

## INDIA'S LAW SCHOOL LEGAL AID CLINICS: THE GAPS BETWEEN ASPIRATION AND PRACTICE

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### **Abstract**

The law schools legal aid activities conducted through its clinics has come a long way in India especially since its inception in the early 1970's. Its evolution has been gradual, intermittent and varied. Although The Bar Council of India (BCI) has mandated, establishing legal aid clinics as a pre-requisite for granting the necessary permissions before law schools start functioning, there are limited ideas of its purpose and objectives. An inherent lack of understanding its importance in terms of teaching, learning and research, the legal aid practices are largely left to the discretion of the individual law schools and interpretations of the individual faculty members. Combined with ideas heavily borrowed from the law schools in the US and individual experiences of the faculty members, legal aid practices in India are diversified. In the backdrop of this, the author intends to explore and map the aspiration of legal aid through an analysis of the key policy documents of legal education since India's independence through an ontological framework. The ontology maps the aspirations of the legal aid clinics that was intended through these documents. Additionally, a case study of two important institutions have been taken as the case in point in order to verify whether the practices match such aspirations. Thereby, putting forth

arguments that are critical for understanding the gaps between the aspiration and the state of reality.

Key words: Legal aid Clinics, Law schools, Clinical, Legal education, Social justice

## **Introduction**

The Preamble of the Indian Constitution, guides its law makers to formulate avenues, structures and mechanisms, to ensure a society that is inclusive of the masses. As a consequence of which, Article 39A was inserted through the 42<sup>nd</sup> Constitutional amendment in the year 1976. The amended article casts responsibility on the state to provide free legal aid to the marginalized. <sup>1</sup> The law makers, legal luminaries and the academics realising India's huge population and the potential of the law schools, recommended the possibility of utilization of their tremendous student resources. If mobilized, could be effectively used in addressing some of the social issues and aid in fulfilling the enormous unmet legal needs of the people. Additionally, another important objective of the legal aid clinics being, preparing the students to be professionals who would not only be sensitive to some of these needs but also aid in

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<sup>1</sup> Sushant Chandra & Nityash Solanki, *Legal Aid in India: Retuning Philosophical Chords*, 2 BRICS L.J. 68 (2015).

achieving social justice. It was with this intention, the lawmakers introduced the concept of providing legal aid at the law schools through their clinics.<sup>2</sup>

The concept of legal aid in India dates back to the period between 1960 and 1970 where the law schools borrowed the initial program structure from the clinicians in the United States of America.<sup>3</sup> It was in the year 1973, that the Report of the Expert Committee on Legal Aid published by the Ministry of Law, Justice and Consumer Affairs under the chairmanship of Justice V.R. Krishna Iyer that gave recommendations to involve students to make legal aid available to the marginalised communities.<sup>4</sup> The recommendations given by Justice V.R. Krishna Iyer was followed by Justice P.N. Bhagwati through his Report on National Juridicare between 1977-78. The Report highlighted the need and importance of law schools in fulfilling the huge gaps that existed in the system and how they can be utilized to drive social justice goals.<sup>5</sup> Professor Dr. N.R. Madhava Menon, who established the National Law School of India University in the year 1986<sup>6</sup> modelled it on the lines of involving the law students as 'problem solvers' and 'societal leaders'.<sup>7</sup> Despite various efforts to imbibe

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<sup>2</sup> Rajashree, K. 'Dissecting the Dichotomy of Skill and Social Justice Theory of Law School Legal Aid Clinics in the USA and India: A Re-look of the Past and the Present', *Asian Journal of Legal Education*, 8(1), 79–94 (2021).

<sup>3</sup> Frank S. Bloch & Iqbal S. Ishaq, *Legal Aid, Public Service and Clinical Legal Education: Future Directions from India and the United States*, 12 MICH. J. INT'L L. 92 (1990).

<sup>4</sup> Manoj Mate, *Two Paths to Judicial Power: The Basis Structure Doctrine and Public Interest Litigation in Comparative Perspective*, 12 SAN DIEGO INT'L L.J. 175 (2010).

<sup>5</sup> Rajeev Dhavan, *Managing Legal Activism: Reflections on India's Legal Aid Programme*, 15 ANGLO-AM. L. REV. 281 (1986).

<sup>6</sup> N. R. Madhava Menon, *Why Yet Another Law School*, 1 Student ADVOC. 1 (1988-1989).

<sup>7</sup> N. R. Madhava Menon, *Keynote Address at the Seventh Worldwide Conference of the Global Alliance for Justice Education*, 1 Asian J. LEGAL EDUC. 147 (2014).

value education and advance the goals of justice through legal aid in law schools, there were not many documented references to the involvement of students in legal aid clinical activities, except for Benares Hindu University and Delhi University between the said duration.<sup>8</sup>

It was not until 1998, that Bar Council of India framed rules incorporating provisions for inclusion of compulsory practical training component into the law curriculum. Under Schedule III, Rule II, of the said rules, the BCI mandated the law schools to establish legal aid clinics as a pre-requisite for granting permissions to run them. Even the Curriculum Development Committee Report of 2001 prepared by University Grants Commission (UGC) suggested allocation of marks for conducting legal aid activities, but without specifically elaborating anything in terms of its objective and its nature. Part-IV of the 2008 Rules of the Bar Council of India expanded the role of law students to witness proceedings in the office of a lawyer or in a legal aid office and record the same. However, these rules were not in alignment with the aspirations and spirit of social welfare as opined by legal doyens such as Professor Upendra Baxi and Professor Dr. N.R. Madhava Menon.

