REFORMING IP EDUCATION IN INDIAN LAW SCHOOLS

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Abstract: Government research and education policy, how it is implemented and how its effects are measured, is a vital ingredient for many developing countries seeking to enhance their capacity for legal research and education, and this applies notably in the field of intellectual property (IP). Lessons from practical experience may guide future policymakers in the developing world. As a case study in the challenges for policymakers, this paper outlines recent developments in India, in particular shortcomings in IP research and education in Indian law schools, with a particular focus on the relatively low research output of IP research Chairs established by the Indian government. The paper starts with a general discussion on problems affecting Indian legal education, and the attempt to establish National Law Universities to rectify these problems. The paper then focuses on specific criticisms of the research Chairs made by a government-appointed committee, as well as certain observations mentioned in India's National IP Policy. The paper concludes by discussing recommendations made by the author, along with some colleagues, to a committee of experts that drafted the Policy, and offers broader observations on the challenges confronting policymakers seeking to strengthen IP research and education.

***Key words*:** India, IP, teaching, research, National Law Universities.

1. INTRODUCTION

Early examples of Indian IP law scholarship included some high-quality treatises written by practitioners. For example, in the 1920s, Prosanto Kumar Sen, a barrister educated at the universities of Calcutta and Cambridge, wrote a well-researched treatise on colonial-era IP laws, which also made references to Hindu laws and customs.[1] At the time, according to a British judge who wrote the foreword to the book, the 'law of monopolies' was 'one of the least studied of the various branches of jurisprudence.'[2] Some decades later, Kew Edwin Shelley, born as Krishto Kumar Bonnerjee,[3] an Oxford-educated King's Counsel who had appeared in prominent English IP cases[4], co-authored the ninth and tenth editions of the classic work *Terrell on Patents*.[5] In 1971, P. Narayanan, an experienced trade mark examiner, published a popular treatise on Indian trade mark law.[6]

Yet Indian IP law scholarship was largely dormant for most of the 20th century, especially at universities. Writing in the 1980s, the eminent scholar Upendra Baxi remarked that there had been 'scant juristic attention' devoted towards IP law in India.[7] However, Baxi noted 'some signs of change', identifying at least three developments.[8] First, that some leading universities were offering courses in IP law. Second, that Delhi University — in those days, probably the top law school in India — had 'at long last' established a specialist Chair in IP law.[9] Third, that WIPO was beginning to engage with Indian academics. In this regard, Baxi noted that an Indian academic had been awarded a fellowship by WIPO. Baxi also remarked that he himself had been able to enrich his knowledge through a 'chance encounter' with senior officials at WIPO, including its then Director-General Arpad Bogsch.[10] Baxi thus prophesised that the future would witness 'the emergence of mature scholarly concern' in India in relation to IP law.[11]

Today, there is much in Baxi's prophesy that has been fulfilled. To start with, many of India's leading law schools, including the elite National Law Universities (NLUs),[12] offer IP law as a compulsory course on their

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[1] Prosanto Kumar Sen, *The Law of Monopolies in British India* (MC Sircar, Calcutta, 1922).
[2] Ibid, vii (foreword by Dawson Miller).
[3] Shelley belonged to an illustrious family and happened to be a paternal grandson of Womesh Chunder Bonnerjee, the first President of the Indian National Congress. See Janaki Agnes Penelope Majumdar, *Family History* (OUP 2003) 94.
[4] See, eg, Football League v Littlewoods [1959] Ch. 637.
[5] Thomas Terrell and Kew Edwin Shelley, *Terrell and Shelley on the Law of Patents* (Sweet and Maxwell, 9th edn, 1952); Thomas Terrell and Kew Edwin Shelley, *Terrell and Shelley on the Law of Patents* (Sweet and Maxwell, 10th edn, 1961).
[6] P Narayanan, *Law of Trade Marks and Passing Off* (Eastern Law House, Calcutta, 1971). While Narayanan also wrote similar textbooks on copyright and patent law, his work on trade mark law is arguably better regarded.
[7] Upendra Baxi, 'Copyright Law and Justice in India', (1986) 28 Journal of the Indian Law Institute 497.
[8] *Id.* 498.
[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] See Manish Arora, *Universal's Guide to LLB Entrance Examination* (Universal, New Delhi 2009) 5-13 (listing India's leading law schools); *CLAT e-Brochure*

five-year undergraduate programmes.[13] A few NLUs even allow students to pursue a BSc LLB (Hons) degree, which includes science subjects, instead of the standard BA LLB (Hons) degree.[14] Crucially, graduates of such courses become eligible to appear for the qualifying examination for patent agents in India, as the Indian government has attempted to debar those who do not hold a science degree from appearing for the examination.[15] In 2006, the Indian Institute of Technology (IIT) in Kharagpur, one of India's premier science and engineering institutes, set up the Rajiv Gandhi School of Intellectual Property Law (RGSOIPL). RGSOIPL's establishment was proposed and funded by Vinod Gupta, a prominent Indian-American entrepreneur and IIT alumnus. RGSOIPL offers a specialised, three-year LLB in IPR (Hons) degree, and is open only to holders of science and engineering degrees.[16] In addition to bachelor of laws degrees, an increasing number of NLUs and other law schools in India have begun to offer specialised postgraduate (LLM) degrees in IP law.

