

CLAT POLICY NOTE: A PROPOSAL BY IDIA

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I INTRODUCTION: LACK OF DIVERSITY IN NATIONAL LAW SCHOOLS

Legal education in India is at the cusp of an ambitious new phase. Indeed, the Law Minister unveiled what he labeled the “second generation” legal education reforms in Delhi a couple of months ago.² At this function, the Indian Prime Minister spoke of the National Law Universities (NLUs) as “a small number of dynamic and outstanding law schools” in the country, which “remain islands of excellence amidst a sea of institutionalized mediocrity.”³

Unfortunately, these islands of excellence have become increasingly elitist over the years. A variety of factors have contributed to this, including the extremely high fees charged at these institutions, an entrance examination (CLAT) that now requires extensive and expensive coaching as a pre-requisite, and most importantly, a lamentable lack of awareness about law as a career amongst low income students in small towns, rural areas and other non-affluent backgrounds.

The net result is that the current student composition in many of these law schools lacks any serious diversity and comprises mainly of English-medium educated students from middle class or upper middle class families. The numbers from rural areas, small towns or non-English medium schools are deplorably low. Apart from this, the composition also suffers from under-representation from the economically and socially backward classes, the disabled communities, minority communities, ethnic groups, etc.

II ENTER IDIA

The IDIA (Increasing Diversity by Increasing Access) project therefore seeks to find ways to reach out to these hitherto marginalized and under-represented groups, sensitize them to law as a career option and help those interested to acquire admission to these law schools. It is hoped that such access to legal education would go some way towards empowering the marginalized and under privileged students and the communities that they represent. Indeed, as the age old adage goes: “Give a man a fish, you feed him for a day. Teach him how to fish, you feed him for a lifetime”.

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² See “Prime Minister and Law Minister on Second Generation Reforms in Legal Education”, May 3, 2010, Bar and Bench, <http://barandbench.com/index.php?page=brief&id=681>. See also “Breaking: Moily's 2nd gen education reforms: transactional law LLBs, new unified law school entrance test”, April 21, 2010, Legally India, <http://www.legallyindia.com/20100421723/Law-schools/breaking-moilys-2nd-gen-education-reforms-transactional-law-llbs-new-unified-law-school-entrance-test>.

³ See “Taking the Initiative”, *Legal Era*, Vol. 1 (4), 2010, at 54.

Indeed, the aim is to ensure that marginalized and underprivileged sections of Indian society are able to directly deploy an instrument of power called “law” to improve their lot and to contribute towards the creation a more just and fair society. Secondly, an influx of diverse student populations would make for a more optimal mix of views and perspectives at such law schools and consequently enrich the process of education itself.

The IDIA project has already been initiated now in over 5 different states, with 5-6 of the leading law schools participating. At least 25 different schools in various parts of India including the Sunderbans in the West, Tumkur in the South and Pelling in the North East were visited by various IDIA teams. Students and faculty at the various law schools sensitized school students to the wonders of law as a career option and the excellent prospects if they made it to one of the national law schools. After the administration of a basic aptitude test (logical reasoning questions), around 50 students from these various schools were selected.⁴ They are now undergoing rigorous training by law students and other volunteers to take the law entrance exam, CLAT in May 2010. It is hoped that some of them will clear this exam and make it to the various national law schools.

The Research and Policy Wing (RAP) of the IDIA project is working on several policy related initiatives relating *inter-alia* to admissions process at the various law schools, scholarship policies and disability policies. We hope that the various law schools will engage with us on these policies, so as to help evolve a more optimal framework for legal education in this country.

Towards this end, we have a few suggestions for the entrance examination, CLAT. Our basic aim is to evolve an exam that does not unduly disadvantage those from rural areas and other underprivileged backgrounds. Illustratively CLAT questions ought not to assume knowledge of information that only upper middle class and city bred students are likely to have. We hope that some of these suggestions will be considered favourably by the CLAT committee.

III CLAT: PROPOSED REFORMS

CLAT (Common Law Admission Test) is currently administered by 11 of the national law schools. This exam has been conducted since the year 2008 and the broad structure of the paper is as follows:

Total Number of Marks: 200

Total Number of Questions: 200

Duration of Examination: 2 hours

Subject Areas Tested:

- i) English: 40 marks
- ii) GK/Current Affairs: 50 marks

⁴ For details of the various sensitization and awareness programs conducted at the schools, please see the IDIA blog: <<http://idially.blogspot.com/>>

- iii) Elementary Mathematics: 20 marks
- iv) Legal Aptitude/Legal Awareness: 45 marks
- v) Logical Reasoning: 45 marks

The purpose of this note is to assess the current format of this exam and ask whether it is optimal in terms of helping institutions pick the right candidates for the study of law.

