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How Income Level and Caste is Detrimental in Clearing Clat?

Pragyanshu Gautam

ABSTRACT

CLAT is a national level examination in India and is rigorous to clear in the first attempt. It is not because of its level of difficulty but the way it chooses to attempt the competitive exam. For Post-CLAT, In *Avinash Singh Bagri Ors. v. Registrar IIT*, the apex court adopted the need to provide additional support in university to students admitted via reservation. The Court wrote, “these socially and economically backward categories are to be taken care of at every stage even in the specialized institutions like IITs. They must take all endeavors by providing additional coaching and bring them at par with general category students”. Therefore, In the Pre and Post CLAT, it is the responsibility of the schools, law schools, government, and trust like IDIA (those who come forward) to immediately create support programs to first get ‘realize their full potential and promote social justice in the long run because no human brain is born to be degraded.

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How Income Level and Caste is Detrimental in Clearing Clat?

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ABSTRACT

CLAT is a national level examination in India and is rigorous to clear in the first attempt. It is not because of its level of difficulty but the way it chooses to attempt the competitive exam. For Post-CLAT, In Avinash Singh Bagri Ors. v. Registrar IIT, the apex court adopted the need to provide additional support in university to students admitted via reservation. The Court wrote, “these socially and economically backward categories are to be taken care of at every stage even in the specialized institutions like IITs. They must take all endeavors by providing additional coaching and bring them at par with general category students”. Therefore, In the Pre and Post CLAT, it is the responsibility of the schools, law schools, government, and trust like IDIA (those who come forward) to immediately create support programs to first get ‘realize their full potential and promote social justice in the long run because no human brain is born to be degraded.

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I. INTRODUCTION

“It is fair to assume that Parisians would not have stormed the Bastille, Gandhi would not have challenged the empire on which the sun used not to set, Martin Luther King would not have fought white supremacy in ‘the land of the free and the home of the brave’, without their sense of manifest injustices that could be overcome. They were not trying to achieve a perfectly just world (even if there were any agreement on what that would be like), but they did want to remove clear

injustices to the extent they could”¹. Quoted by Economics Nobel Prize winner Amartya Sen in his book ‘The idea of Justice’ it is clear that distributive justice² and sustainable justice³ are needed in India. Because people in India mostly, settle down for immediate justice and not long term justice. I got one thing in my mind after writing this: a discussion in an online conference on the topic of ‘online courts and future of justice’ by Richard Susskind, a British author. He came to a conclusion after the discussion that short term predictions hugely overstates the impact and long term predictions hugely understates the impact.⁴ Prof. Amartya Sen quote is in the context of Economic or income level and Richard Susskind’s one is related to access to resources such as technology, hardwares, etc that individuals face the most in clearing any competitive exams.

CLAT (Common Law Admission Test) is a national level examination for the five years law undergraduate course in India and is rigorous to clear in the first attempt. Not because of its level of difficulty but the way it chooses to attempt examination. Ways are: mandatory medium of instruction in English, required decent family income to pay for the CLAT application form fees, which is in itself so high and to provide sources and materials to study for this competitive exam

¹ Preface. (2009). In A. Sen (Ed.), *The theory of Justice* (p. 462). The Belknap Press of Harvard University Press Cambridge, Massachusetts. <https://dutraeconomicus.files.wordpress.com/2014/02/amartya-sen-the-idea-of-justice-2009.pdf>

² Fair and just means of allocating the resources.

³ Utilising resources presently in such a way that sufficient resources remain for future use.

⁴ Henry Jackson Society. (2020, February 4th). *Online Courts – a Case Study in the Digital Transformation of Public Services*. HJS Henry Jackson Society. <https://henryjacksonsociety.org/members-content/online-courts-a-case-study-in-the-digital-transformation-of-public-services/>.