There is no clarity with regard to the key elements and dimensions of legal aid which are to be followed in/by law schools. With ideas and objectives fragmented, practices being sporadic and intermittent, diverse ideas and concepts are attributed to legal aid.

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<sup>8</sup> Frank S. Bloch & Iqbal S. Ishar, *Legal Aid, Public Service and Clinical Legal Education: Future Directions from India and the United States*, 12 MICH. J. INT'L L. 92 (1990).

Hence this article makes an attempt to document and map the aspirations of what are the pathways through which legal aid is to be advanced in/by a law school legal aid clinic. This is done by tracing important documents and reports of legal education in India since India's independence. At the same time, an attempt to verify these aspirations in the background of two types of universities as case studies are taken as a reference. Such frameworks are crucial to understand the aspirations and the ground level-realities of the law schools legal aid practices carried out through its legal aid clinics.

### **Methodology and limitations**

Qualitative method of analysis has been adapted in the paper. The paper is divided into four important parts. In Part-I, the paper conceptualizes the legal aid practices through an ontological method. The framework captures the elements of legal aid as aspired in the key documents of legal education. The conceptualization of the framework was done through observation method and subsequently it was deliberated upon in consultation with experts of legal education to ensure that the framework includes all the necessary elements/ dimensions of legal aid.

In Part-II, the framework has been used to map the dimensions and elements from some of the key legal documents such as the Law Commission Reports, Reports of the Committee established by the Ministry of Law and Justice, Supreme Court of India committees on legal education, University Grants Commission Report and Bar

Council of India Reports on Curriculum Development. Through this, the aspirations of legal aid which are derived at is used for the purpose of verifying if they are in consonance with the practices followed in two different and diverse typologies of universities which are taken as the point of study for the present paper.

In Part-III, two types of Universities have been chosen based on a stratified sampling method. The selection of the University was based on 3 criteria such as year of establishment, geographical representation and the type of institution i.e. government and private. Upon finalization of the units of analysis, the legal aid practices of both the institutions were mapped to the framework where the similarities and the differences were identified. These similarities and differences were used to do content analysis and draw conclusions to render recommendations in Part IV. The names of the University have been assigned codes such as UI and UII for the purpose of anonymity. The paper is backed by a thorough review of literature both recent and old to advance the arguments.

The paper is limited to the study of two typologies of Universities only. There is a need for further analysis to have in-depth understanding of legal aid practices on the field. For which there is a need to conduct in-depth interviews and observe legal aid practices in their natural settings in order to arrive at evidenced based recommendations. This will aid in understanding the efficacy of the working of legal aid clinics across institutions in India. The authors have used primary data and observation method to draw the conclusions. There is a need for conducting in depth

investigations in order to further explore and understand the extent to which these aspirations are realised.

### **Understanding the objectives of Law School legal aid clinics through a purview of literature**

As early as 1930 John S Bradway, opined that it was important for the law school legal aid clinics to render free advice to worthy indigent clients who were unable to afford the services of a lawyer. Bradway, strongly believes that by doing so, it would fulfil dual objectives, firstly, fulfil societal needs and secondly, train the students of law in legal aid clinics.<sup>9</sup> Stephen Wizner and Jane Aiken, state that the law school legal aid clinics started with the intention of providing and expanding access to justice. According to them, when the law school legal aid clinics started it was all about providing free legal services to the poor who were otherwise unable to represent themselves before the court, influencing changes to policies and for future development of legal aid in the society. But they also opine, that there is a need to revisit these ideals and understand whether today's legal aid clinics have the same approach as before.<sup>10</sup>

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<sup>9</sup> John S. Bradway, *Legal Aid Clinics*, 8 St. B.J. 261 (1933).

<sup>10</sup> Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997 (2004).

The works of Adam Babich, reflects that while the law schools legal aid clinics deal with real problems and real clients it amounts to integration of 'professionalism' and 'reality' with 'academic idealism'. When these legal aid clinics take over socially relevant issues, they become the voice of the common man. There have been legal aid clinics which have taken over various social issues that plague the society and have been the frontrunners in heralding changes.<sup>11</sup> Philip Alston and Peter Cashman, while talking about the purpose of setting up legal aid clinics at law schools, make the following observations. They state that these clinics fulfil a valuable 'social and educative' role. Such clinics should be instrumental in mitigating poverty and work for the social and legal rights of the common man.<sup>12</sup>

Such views are also resonated in the Indian context as well. The notions that the law schools have a social responsibility to fulfil through the legal aid programmes and clinics are very apt. Legal aid programmes are to be used as instrumentalities of social and economic change. Such involvements aids student learning and enables 'knowledge mobilization'.<sup>13</sup> It is opined that that the law school legal aid clinics through its various community development programmes and activities have

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<sup>11</sup> Adam Babich, *Controversy, Conflicts, and Law School Clinics*, 17 CLINICAL L. REV. 469 (2011).