Some tentative suggestions for reforming CLAT are proposed below:

A. Reforming the CLAT questions

A1. Changing weightage of different subject areas

Firstly, it is proposed that the weightage of different subject areas be amended as below:

- i) English: 40 marks
- ii) Current Affairs: 25 marks
- iii) Elementary Mathematics: 20 marks
- iv) Legal Aptitude: 60 marks
- v) Logical Reasoning: 55 marks

1. English: 40 marks

The current English section has the following components:

- a) Comprehension passages that test for the candidates' understanding of the passage and its central theme
- b) Para/sentence jumbles
- c) Antonyms and synonyms
- d) Testing for grammatical accuracy e.g. filling in sentences with a missing word etc.
- e) Foreign language phrases
- f) Spelling correction
- g) Phrases

It is proposed that rather than testing for stand-alone meanings of complicated English terms (and related antonyms and synonyms), it might be better to ask for meanings/antonyms/synonyms in context i.e. this could be better tested through comprehension passages.

2. GK/Current Affairs: 25 marks

Apart from current affairs, the general knowledge section currently asks questions that are considered to be of "static" variety e.g. when was Humayun, a Mughal emperor born? The correlation between a student who might be able to answer queries on the date of birth of Humayun and a demonstrable aptitude to study law is somewhat remote. However, one might argue that a key attribute of a lawyer is is/her ability to be up to date on current affairs and appreciate issues within a larger socio-economic-political context. Therefore his/her understanding of current affairs, particularly current legal issues may be important and tested. In view of this, we propose that the current GK section be

limited to only “current affairs”, particularly legal affair questions, and that “static” GK be dropped altogether.

We also propose that the weightage to this section be reduced to 25 marks.

3. Mathematics: 20 marks

The standard of questions that are tested in the “maths” section should be of an “elementary” variety i.e. maths that is taught till the 10th standard. Therefore, unlike previous years questions should not be asked on permutation combination, probability, etc all of which are generally taught only in class 11 and 12 maths.

The questions should test the candidates’ application and logical skills with respect to a particular concept, for example, compound interest.

A sample question can be like:

There are 6000 pigs in a sty. They increase at the rate of 20% every year. This has caused the owner immense worry as each year, the increase in the number of pigs increases! At the end of 2 years, how many new pigs were born?

a. 2640 b. 1445 c. 2000 d. None of the above

(a. is the right answer)

4. Logical Reasoning: 55 marks

The purpose of a logical reasoning section is to test the student’s ability to identify patterns, logical links, rectify incorrect logic in arguments, and to identify the strength and weaknesses of arguments.

Broadly, CLAT tests verbal and non-verbal reasoning. The verbal reasoning section of the CLAT includes the logic of arguments, syllogisms, etc., while the non-verbal section includes analytical reasoning such as logical sequences, analogies, etc. It is proposed to keep this section as it is.

Visual reasoning has never been tested earlier. We recommend that it not be included for any future CLAT papers as well, since it is likely to disadvantage visually impaired students.

Till now, critical reasoning has been asked under logical reasoning. However, it is proposed that critical reasoning now be asked in conjunction with legal reasoning.

5. Legal/Critical Reasoning: 60 marks

We recommend that the legal aptitude section should have questions only on “legal reasoning” and not on “legal knowledge”. If the purpose of this exam is to test candidates for their potential aptitude for the study of law, we do not need to test them on their existing legal knowledge. Besides, any test of existing legal knowledge will give us candidates who may be good at memorizing, but not necessarily at analytical abilities.

Good legal reasoning questions can be framed with the help of legal propositions (listed out comprehensively in the paper), and a set of facts to which the said proposition has to be applied. One can creatively think of different formats for testing such analytical abilities, but without asking for any prior knowledge of the law. In fact, we might consider asking questions based on propositions that are not “true” in the real sense (e.g. any person who speaks in a movie hall and disturbs others that are watching the movie will be banned from entering any movie theatre across India for one year).

If some technical term is used in the question, then that term will be explained to eliminate the need for any prior knowledge of law. For example, if the word **patent** is used, then the meaning of patent will also be explained. We might also think of loading up each question with a number of facts, such that we test the ability of a student to also pick out the relevant “facts” and apply the legal proposition in question to them.