or any other competitive exam in India. That's the reason why expensive coaching culture is a prerequisite for CLAT and other law entrance and national level exams. Also, that makes it mandatory here to give free access to most talented students of the bottom section of our society⁵. Another most sensitive issue is of Caste which is by birth. The point here is that of social backwardness and marginalised people, not of economic potential. Few questions arise in my mind after writing this. Why do people mostly ask the merits of SC/ST? Why not give first priority to the psychological feeling or inner feeling the person is facing? Why is exploitation of thousands of years on them compared to the level which the general category faces currently since India constitution adoption? Are all people who cleared exams like CLAT, IIT, Civil services and so on, through 'reservation' in education and jobs successful? For this purpose there is a judgement, In *Avinash Singh Bagri Ors. v. Registrar IIT*, the apex court adopted the need to provide additional support in university to students admitted via reservation. The Court wrote⁶, "these socially and economically backward categories are to be taken care at every stage even in the specialized institutions like IITs. They must take all endeavors by providing additional coaching and bring them at par with general category students"⁷. The aim of achieving the goal is to be for long term not short term and this will remain until the last person standing extricates hatred from their mind. Development of real things is required. Why to act to get relief for the short term? No materialistic thing can buy education or forcefully act to behave in a civilised way and none of them give a 'permanent' cure to mindless things. That's why it started with Professor Amartya Sen quote which ends with to the "extent" they or we can remove clear injustices and that is needed and that should be supported by the idea to give all means psychologically or socially, and then economically.

⁵ Basheer, S., Krishnaprasad, K.V., Mitra, S., & Mohapatra, P. (n.d.). The Making of Legal Elites and the IDIA of Justice. In *The Indian Legal Profession in the Age of Globalization* (pp. 578-605). Cambridge University Press.

⁶ Id. at 588.

⁷ *Avinash Singh Bagri & Ors vs Registrar Iit Delhi & Anr* (2009), SCC 535.

II. EXTENSION OF INTRODUCTION (PRE AND POST CLAT REALITY)

Currently, there is a lack of diversity in NLUs (National Law University). When we look at the records of low income and low caste students studying in NLUs then that is considerably very low. For example, there were only 4-5 percent of the candidates who were admitted to the West Bengal National University of Juridical Science (NUJS) in 2013 and they belong to lower-middle class family⁸ (IDIA 2014). Same report of IDIA⁹ shows that 50 percent of that batch itself belongs to the upper-middle class family. Also, there is a lack of geographical diversity, people from Jammu and Kashmir, and North-east people were completely low.

Summary of the surveys¹⁰ conducted at nine of the leading national law schools (NLSIU-Bangalore, NALSAR-Hyderabad, NUJS-Kolkata, NLU-Delhi, NLU-JODHPUR, Dr. Ram Manohar Lohia National Law University-Lucknow, Chanakya National Law University-Patna, NLU-Odisha, and National University of Advanced Legal Studies-Kochi) in 2014 to highlight the parameters and their reason of lack of diversity, representations. Same concept applied for pre-CLAT as the foundation of the thinking is extremely important and that is disturbed from these compulsory parameters. These parameters are qualitative and locational:

1. *Medium of Instruction*: As written in the beginning that CLAT exam has compulsorily tough English as a medium to read, comprehend and answer the objective questions. A vast majority have not studied in English medium school or private school due to the low income level which ultimately is a hindrance towards the first step to go through the exam.
2. *Low Family Income*: This survey shows that majority of students studying in NLUs are

⁸ Families with income less than INR 1 lakhs per annum.

⁹ Basheer, S., Krishnaprasad, K.V., Mitra, S., & Mohapatra, P. (n.d.). The Making of Legal Elites and the IDIA of Justice. In *The Indian Legal Profession in the Age of Globalization* (p. 585) Cambridge University Press.

¹⁰ Id. at 585.

from upper-middle-class-families¹¹(income more than 10 lakhs per annum) and there were only 7 percent those income was less than 10 lakhs per annum in these top NLUs.

3. *Lack of locational diversity*: Candidates having domicile of the state are higher in number in premier law school: for example, there are 8.22 percent karnataka domicile student studying in NLSIU, Bangalore and only one student from Jammu and Kashmir, Nagaland and no students from North-eastern states like Manipur, Arunachal Pradesh, Meghalaya, Sikkim, Mizoram, Tripura and Assam (IDIA 2014, 14-15).
4. *High Expenses*: CLAT requires in-depth preparation and training. For this purpose many expensive coaching institutes are taking advantage. Personal training and mentorship is far away from this which is much more economical and sustainable. For example, main coaching institutes of CLAT like LST and IMS charge around INR 85,000 per year (Economic times, 2009). Now, after a decade this charge would be much higher than that time. There is an increase in business with increase in demand.
5. *Rural test takers*: According to IDIA survey in 2014, mere 1-3 percent were from rural areas those studying in these nine leading law schools.

