable to train law students to undertake research. As part of the curriculum, it would not make much sense to teach legal research merely as a theoretical subject. At the post-graduation level, empirical legal research training should be imparted to help in the capacity building of those serious candidates who intend to pursue a career in research or academics.

Legal academicians often advocate a process-oriented approach to teaching legal research.<sup>4</sup> Process-oriented instruction ensures that students understand the practical aspects of each step of the research process. Most law schools in the USA have legal research and writing in their first year of J.D.<sup>5</sup> Here, it also becomes important that the instruction on legal research is given by

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3 *Improving the Quality of Research by Faculty and Creation of New Knowledge and Strategies for Improving Research Culture in Colleges/Universities*, Committee on Promoting and Improving the Quality of Research in Indian Universities/Colleges, University Grant Commission 2019, available at [https://www.ugc.ac.in/pdfnews/5816125\\_Promoting-and-Improving.pdf](https://www.ugc.ac.in/pdfnews/5816125_Promoting-and-Improving.pdf), last seen on 12/02/2021

4 Christopher G. Wren, Jill Robinson Wren, *The Teaching of Legal Research*, Speech, 79th Annual Meeting of the American Association of Law Libraries, Washington, D.C. (07/07/1986), available at <https://www.aallnet.org/wp-content/uploads/2018/01/Vol-80-lljv80n1-1988-7.pdf>, last seen on 11/02/2021

5 90% of the law schools that are in the top 100 in USA have such courses in the first year. See Caroline L. Osborne, *The State of Legal Research Education: A Survey of First-Year Legal Research Programs, or "Why Johnny and Jane Cannot Research"*, 108 *Law Libr. J.* 403 (2016)

experts who have practical research experience.<sup>6</sup> A requirement for completing a group research project under the guidance of the faculty/instructor can be made as part of the curriculum.

Further, peer review is an essential element of quality research. To develop a peer review orientation in law students, a peer-review culture of class assignments and project papers would help check plagiarism and improve the quality of legal research.<sup>7</sup>

### **3. PURE LEGAL RESEARCH, EMPIRICAL LEGAL RESEARCH, AND INTERDISCIPLINARY RESEARCH**

In both countries, initially, the focus was on legal research from the legal practitioner's perspective in the form of annotated statutes, digests of case law, and practitioners' texts.<sup>8</sup> Pure legal research has significance for the growth of the legal system, and therefore it must be strengthened; however, it lacks empirical insights that are also important for filling up legislative gaps and making policy decisions. Empirical legal data is important if legal research is to aid social changes. Therefore, a renewed focus on training law students to conduct empirical research becomes essential.

A compulsory empirical research project as part of post-graduate or doctoral studies in law may help in pushing the students towards an empirical approach. However, that would not be enough because if quality data is not obtained through empirical research, the whole purpose is frustrated. For this, the practical aspects of the research process are to be given importance. Experts who have experience in driving empirical research projects should be brought on board for training law students. Additionally, the faculty development programs or other capacity-building workshops should also undertake sessions by experts so that the law professors obtain the necessary skills and training for conducting independent research projects where even students could be involved. The skill of conceptualising a research problem

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6 Ibid.

7 Ibid

8 *List of UGC approved journals 2020*, University Grant Commission 735, available at [https://tiss.edu/uploads/files/List-of-ugc-approved-journal\\_2020pdf.pdf](https://tiss.edu/uploads/files/List-of-ugc-approved-journal_2020pdf.pdf), last seen on 23/02/2021.

and measurement of relevant variables using an appropriate methodology can only be inculcated through proper training.

In India, as per the UGC Regulations, there is a requirement for a minimum number of publications, that is, “books and/or research/policy papers,” but the experience of empirical legal research is not necessary. Moreover, the mandatory publication requirement for awarding Ph.D. degrees in India has backfired as predatory journals have proliferated.<sup>9</sup> Thus, merely making the research component an eligibility criterion for law teachers would not suffice. It would have to be complemented with adequate skill training that is easily accessible and outcome-oriented. Along the lines of moot court societies and alternative dispute resolution cells in law schools, initiatives are needed to constitute legal research cells either independently or in collaboration with law journals of the law schools.

Legal research feeds on data from other disciplines, and as law pervades social, political, economic, and cultural issues, interdisciplinary, multi-disciplinary, and even trans-disciplinary research acquire an important role for society as a whole.<sup>10</sup> This is also reflected in the rising numbers of interdisciplinary journals in India and China, especially in China, where “politics and law” is an established category of journals. The “Langdellian” approach to studying law as an autonomous discipline has become obsolete.<sup>11</sup> It is an established practice to study law with complementary disciplines like economics, philosophy, sociology, etc. The impetus of interdisciplinary research would help realize the existing inadequacies of laws and policies and arrive at their solution. Such research can be supplemented with cross-cultural and comparative research to further enrich the research quality, especially in law dynamics.

An innovative way of introducing interdisciplinary research to law students could be through internships at policy research think tanks and institutions. In reality, there is an overlap between law and policy research; further, people

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9 Refer to Table 1, Table 2, Table 3 in Chapter 1.