If at all legal knowledge needs to be tested, it is best tested in the context of contemporary events, and as part of current affairs, as we had recommended earlier.

Moreover, we propose that legal reasoning is asked along with critical reasoning as that would be a better way to test a candidate’s reasoning and analytical abilities.

Illustratively, consider the following question that was asked in an LSAT paper (LSAT has a section on critical reasoning):

The purpose of the proposed law requiring a doctor's prescription for obtaining hypodermic needles is to lower the incidence of drug-related deaths, both accidental and intentional, involving hypodermic needles. But even knitting needles can be lethal if they fall into the wrong hands; yet everyone would agree that imposing legal restrictions on obtaining knitting needles would be preposterous. Hence the proposed law involving hypodermic makes no sense and should not be enacted.

Which of the following, if true, would provide most support for the argument above?

- a) Knitting needles have been known to cause injury and death*
- b) The benefits of hypodermic needles outweigh those of knitting needles*
- c) The proposed law would not deter the sort of activity known to result in Drug related deaths*
- d) The proposed law could not be effectively enforced*
- e) Knitting needles are not readily available to anybody who wants to obtain them*

Further, as indicated earlier, the weightage for legal aptitude should increase to 60 marks, as it is in many ways, the main component of this test.

A2. Culturally Neutral Questions:

Given that CLAT is meant to be accessible by all students from a variety of diverse backgrounds, the questions should be culturally neutral, as far as possible. Moreover, it should not disadvantage any section in particular. Illustratively, a question that assumes

knowledge of golf, a sport of the urban elite may disadvantage a student from rural India.

B. Access to CLAT

B1. Availability of CLAT brochures and forms

CLAT brochures (which include the form) are difficult to procure. Under the current system, students have to buy brochures from one of the participating NLU's or various branches of a designated nationalized bank. This has limited the reach of the brochures to aspirants from urban areas only. For example, in CLAT 2010, forms were sold in the state of West Bengal at only two bank branches in the city of Kolkata and at the National University of Juridical Sciences which means that all the three places were located in the city of Kolkata. Thus a student who wished to take the test and resided in Siliguri in the northern part of West Bengal would have had to travel for a minimum of 10 hours to procure the form.

The other alternative that is available to aspirants is to download the brochure from the CLAT website. This may not be possible in places where internet facilities are not available or are difficult to find and access, a case with many rural areas.

Considering this problem and in the interest of aspiring students who wish to take the CLAT exam, an alternative means to deliver brochures has to be devised. The alternative method has to enable the achievement of two goals. The primary goal is to make forms easily accessible through the length and breadth of India. Secondly, information about the law schools and CLAT must reach out to every nook and corner of India, whereby students are exposed to the wonders of law as a potential career option. The brochures that are given with the forms must therefore provide information on the participating NLU's and law more generally as a viable career option. It is generally seen that good students are starved of information about the new opportunities in the field of law. This lack of information makes them end up choosing careers more along traditional lines or according to their parents' wishes.

An alternative approach for the distribution of forms may be the approach that the Union Public Service Commission adopts for the Civil Services examination. UPSC uses the Indian Postal Department (hereinafter referred to as 'India Post') for the distribution of its forms. India Post is the largest postal network in the world, with one post office serving 7160 people and covering an area of approximately 21.2 sq. kms. The extensive India Post network can ensure that CLAT forms are available at every district throughout the country. It would enable establishment of counters for procurement of brochures which until now have only been limited to big cities. Considering that post offices in rural and semi urban areas are extensively used by people from all strata of society for communication, bill payment and popular savings schemes; it is an extremely vital platform to reach out to students in even the most remote areas of India.

Initially, the CLAT brochures will be made available through India Post and the respective participating national law schools. A list of all post offices which will sell brochures will be mentioned in the notification of the CLAT examination which will be published in all

national newspapers. Posters can also be displayed at the post offices (if necessary in vernacular languages) so that people get information about the test, even if they have missed the notification in national newspapers.

B2. Price of CLAT forms

Regarding the selling price of the CLAT application form and the brochure, it is proposed that applicants be made to pay at two stages instead of the prevailing system of charging a lump sum amount at the initial stage only.

When the CLAT brochures and application form are initially sold, it is proposed that they be sold at a nominal fee which will be enough to cover the cost of printing and distributing the form/posters.