Top 9 leading NLUs survey for general category representation is 69.11 percent and other category is given in table:

Table 3- Representation across reserved seats

Categories	Percentage of proportionate Representation
Scheduled Caste	11.65%
Foreign National	5.32%
Scheduled Tribe	5.06%
Non Resident Indian	3.54%
Physically handicapped	2.53%
State domicile	2.03%
Other Backward Class	0.25%
Kashmiri Migrant	0.25%
NRI sponsored	0.25%

Source: IDIA Diversity Survey results ¹²

III. Purpose To Get Into An Nlu: Recruitment Reality

According to the recruitment data collected by NLSIU, NALSAR and NUJS by IDIA in 2013. Summary of this survey was that¹³:

1. The caste has an important connection to recruitments. In these three law schools IDIA studied that, the percentage of students recruited from within the Scheduled Castes/Scheduled Tribe (SC/ST) community was extensively lower than the percentage of recruited from the general category¹⁴. For example, in 2010 out of the ninety-two students from NUJS whose survey was done in that none of the students from SC/ST community was recruited to the top law firms

¹² Basheer, S., & Sharma, G. (n.d.). *IDIA Diversity survey (2013-14): Analysis and Policy Recommendations*. IDIA Law. <https://www.idialaw.org/wp-content/uploads/2018/04/idia-diversity-survey-2013-14>.

¹³ Basheer et al., S. (n.d.). The Making of Legal Elites and the IDIA of Justice. In *The Indian Legal Profession in the Age of Globalization* (pp. 586-587). Cambridge University Press.

¹⁴ Scheduled Caste is often referred as Dalit which means broken/scattered in Sanskrit and is the lowest caste in the hierarchy of caste system in india. Scheduled tribe is referred to a tribal group who have been extricated from the mainstream society for a very long time. General category in context of admission is used for those who do not belong to the SC/ST community and is 'general' in society who is never exploited in history and highest in the hierarchy of the caste system in India.

¹¹ Id. at 586.

but twenty-five students of general category were recruited to the top law firms. Similar result data was for NLSIU and NALSAR (IDIA 2014).

2. Income level was not much detrimental during the recruitment process but it is during the building of the C.V. for recruitment purposes. As the person with low income would not be able to travel and afford stay expenses during their internships and would need financial support all time or during their process to achieve.

Concluding from the IDIA data would be true as the admitted students in NLUs, majority belong to upper-middle-class families and the rest of the poor sections of society are not able to admit due to the low income level, also unable to get 'basic information and consciousness' due to lack of access to resources.

From my personal or real life experience. Firstly, I belong to the Scheduled Castes Category and from an upper-middle-class family but I have kept listening throughout my journey of CLAT preparation: *'reservation hai toh ho jayega hi' (there is reservation so you will definitely qualify)*. I took regular classroom coaching and took a correspondence course from second and also took test series from third coaching as I had taken a year drop for CLAT preparation and also to resolve my fear and excel. I had all the means but personally I feel that coaching doesn't help in overall development. In my case it degraded me, I was extremely sure that I would get into the top 3 colleges through CLAT, even sure before five-six months of delayed exams. Forget about pandemic, delays and emotional pressures but due to the consistent coaching and performance pressure it degraded me and acted me to work like a machine rather than using my brain voluntarily, in a cool and organised way. My opinion for the solution is that perception and negative preconceived notions for each student should be changed from the viewpoint of the trainer. By writing this I remember reading about David B. Wilkins Sir, Faculty director of HLS Center on the Legal Profession whom I was honoured to meet two years back in the HLS Conference at New Delhi. I read that, "David Sir works to create a classroom

environment that is safe and comfortable; that allows students both to learn and know that their success or failure is not a true measure of their worth¹⁵". But what if they are unable to be recognised at first instance and there is no consciousness? Therefore, it is necessary to take steps to 'diversify' the test takers of Pre-CLAT that is during the preparation and Post-CLAT during the college learning in terms of psychological and financial because nature and nurture plays a role and also a need of plural representation should be ethical in India.

IV. CONCLUSION

It is imperative that measures should be taken to promote access to marginalized groups that are low-income people. And, for the intake (at a time of CLAT) of underprivileged students SC/ST or recruitment data reality of post-CLAT which is extremely low. It is not because of less facilities access to these people or hiring bias from recruiters but 'it stems from their low grades beginning in schools, then college or anywhere'. Therefore, it is the responsibility of the schools, law schools, government and trust like IDIA (those who come forward) to immediately create support programs Pre-CLAT and Post-CLAT to first get 'realise their full potential' and promote the social justice in the long run because no human brain is born to be degraded.

¹⁵ Lawrence-Lightfoot, S. (1999). Inside the Classroom of Harvard Law School Professor David Wilkins. *The Journal of Blacks in Higher Education*, (25), 113-119. doi:10.2307/2999407.