<sup>12</sup> Philip Alston & Peter Cashman, *The Purpose of Setting up Legal Aid Clinics*, 3 Sing. L. REV. 27 (1971-1972).

<sup>13</sup> Jane Schukoske & Roopali Adlakha, *Enhancing Good Governance in India: Law schools and Community-University Engagement*, 3 J. INDIAN L. & Soc'y 206 (2012).

individual benefit and community benefit at large. Such experiences are essential to give exposure to 'real-world situations' through community development.<sup>14</sup>

In India it is argued that there are vast unmet societal needs. With legal aid being a basic human right and a constitutional mandate, there is a need to encourage the law schools legal aid clinics to impart para-legal training amongst the law students.<sup>15</sup>

Contemporary literature is also replete with instances which defines the purposes of legal aid clinics. Firstly, to provide the students with a better legal education and secondly, to create/ enhance access to justice for the community.<sup>16</sup> Engaging the students in various pro-bono activities, through legal aid clinic is seen not only as a socially relevant tool for accessing justice but is also an educational experience to motivate students which would help them in subsequent employability.<sup>17</sup>

Legal aid programmes, especially in India grew on the lines of jurisprudential concepts such as 'Rule of Law', 'Equality before law and Equal protection of the laws'.<sup>18</sup> Hence, the law schools have to take some responsibilities upon themselves. It is where the students of law are not just trained to be lawyers, but learn how the law 'works in action' and are able to contribute towards social change.<sup>19</sup> In this regard,

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<sup>14</sup> Upasana Dasgupta, *The Paradox of Elite Law schools in India - A Comparison with Canadian Legal Education*, 2019 REV. Quebecoise DE DROIT INT'L 147 (2019).

<sup>15</sup> Srikrishna Deva Rao, *Paralegal Education in India: Problems and Prospects*, 1 J. Nat'l L. U. DELHI 94 (2013).

<sup>16</sup> David W. Tushaus, Shailendra Kr. Gupta & Sumit Kapoor, *India Legal Aid Clinics: Creating Service Learning Research Projects to Study Social Justice*, 2 Asian J. LEGAL EDUC. 100 (2015).

<sup>17</sup> Frank Dignan, Richard Grimes & Rebecca Parker, *Pro Bono and Clinical Work in Law schools: Summary and Analysis*, 4 Asian J. LEGAL EDUC. 1 (2017).

<sup>18</sup> Clarence J. Dias, *Legal Aid in Asia: A Basic Human Right*, 1985 THIRD WORLD LEGAL Stud. 89 (1985).

<sup>19</sup> Nidhi Sharma, *Clinical Legal Education in India: A Contemporary Legal Pedagogy*, 8 INDIAN J.L. & Just. 165 (2017).

Stallybrass states that the law universities should provide the students with such training which gives a man the power to handle and deal with everyday problems, develop administration capabilities and not merely endeavour towards imparting education that is only vocational in nature.<sup>20</sup>

Considerable strides have been made in legal education since India's independence, yet many significant issues need to be addressed. There is a dearth of quality teachers who lack a sense of commitment towards the institutions. The reasons for this are aplenty, such as overburdening them with administrative responsibilities leading to limited class room preparations, research and publications.<sup>21</sup> Hence the quality of legal training that is offered through legal aid clinics suffers.

It is for this reason, that Professor Upendra Baxi had raised his concerns that law school would not be in a position to produce a league of new generation of lawyers who would take up social issues and work for the underprivileged. Resonating these views, Professor Dr. Madhava Menon had said that legal aid is that pedagogic tool through which a spirit of public service could be infused into the students.<sup>22</sup> Yet, legal aid still struggles to find a foothold in today's legal education system. Legal aid is yet to be made mandatory and fully incorporated into India's clinical legal education.<sup>23</sup>

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<sup>20</sup> W. T. S. Stallybrass, *Law in the Universities*, 1 J. Soc'y PUB. Tchrs. L. n.s. 157 (1948).

<sup>21</sup> Lovely Dasgupta, *Reforming Indian Legal Education: Linking Research and Teaching*, 59 J. LEGAL EDUC. 432 (2010).

<sup>22</sup> Shuvro Prosun Sarker, *Empowering the Underprivileged: The Social Justice Mission for Clinical Legal Education in India*, 19 INT'L J. CLINICAL LEGAL EDUC. 321 (2013).

<sup>23</sup> Sital Kalantry, *Promoting Clinical Legal Education and Democracy in India*, 8 NUJS L. REV. 1 (2015).