Now, once these forms have been filled up by the aspirants they are to be sent to the CLAT office. At this stage, the rest of the money i.e. the examination charge of Rs. 2500 can be paid directly by the student in the form of a draft whilst submitting the application form.

It has also been seen that the high cost of the CLAT application forms act as a hindrance in the path of many aspiring candidates whose family have modest means. It is at this stage (i.e. at the point of the applicant sending the money for examination charges) that one may consider a reduction in the fee of the form to enable greater access to poor candidates.

It is suggested that the examination charges be on a means-testing system where less well-off students will pay lower fees. For example, forms can be sold at the following rates:

Monthly Family Income (in Rs)	Cost of the Form (in Rs)
Below Poverty Line – 10,000	Free
10,001 – 20,000 (and SC/ST and disabled students whose incomes are above 10,000)	1,000
Above 20,000	2,500

For the purpose of income proof, the last Income Tax Return/Form 16 has to be filed. This will be carried forward to the law school where the candidate ultimately takes admission and used for all future purposes of income proof/scholarships. For students from rural areas, an income certificate from the relevant authority (such as a Tahsildar) needs to be insisted upon.

B3. Sending admit cards and result sheets back to candidates

Once the CLAT office receives all the applications, then the latter can send out the admit cards for the examination through India Post.

After the exam has been conducted and results are declared, a result sheet would be sent through India Post to the candidates who appeared for the test. There are some remote areas where courier companies have not been able to establish their network but India Post because of its social commitment services them. In particular India Post can do this communication through ePost. ePost is a unique innovation of India Post to reach people in areas where the World Wide Web is not present. Each individual is given an ePost ID based on his geographical address. Mails are received at this ePost id through electronic mode. At these identified ePost centers the mails are downloaded, printed and sent out for delivery to the addressee. Thus the use of ePost can help CLAT penetrate to areas which otherwise are impossible to reach because of technological and infrastructural handicaps.

B4. Disability-friendly CLAT

This apart, to make CLAT more accessible it must be made accessible for the disabled. The law school in charge of that particular centre must arrange for scribes for such candidates.

C. Open Access and CLAT

The CLAT committee ought to engender more open access norms. All CLAT material must be available free of cost through the CLAT website. Some specific suggestions in this regard are listed below:

- i) Making all CLAT past papers online on the CLAT website.
- ii) The syllabus, a model paper and answers should also be available online on the CLAT website.
- iii) The Frequently Asked Questions (FAQs) section on the CLAT website should be made more comprehensive and robust.

D. CLAT and Publicity

Till date, CLAT has been notified only in major national dailies (mainly English language newspapers). However, access to these dailies in remote areas is difficult. Therefore, in order that the CLAT message and awareness about law as a career option be spread far and wide, we need to advertise much more broadly. Hence, to remedy this, the following measures should be undertaken:

- i) Advertise where possible in the vernacular and local press, TV (DD) and radio (AIR).
- ii) Leaflets to be sent to select rural schools with the help of IDIA volunteers in all the chapters.
- iii) Notifications to be sent to the Bar Associations of every district.

- iv) Law schools themselves should give this wide publicity through every possible means which can be through their website, blogs or maybe through their legal aid cells.
- v) Post Offices should pin up a poster at all postal outlets.

E. CLAT and Data Gathering

In order to determine the composition of students taking the CLAT test, the form must ask for the following information:

1. Gender (Male/Female)
2. Age
3. Number of times attempted CLAT previously
4. Medium of instruction in 12th standard (English/Hindi/Other vernacular)
5. Medium of instruction in 10th standard (English/Hindi/Other Vernacular)
6. 12th standard school was situated in (Rural area, Semi-urban area, Urban area)
7. 10th standard school was situated in (Rural area/Semi-urban area, Urban area)
8. Which subject stream are you from (Science, Humanities, Commerce, Others)
9. Do you have any kind of disability? (No/Yes, please mention what kind of disability)
10. How did you hear about CLAT? (Friends/Career counselor at school/Parents/relatives/Family friends/Online sources/CLAT coaching centers/Others)
11. Did you take coaching for CLAT? (Yes/No). If yes, from which coaching center.
12. Category of seat being applied for by you (General/SC/ST/OBC/NRI/Foreign National/Physically Handicapped)
13. Annual family income in Rs. (Less than 50,000/50,000 - 1 lakh/1 lakh - 3 lakh/3 lakh - 10 lakh/10 lakh - 15 lakh/15 lakh and above)
14. Are your parents conversant with English? (Both/One/None)
15. What religion does your father follow? (Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Sikhism, Zoroastrianism, Others)
16. Which state or UT do you belong to?