10 Ibid.

11 ILS Law College, Pune used to admit students on the basis of merit of score in Class XIIth Examination until 2015 as per the information 774, available at <https://ilslaw.edu/wp-content/uploads/2019/03/6-Prospects-2016-17.pdf>, last seen on 24/02/2021.

from law backgrounds do end up working in this domain. However, there is no direct mechanism for collaboration between legal research centres at law schools and such policy research organisations.

#### 4. USE OF DIGITAL RESOURCES

With Industry 4.0,<sup>12</sup> the higher education environment is also witnessing rapid changes in the way education is imparted, the changing outcomes of education, and the emerging avenues in research. The use of ICT in education has dramatically increased as it offers several advantages in terms of higher access and convenience to students. For instance, MOOCs have revolutionised distance learning now that quality material is available openly online. With respect to legal education and research, technology plays an integral part. Most of the case law research happens through online databases, and even doctrinal research happens through online databases like HeinOnline, Jstor, Tandfonline, and so on. Other tools like mind mapping software programs like “Popplet” and “MindMeister.”<sup>13</sup>

The digital disparity was prominently seen in the education sector during the COVID times. To encourage and promote remote learning, digital infrastructure needs to be developed. The Content going up on such platforms needs to be standardised, and quality needs to be maintained. However, digital resources also create new problems that must be overcome to ensure the full utilisation of technology.

There is a need for capacity building and training law students and teachers on using digital tools like smart classroom devices or applications, or online databases. Skill enhancement and training of teachers should be a continuous process in order to bring them to par with their global counterparts. Those law schools that possess adequate monetary resources can spend on such capacity-building programs, but not all law students in India and China are well-equipped to use digital resources. Such digital resources are used at educational institutions and law firms, and courts; therefore, to become a competent lawyer in the 21<sup>st</sup> century, technological skills have become a sine

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12 Klaus Schwab, *Fourth Industrial Revolution*, World Economic Forum (2016).

13 Lillian Corbin and Lisa Bugden, *Online Teaching: The Importance of Pedagogy, Place and Presence in Legal Education* 28(1) *Legal Education Review* 1 (2018).

qua non. As the future would entail the introduction of more intelligent software programs and technological tools, the legal education system must keep pace with the technology and update the curriculum to better train law students. Digital education will also have a positive impact on providing an equitable education to all students via Ed-tech platforms.

## CHAPTER VII

# DRAFTING A MODEL SCHEME ON LEGAL EDUCATION, TEACHING AND RESEARCH GOVERNANCE IN INDIA

### Abstract

*The legal education and research systems in India suffer from several shortcomings that need to be resolved for the law schools in these countries to excel. The government has taken several positive steps in the arena of legal education, but a lot needs to be done. Certain Sections of the New Education Policy 2020 are a step in the right direction, but the other sections need a more thoughtful approach. Based on the comparative study of the legal education and research ecosystems in China and India and the global best practices, some essential elements of a model scheme on legal education and research governance can be delineated.*

### 1. SINGLE REGULATORY AUTHORITY FOR LEGAL EDUCATION

The existence of multiple regulatory authorities leads to confusion and conflict. For instance, the most recent BCI rules on eliminating the one-year LL.M. program have become a subject matter of a judicial dispute where the disputing party claims that BCI does not have any authority to regulate the post-graduate and higher courses in law. However, as there is a close connection between the legal profession and research, it would be preferable to have a single regulator for legal education and research.

Although the New Education Policy of 2020 marks a beginning in this direction, the policy is yet to be implemented. Further, the establishment of the regulatory organisation for promoting and monitoring education and research in higher education, that is, the Higher Education Commission of India (HECI) and the NRF, may perpetuate the problem of multiple regulators as legal research would

come within its ambit. At the same time, the BCI would govern the educational and professional norms.

## **2. AUTONOMY OF LAW COLLEGES**

Most of the higher education institutions that enjoy autonomy have been successful. However, most law colleges in India do not enjoy autonomy, especially concerning funding. In India, the experiments of granting higher autonomy in higher education, in the form of the Indian Institutes of Technology (IITs), Indian Institutes of Management (IIMs), National Law Universities (NLUs), etc., rendered positive results. Therefore, the way forward for promoting quality legal education and research would be through granting more autonomy to law schools. Such autonomy is needed to design curriculum, offer courses, conduct co-curricular activities, undertake research projects, collaborate with industry, etc. However, such autonomy has to be complemented with a higher allocation of funds so that the students do not bear the burden of higher fees, as is feared by some sections in light of the New Education Policy, 2020.<sup>1</sup>

## **3. UNIFORM AND COMPREHENSIVE SYSTEM OF ADMISSION**

A uniform system of admission to all the law colleges in the country would streamline the admission process, as has been done in engineering colleges in India. The syllabus of CLAT tests students in various areas like the English language, general knowledge, reasoning, legal aptitude, etc. Many students who are from non-English medium schools find it challenging to excel in the examination.