As mentioned by Richard Grimes, the law schools need to provide legal aid that is on par with what is provided by the state. The role of the clinic is a very prominent one and the clinics need to raise the level of legal literacy and assist the general public.<sup>24</sup> There are clear interlinkages in terms of achieving a twin fold objective of legal aid clinics in law school. Hence this paper, uses the literature and the case study method to verify whether these aspirations of fulfilling the dual mandate are in consonance to each other.

### **Part I: Conceptualizing legal aid practices through an ontological approach**

An ontological approach is a qualitative research methodology that is used to bring clarity through hierarchical deconstruction, for the logical construction of a problem. The aim of ontology is to provide reasoned, deductive account of the things that exist.<sup>25</sup> An ontology brings out the exact nature of the elements to a problem, that is simply presumed most of the times. An Ontology brings out the conceptual overview of a problem.<sup>26</sup>

The method of ontology is based on logic and has the following benefits:

- Makes the research systematic
- Helps in reformulating the problem

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<sup>24</sup> Richard Grimes, *Accessing Justice: The Role of Law School Legal Clinics in Conflict-Affected Societies*, 1 Asian J. LEGAL EDUC. 71 (2014).

<sup>25</sup> L.M. Given, L. M., *The sage encyclopaedia of qualitative research methods* (2008).

<sup>26</sup> A.J. Mills, Durepos & E. Wiebe, *Encyclopaedia of case study research* (2010).

- Brings together the issues in a coherent manner

The below framework encapsulates the various dimensions of legal aid elements that are practised through the law school legal aid clinics and activities. The framework is a derivative of discussions with experts from the academia and the judiciary who have contributed to the area of legal aid in India. Such frameworks are a result of not only discussions, but also follows the process of validation in order to ensure that the framework is complete and comprehensively capture all aspects of legal aid. Hence in this section, legal aid which is within the larger framework of clinical legal education has been deconstructed in three ways, firstly through review of the relevant literature, discussions with experts and a priori knowledge of the authors of engaging with legal aid activities at the institutional level. The framework is an important aspect which is used to map the aspirations from the key policy documents in Section-II.

As depicted below, in *Figure 1*, the framework puts speculations into 'methodologically informed observations'.<sup>27</sup> The framework has been arranged into level 1, level 2 and level 3. Level 1 depicts the dimensions such as Legal education, Level, Activity, Actors and Outcome. Level 2 depicts elements such as Clinical, Undergraduate, Post Graduate, Curricular, Co-Curricular Extra-Curricular, Students, Faculty Members, Administrators, Community, Regulators, Judiciary, Practitioners,

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<sup>27</sup> S.G. Hoffman & V. Kumar, 'Ontology. In: Paul Atkinson, ed.' (2020).

Justice, Holistic Learning and Employability. Level 3 depicts the sub elements of the main elements such as Legal aid, Social and Economic aspects.

Figure 1: Framework for mapping legal aid in institutions imparting legal education

Legal Education		Level		Activity		Actors		Outcome
Clinical	[for]	UnderGraduate	[through]	Curricular	[by/with]	Students	[for]	Justice
Legal Aid		Post-Graduate		Co-Curricular		Faculty		Social
Non Clinical				Extra-Curricular		Administrators		Economic
						Community		Holistic Learning
						Regulators		Employability
						Judiciary		
						Practitioners		

Every taxonomy, when read, encapsulates a complete meaning in itself. Hence the above framework depicts  $3 \times 2 \times 3 \times 7 \times 5 = 630$  pathways to deal with aspects of legal aid which forms a part of the Clinical legal education. Every statement when read from the left to the right with various permutations and combinations is capable of giving a complete meaning in itself. For example: Clinical Legal Education [for] Undergraduate level [through] Curricular activity [by/with] Students [for] Social Justice. Legal Aid [for] Post Graduate [through] Extra-Curricular [by/with] Faculty [for] Holistic learning and so on.