(Andhra Pradesh Arunachal Pradesh Assam Bihar Chhattisgarh Goa Gujarat Haryana Himachal Pradesh Jammu and Kashmir Jharkhand Karnataka Kerala Madhya Pradesh Maharashtra Manipur Meghalaya Mizoram Nagaland)

Orissa Punjab Rajasthan Sikkim Tamil Nadu Tripura Uttar Pradesh
Uttarakhand West Bengal --- Andaman and Nicobar Islands Chandigarh
Dadra and Nagar Haveli Daman and Diu Lakshadweep National Capital
Territory of Delhi Puducherry)

17. Are any of your parents, relatives or close family friends associated with the legal profession in some way? (Yes, No)
18. What is the education level of your father? (Below Graduate/Graduate/Above Graduate)
19. What is the education level of your mother? (Below Graduate/Graduate/Above Graduate)
20. What is the profession of your father?
21. What is the profession of your mother?

F. The CLAT Selection Process

Till now, the CLAT selection process ran as follows:

1. Candidates would fill in their preferences of law schools right at the start.
2. Based on their rank and their particular preference, they were allotted a law school.
3. SC/ST/Domicile/NRI sponsored reservations were applicable in all or some law schools.
4. Any tie with respect to marks by similarly situated candidates was broken by 12th standard marks. If there was a tie at this level as well, it would be broken by taking into account class 10 standard marks and if this proved the same as well, then by lottery. However, this was problematic, since there was no way of ensuring parity between the different board exams.

It is proposed that the selection process be amended as below:

1. Candidates do not need to give their preferences of colleges upfront in the CLAT Application Form. Rather, they are free to pick colleges after the CLAT results are declared.
2. The CLAT results are published, both physically and electronically. Upon such publication, candidates are free to pick their respective law schools by sending emails to the said law schools. They must do so within ten days of the results being published. The concerned law school picks the relevant candidates based solely upon CLAT rank and any reservation category that they deploy. All law schools must pick candidates and finalize their list within 2-4 weeks of announcement of the CLAT results. Once finalized, lists cannot be altered.

3. If any seat falls vacant after the finalization of lists above, the concerned law schools can only pick those candidates that have not yet been picked by any of the law schools (in the order of their CLAT rank).
4. Should there be any tie in the CLAT marks, candidates will be chosen based on the marks allotted to them for the “legal/critical reasoning” section in the CLAT exam. If there is a tie at this level too, one has to turn to marks obtained in the “logical reasoning” section. In the unlikely event that there happens to be a tie at this level too, one is to be by a lottery system.
5. It is proposed that extra marks be awarded to candidates who have studied in a vernacular medium school in class 10 and class 12. Needless to state, such candidates may possess high legal reasoning and logical reasoning skills. Yet they are at a disadvantage compared with those students from English medium schools. It is therefore proposed that such candidates would get an additional 2% of the total marks. If the exam is out of 200, candidates would get 4 marks on the total.

This apart, a separate cut off system to be drawn up to allow only those SC/ST and disability students who have scored above a certain cut off marks to be eligible to get admission to a law school.

For example, in NUJS if the last general category candidate gets 140/200 then, no SC/ST/NRI sponsored/disability candidate getting less than 75% of 140 (105) will be eligible for admission to NUJS. This will ensure a qualitative check on the entry of students into law schools. If any seat is left vacant as a result, then they are to be filled up by general category students.

G. CLAT Eligibility Criteria

The eligibility criteria for CLAT till now are as below:

- i) That the student should not be more than 20 years of age as on 1st July of that year (22 years in case of persons with disability/SC/ST/OBC)
- ii) That the student have a minimum marks of 50% aggregate in the plus two exam (45% in case of persons with disability/SC/ST/OBC)

It is proposed that the eligibility criteria be amended as below:

- i) It is proposed that age limit as a criterion is altogether dropped off from CLAT. There will be more diversity within law schools and a wider range of thoughts from different age groups will flow, thus making discussion within classrooms varied and lively.
- ii) However, there should be a cap on the number of attempts. This cap can be kept at two attempts. However, the number of attempts can be relaxed to 3 for SC/ST candidates and for the physically handicapped.