A lesson can be learned from China's national entrance examination, Gaokao (which tests students on various areas and also provides flexibility in terms of the subjects that a student wants to be tested on), but with specific reforms. Conducting the admissions through a single

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<sup>1</sup> *Here's Why You Can Rejoice Over the New NEP. And Why You Cannot*, The Wire Analysis (30/07/2020), available at <https://thewire.in/education/nep-higher-education-kasturirangan-education-ministry>, last seen on 26/02/2021.



examination would streamline the process, but the content and pattern of the examination often place some sections of the students at a disadvantage; therefore, in addition to the entrance examination, application to law colleges should entail an opportunity to the students to showcase their interest and aptitude through a personal interview or group discussion or a college essay (or statement of purpose) as is the norm in most colleges outside India.

#### **4. INNOVATIVE TEACHING METHODOLOGIES**

A model scheme ought to lay down the use of innovative and technological teaching methodologies wherever appropriate. There is an excessive focus on classroom-based teaching in India through lectures, which is not an efficient method for all law courses and does not effectively impart practical skills. Therefore, the adoption of clinical teaching methods and technological applications like rain classrooms (in China) would help raise the quality of teaching and learning. Experiential teaching methods could be of great value for teaching lawyering skills and imparting procedural and substantive laws.

Further, the capacity development of the faculty members is required to enable them to employ different teaching techniques. Such capacity development should be incorporated into the regulations formulated by the regulatory body and linked with incentives for the faculty's career progression.

#### **5. HYBRID COURSES**

In addition to pure legal courses, hybrid courses such as comparative courses on law or multidisciplinary courses on law and other social sciences, law and technology, law, and economics, etc., should be introduced. Such courses can be introduced at the graduation or post-graduation levels. An example of this is the J.D. program at Peking University which offers a comparative study of laws in China and the USA. Such courses would enable law students to become “global lawyers” and offer a competitive advantage to Indian law schools to

attract those students who seek to study law abroad. Moreover, such courses would also help strengthen interdisciplinary research in India.

## **6. TRANSPARENCY AND QUALITY IN RESEARCH**

In India, regulatory efforts to promote research by linking the publication of research papers with the career progression of legal academics have backfired. Predatory journals have proliferated, and unfortunately, the regulations have incentivised numbers and not quality. An Emphasis on the quality of research is the need of the hour and not merely on the journal published in. Further, punitive measures need to be brought for those academicians who indulge in unethical practices like plagiarism and buying of research papers.

## **7. STUDENT FEEDBACK MECHANISM**

Feedback is crucial for making improvements in any system. Other than the college rankings brought out by the government and non-government bodies, there is a complete absence of a uniform feedback mechanism in the higher educational institutes in India. Along the lines of the National Student Feedback Mechanism in the United Kingdom, a student survey ought to be conducted regularly to assess the performance of the law colleges and the faculty members.

The Bar Council of India should commence establishing institutions similar to what is proposed as Higher Education Commission in Legal Education. The establishment of an Ombudsman would serve as a platform for the redressal of grievances that law students and teachers face at law schools.

## **8. INSTITUTIONALISED COLLABORATION WITH INDUSTRY AND THINK-TANKS**

At present, the internships for law students are arranged individually by the students or through the respective law school placement committees. However, there is a lack of continued collaboration between the industry and the colleges. The skills and knowledge required by the industry players could be better communicated, and

students can be adequately skilled if there is an institutionalised mechanism in place for such collaboration. Further, such collaboration is needed with lawyers, law firms and corporates and think tanks, and NGOs so that law students can be adequately equipped to become versatile professionals.

## 9. INVITING PRIVATE-SECTOR FUNDING

The New Education Policy 2020 has increased the allocation of percentage from 4.6% to 6% of the Gross Domestic Product (GDP) for the expenditure required in the education sector.<sup>2</sup> Developed countries allocate as much as 20% of their GDP to education. Considering the recent move towards digitisation and e-learning in the COVID times, the need for establishing required technology and infrastructure has increased suddenly, requiring higher spend on digital infrastructure. Fund allocation also needs to be reviewed in the research area in order to promote research and increase its quality. Most of the recognised institutions don't have ample funds to allocate specifically to research projects, and this hampers the research.

The economy in the COVID years also took a hit, so given the current situation of the economy, private sector funding seems a plausible solution for meeting the developmental goals in the education sector. Public-Private Partnerships that exist in other sectors should be given considerable thought and be included in the education sector as well. Existing infrastructures can be re-purposed and rebuilt with modern facilities instead of building new infrastructures, and such conversions could be similar to the built-operate-transfer (BOT) infrastructure projects.

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<sup>2</sup> Rustom Kerawalla, *NEP,2020: Challenges the govt must address to expedite education reforms*, Hindustan Times (02/12/2020), available at: <https://www.hindustantimes.com/education/nep-2020-challenges-that-govt-must-address-to-expedite-education-reforms/story-GBNZVBj0Zt1fzTLk33m0LI.html>



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