## **Part II: Mapping the aspirations to the ontological framework**

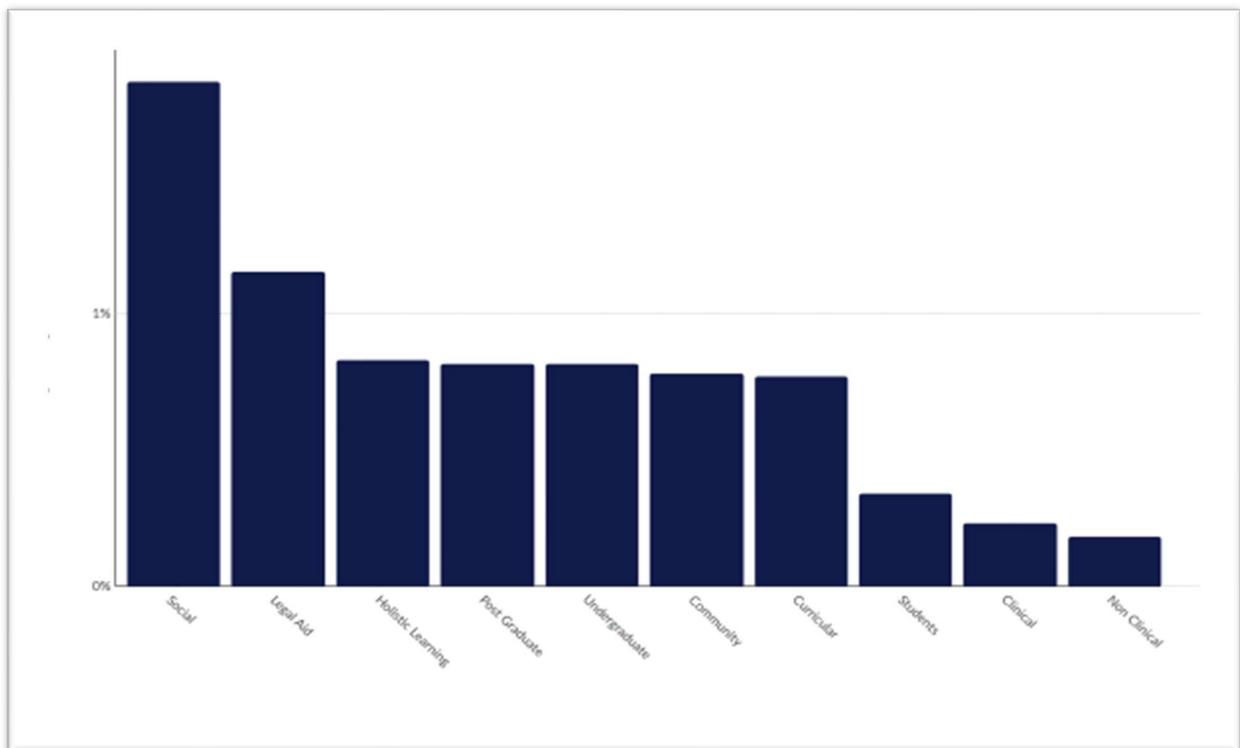
This section, synthesizes the aspirations of the key policy documents to the ontological framework. Upon the logical deconstruction of the key components in the form of a framework, elucidated in the previous section, this section, picks the key elements of the framework from the policy documents which are then mapped together in order to help visualize patterns and draw reasoned conclusions.

Essentially the framework is used to understand and analyse how many times these elements appear in the policy documents to determine the weightage that has been accorded by the policy makers. Every dimension inclusive of elements and sub-elements of the framework were mapped using binary coding from the key documents of legal education in India. Binary coding is a method in which the key policy documents are kept vertically and all the elements of the ontology are placed horizontally. If any elements appearing in the ontology are aspired in the documents, they are coded as 1 and in its absence are coded as 0. This helps in deriving maps that shows how many times, the elements and sub-elements appear in the policy documents which helps in analysing and arriving at conclusions.

The following chart is a depiction of the expectations that the key policy documents aspired for. The chart helps in visualizing patterns in the coded taxonomies elaborated in the ontological framework. Any element of the framework which were present in the key documents were mapped to derive at patterns. These patterns are in the form of a hierarchy chart that depict the aspirations that have unfolded through the key

documents. This map (Figure 2) sets the context to verify, through the case study approach in Part-III, to understand if institutional practices match the state of aspiration.

Figure 2: Hierarchy Chart



An analysis of the framework and its subsequent coding, connotes the aspiration of the documents perused here. The chart indicates, that there is an aspiration for integrating legal aid into the curriculum as a clinical paper. It elaborates that legal aid practices are to be pursued both at the undergraduate and post-graduate level with the intention of advancing social justice goals. It indicates that, it is essential that while

students are involved in legal aid activities, community needs are fulfilled and at the same time enable holistic learning amongst the students.

The objective of legal aid is twofold according to the reports, that while it keeps the end result of achieving social justice in mind it equally provides an opportunity to the students to be sensitive to the needs of the society. The reports do not make distinction between students of undergraduate and post graduate domains in respect of their involvement in legal aid activities. On observation it is found that legal aid activities were to be incorporated into the curriculum as a clinical paper. The law schools have a very categorical role to play in fulfilling the needs of the society. The law school, from where the vast majority of the professionals such as judicial officers, lawyers, social workers, administrative officers graduate year after year, have a responsible role to play in the society. Through involvement in legal aid activities, it provides the students an opportunity to not only deal with the problems faced by the common man but also prepare them to deal with their professional challenges and commitments in future.

The mapping of the documents to the dimensions, elements and sub elements of the ontology, gives us clarity as to the key aspirations of the documents which provides impetus to the arguments that are advanced with the help of review of literature. The hierarchy chart has been instrumental in verifying the common objectives of legal aid, thus providing succour to the commonalities and the inconsistencies that exist between the key mapped documents and the reviewed literature . This is further

verified in the next section with the case study of two unique and different types of institutions.

### **Part III: Case analysis of institution I and institution II**

Case study is adopted to capture the complexity of specific cases within a defined boundary and space. Typically, in a case study which is conducted in an educational set-up, captures specific components such as the institution programmes and any activity that is usually carried out in its natural setting. Such observations enable the researcher to derive at logical and coherent conclusion about such cases.<sup>28</sup> A case study involves the selection of the case samples, strengthening the arguments with evidences and finally analysing the cases.<sup>29</sup> The idea of a case study is to understand and analyse concepts and situations from within the set-up rather than an external view.<sup>30</sup> At the same time, comparative case studies, also may be conducted to compare and draw similarities, contradictions and patterns across dual or multiple cases.<sup>31</sup>

#### **University 1: the setting**

University 1 (U1) is an institution which was established with the vision of imparting education that is in alignment to global standards. With diversity in the courses that

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<sup>28</sup> M. Tight, *'Origins and Applications of Case Study. In: Understanding Case Study Research: Small-scale Research with Meaning* (2017).

<sup>29</sup> R.K. Yin, *'How to do Better Case Studies: Handbook of Applied Social Research Methods'* (2009).

<sup>30</sup> A.J. Mills, Durepos and E. Wiebe, *'Encyclopaedia of case study research'* (2010).

<sup>31</sup> *Id.*

it offers, it has maintained standards in delivering quality legal education in India. The courses are in consonance with the Bar Council of India Rules and Regulations. They have been designed with a view to meet the interdisciplinary challenges of today's context. U1 not only ensures achievement in academic excellence, but also fosters scholarship through research and collaborations.

### **Legal aid practices at University I**

The legal aid clinic of U1 was established with the objective of empowering and engaging with the communities through awareness programmes and offer legal solutions. The clinic envisions the objective of achieving 'social justice' through varied activities, programmes and projects. At the same time, it wishes to afford an opportunity to the law students to apprise them with the ground level realities and to use the instrument of law to usher 'social change'. The activities of the clinic are not just confined to offering legal solutions to problems but moves beyond that and strives towards providing solutions to an entire range of socio-legal problems prevalent in the country. The clinic has a dual mandate, firstly, creating awareness and secondly, providing legal aid. The clinic has taken an active role in engaging with people from the lower socio-economic strata, and in particular children. These activities are conducted by the students as an extension activity.

The clinic has been instrumental in filing public interest litigations (PIL's) before various forums for the purpose of social cause. They have even undertaken projects to look at the efficacy of the legal aid clinics in India. The Legal aid clinic regularly

organizes conferences and conclaves both at the national and international level on areas that revolves around rural governance, legal aid clinics and human rights issues. The activities also extend towards making recommendations through policy changes to various governmental departments. The clinic has made use of technology in order to effectively reach out to the community and has always been vocal in supporting the cause of the marginalized community. The clinic intends to reach out to more legal aid clinics across the country through its initiatives in the forthcoming days. Due to the innumerable activities undertaken, the clinic as well as the students are recipients of various awards for the considerable work that they are doing for the society. Hence the activities of the legal aid clinic of U1 is varied and diversified.

### **University II: the setting**

University II (UII) is one of the oldest institutions that imparts legal education in India which was established right after India's independence. The vision of UII is aligned towards achieving excellence in education to ensure an inclusive society. Whereas its mission is oriented towards integrating theoretical knowledge and practical skills in teaching and research. The Vision and Mission are aligned to make legal education accessible and inculcate social sensitivity amongst its students. The students of the institution are from diverse backgrounds who hail from different socio-economic, rural, semi-urban and urban background. The programme offers single course at the undergraduate and post graduate level since its very inception. The institution is

established in a multi-disciplinary set-up, but with limited interactions with other disciplines.

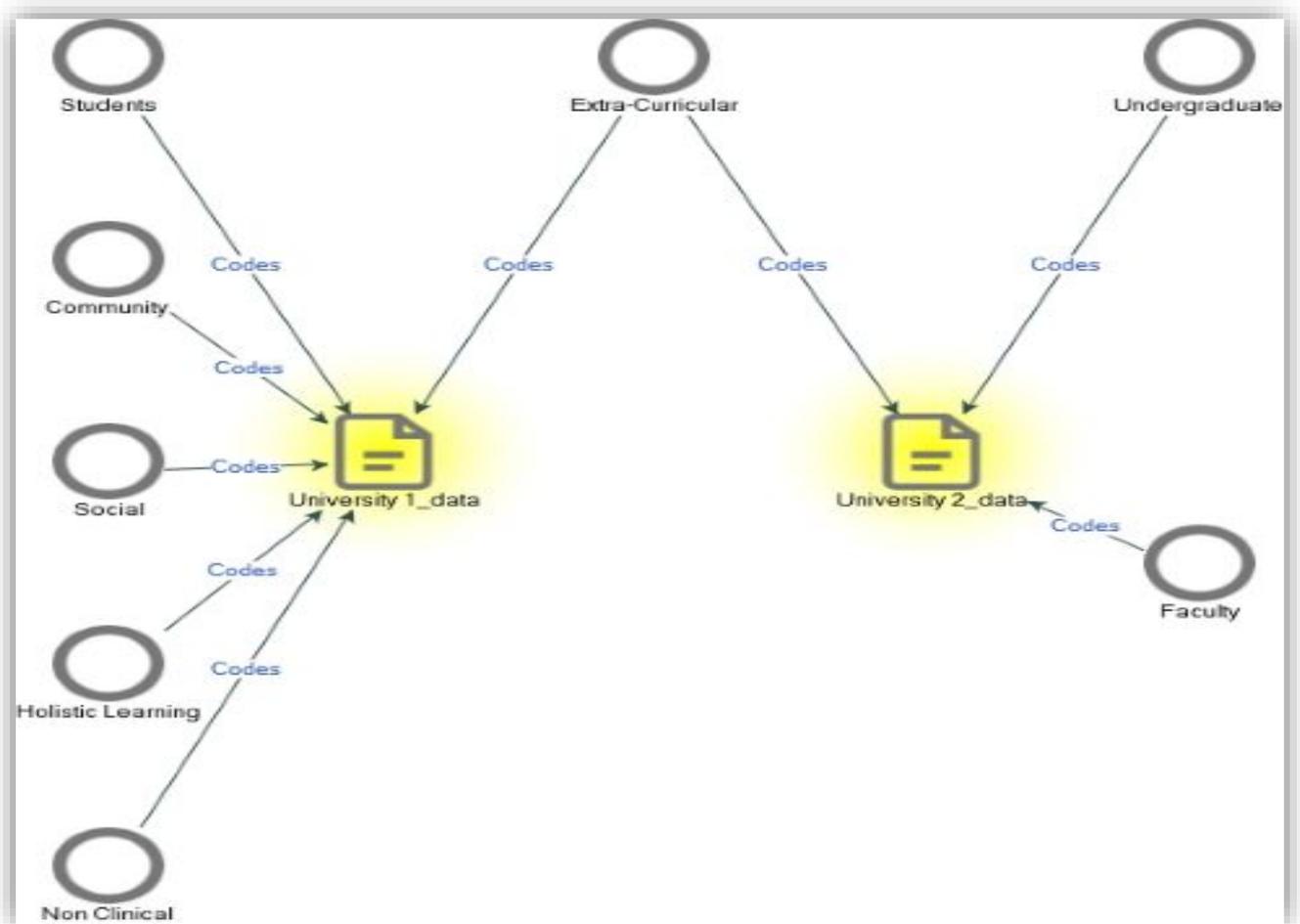
*Legal Aid Practices at University II*

Annual legal aid camps are conducted by UII where the students of the undergraduate courses are taken to a village annually. There the programmes are split into two aspects, legal awareness and legal aid. During these camps, legal awareness is rendered by the faculty members in the village community spaces covering topics such as malnutrition, hygiene, consumer related issues and various social welfare legislations. Secondly, the students visit the village, collect information on various issues that the villagers face through a questionnaire and submit the same to the concerned faculty members for future action. In such camps, the role of the student is limited in terms of conducting the survey who are unsure of the outcome of such exercise. The institution lacks an active legal aid clinic on campus, with a non-functional legal aid structure situated on campus. The reports of legal aid activities are not available in the public domain nor do they provide any information on how such activities contribute to student learning. The annual legal aid camps are a co-curricular activity, which is conducted to/ with the aid of final year students.

### Analysing University I and University II: the commonalities and the distinctions

In order to understand the gaps that exist between the aspirations and practice, the case of University I and University II are analysed in reference to the framework. A comparative analysis of both of these universities is also carried out to identify the commonalities and the differences that exists between these two types of institutions. With innumerable institutions offering legal education in India, it is important to map such commonalities and distinctions in its legal aid practices.

Figure 3: Comparative analysis between University 1 and University II



## **University I and University II: the commonalities**

### *An extension activity*

Legal aid practices at both the institutions are conducted as an extra-curricular activity. With no course credits being accorded to them, they largely remain an activity that is carried outside the scope of the academic programmes. The students along with specific faculty members carry out the activities more as a requirement to fulfil the mandate of the Bar Council of India. The legal aid activities are not integrated into the curriculum either as a clinical course nor is it offered as an optional or value added course. This connotes that the mandatory regulation of establishing a legal aid clinic on campus have been duly carried out by both the universities. Nevertheless, without its integration into the teaching-learning mechanisms. Hence, while carrying out the legal aid activities, it is largely left to the discretion of the interested students to engage themselves and contribute to/ through the society. Whereas the aspirations (*Figure 1*) indicates the incorporation of legal aid into its curriculum as a clinical paper.

There is a level of seriousness that is attached to any subject when it is integrated into the curriculum. This motivates and affords an opportunity to the students to work towards their overall development and at the same time contribute to the society. With legal aid activities, being largely left to the discretion of individual students, it may not be in a position to achieve its end outcome. With activities spread, without any specific objective and plan of action, the institutions will not be able to meet the aspirations of ensuing an egalitarian society nor will it be able to garner the support

### *Reviewed Article*

and attention of the student community. The student resources, if properly channelized can be effectively used in making contributions to the society. The idea of sensitizing the students to the needs of the society may largely remain elusive, if legal aid is not taken up seriously by the Universities that offer legal education.

### *Undergraduate level*

The uniqueness of University I and University II lies in its diversity of programmes that are offered at the undergraduate, post-graduate and at the research level. Despite, the variety of its courses and programmes, legal aid activity is largely confined to the under-graduate level. There exist no distinctions in the aspirations of the framework, when it came to involving the students at both undergraduate and post graduate level. The framework casts an incumbent duty on the Universities to carry out the legal aid activities in alignment to its Vision and Mission statement.

A deviation is seen in both UI and UII in terms of involving the students from across the undergraduate and post graduate programmes in its legal aid activities. These distinctions create barriers for the effective functioning of the legal aid clinics and clearly acts as an impediment to clearly understand and effectuating the objective of achieving social justice.

## **University I and University II: the distinctions**

### *Community engagements*

The common attribute of legal aid practices at UI and UII is to engage with the community. Nevertheless, the legal aid clinic of UI has been engaging with the community in continuum whereas UII's activities are confined to conducting annual legal aid camps. The activities of UI is not only vast but varied as well. The campus has an active legal aid clinic which is run with the help of student volunteers and in-charge faculty coordinators. Every day, time is dedicated by the students to spend time in the legal aid clinics to render legal advice to clients who walk-in. Additionally, the students participate in continuous legal awareness programmes throughout the year on topics that are diverse and relevant. Social justice projects are undertaken for creating access to justice and are actively involved in the filing of public interest litigations. The trend connotes involvement in activities that are essentially outside the scope of extra-curricular activities, but also suggests involvement in research related activities. Hence UI is actively engaged with the community on a continuous basis. These activities to an extent are in alignment with the objectives of the legal aid clinic.

Whereas in UII, the vision and the mission is oriented towards social sensitivity, but does not offer an in-depth objective that is aligned towards social justice goals. In order to develop a sense of empathy towards the society, yearly legal aid camps are conducted at nearby villages. The activities are annual events with minimal

intervention of the students. As awareness programmes are usually rendered by the faculty members, the role of the student is confined to filling questionnaires based on the responses of the village members on a single day. Hence how much of sensitivity is developed in the final year students in less than half a day is something that needs to be contemplated upon. This shows a lack of follow-up actions that need to be conducted by the students to look at the problems that are reported by the students through the questionnaire. All though some awareness is conducted through the National Service Scheme (NSS) activities, but much cannot be said about its effectiveness.

*Holistic learning*

Involvement of students on a continuous basis with diversified activities are crucial in the learning and development process. There are various skills, both hard and soft that are important for a law student, as they fit into multiple roles and responsibilities in the society as 'social engineers'. Engaging with the community on a continuous basis ensures in development of the requisite skill-set and at the same time in shaping the personality of the individual student who is involved in legal aid activities. With limited and intermittent legal aid activities, it may not necessarily lead to holistic learning and development of a student, a trend which is visible in UII in sharp contrast to U1.

The Vision and the Mission statement of UII is limited to the overall development of the student. No doubt it does mention about training the students of law, but it is not

specifically oriented towards the overall development of the individual student. The Vision and the Mission statements reflect training the law student for incorporation of specific skills such as lawyering skills through moot court activity. In traditional Universities, more focus is given towards honing the skills of a student, specifically in training them in lawyering skills.

### **Conclusions and recommendations**

There are clear distinctions between the aspirations that are embodied through the literature and the framework. When these aspirations are compared to the case studies of the universities that are presented and analysed herein. The aspirations can be summarized as follows:

[Clinical Legal aid] for/at [Under Graduate] and [Post Graduate] level through [Curricular] Activity by/with [various actors] for [social Justice] and [holistic learning].

Contrary to the aspiration, the following summarizes the ground level realities of legal aid that are found through the present case study approach:

[Legal Aid] at [Under Graduate] level through [Extra-Curricular] Activity by/ with [students/faculty].

Hence there is a need for the Universities in consultation with the regulatory authorities to define the clinical component of practical training of students through

legal aid activities. Involvement of the students is beneficial not only in meeting the demands of the societal needs but also aid in developing the individual self. The above analysis, indicates a trend that there is minimal involvement of students. With limited focus towards legal aid activities, it is not achieving and may not be able to achieve in future its actual objectives and aspirations. The above framework and comparative study provides the foundation for various Universities across India to see if legal aid activities are achieving the desired results. It will also be instrumental in answering critical questions such as how it is able to translate to social justice and if not, why it is not able to achieve the constitutional mandate of social justice.

Hence the following Recommendations have been suggested:

1. Integration of legal aid as a clinical paper. This brings in sufficient focus towards the activities of legal aid by the institution
2. According credits for conducting legal aid activities. Due to which there will be an element of seriousness amongst the students to strive towards making such activities meaningful
3. Involvement of students of law both at the undergraduate and post graduate level from the first year onwards gives the students sufficient time to engage with the community and build their professional commitments around the ethics that is built over the years through their involvement in legal aid activities

4. Integration into the curriculum as Optional papers/ Bridge Courses or value added Courses. These courses give them the option to explore legal aid activities to make informed choices
  
5. The Universities in consultation with the relevant stakeholders to define the objectives and outcomes and ensure its compliance through regular audits. This brings is accountability amongst the institutional stakeholders