Since 2001, India's Ministry of Human Resource Development (MHRD) — until recently, the Ministry handling matters concerning copyright — has established specialised IP Chairs in several universities across India, including five NLUs (in Bangalore, Hyderabad, Calcutta, Jodhpur and Bhopal).[17] Considerable prestige is attached to these Chairs, and they are entitled to generous assistance from the Indian government. Meanwhile, every year from 2004 onwards, an Indian academic has been funded by WIPO and the WTO to attend the WIPO-WTO Colloquium for Teachers of Intellectual Property in Geneva. The participants have included some of India's leading IP academicians.

However, while the state of IP law teaching and research in India has advanced greatly since the time Baxi wrote his paper, it is arguably riddled with deficiencies. In this paper, I will highlight some of these flaws and put forward a few solutions to rectify them, with a focus on the NLUs. My analysis is divided into two sections. In the first section, I will start with a general discussion on problems plaguing Indian legal education and the NLUs. In the second section, I will discuss specific criticisms of the MHRD Chairs by a government-appointed committee, as well as certain observations mentioned in India's National IPR Policy. I will mention a few recommendations submitted by myself and my colleagues at the Jindal Global Law School (JGLS) to the National IPR Think Tank, which prepared the draft version of the Policy.

2. THE NEGLECT OF LEGAL EDUCATION IN INDIA

Historically, India's top lawyers were educated in England and qualified as barristers from the Inns of Court in London. In British India, barristers enjoyed certain privileges over Indian-qualified lawyers (a 'hated monopoly' now abolished).[18] As one legal historian writes, 'barristers, at first almost exclusively English, commanded enormous prestige — and enormous fees.'[19] In contrast, 'native practitioners' were 'held in lower esteem, commanded lesser fees' and had 'to scratch out their livings in inferior tribunals.'[20] Thus, meritorious students in British India often aspired to study law in England and qualify as barristers, with students of wealthy means doing so at family expense and others on a scholarship. Several Indian barristers went on to become renowned lawyers and political leaders,[21] as well as judges of higher courts.[22]

<http://clat.ac.in/index.php/8-general/11-brochure> accessed 26 May 2017 (a page with brochures of various NLUs).

[13] This is apparent from the course listings on the websites/brochures of these law schools, such as the National Law School of India University in Bangalore (<https://www.nls.ac.in/index.php?option=com_content&view=article&id=40&Itemid=25> accessed 26 May 2017), the National Academy of Legal Studies and Research University in Hyderabad (<http://www.nalsar.ac.in/pdf/undergraduate-programme.docx> accessed 26 May 2017), and the West Bengal National University of Juridical Sciences in Calcutta (<http://clat.ac.in/files/brochure/05%20ARTICLE%20-%20WEST%20BENGAL.pdf> accessed 26 May 2017).

[14] An example is the Gujarat National Law University in Gandhinagar. According to its brochure, its BSc courses include courses on microbiology, pharmaceutics and information technology. (<http://clat.ac.in/files/brochure/08%20ARTICLE%20-%20GUJRAT.pdf> accessed 26 May 2017).

[15] See Prashant Reddy, 'Does the Madras High Court judgment on S. 126 allow advocates without science degrees to become patent agents?' *Spicy IP* (16 April 2013) <https://spicyip.com/2013/04/does-madras-high-court-judgment-on-s.html> accessed 26 May 2017.

[16] See Tejinder Singh, 'IIT Kharagpur Law School Signs MoU with GWU, Vin Gupta Funds Exchange' *India American Today* (4 August 2015) <http://www.indiaamericatoday.com/article/iit-kharagpur-law-school-signs-mou-with-gwu-vin-gupta-funds-exchange> accessed 26 May 2017.

[17] The other universities with the Chairs comprise six of the IITs (in Kharagpur, Delhi, Bombay, Madras, Kanpur and Roorkee), three of India's prestigious Indian Institutes of Management (IIMs) (in Ahmedabad, Bangalore and Calcutta), the Jawaharlal Nehru University (a university particularly renowned for social sciences research), the University of Delhi, the University of Madras, the University of Tezpur (in the state of Assam), the Delhi School of Economics, and the Cochin University of Science and Technology (in the state of Kerala).More details about the Chairs are available at <http://mhrdiprchairs.org>.

[18] See Nirmalendu Dutt-Majumdar, *Conduct of Advocates & Legal Profession: Short History* (Eastern Law House, Calcutta 1974) 40 (quoting KM Munshi).

[19] Charles DiSalvo, *MK Gandhi, Attorney at Law: The Man Before the Mahatma* (University of California Press, 2012) 23.

[20] *Id.*

[21] For example, Motilal Nehru, Mahatma Gandhi, Jawaharlal Nehru, BR Ambedkar, Sardar Vallabbhai Patel, Womesh Chunder Bonnerjee, Chittaranjan Das and Sarat Chandra Bose.

[22] For example, Justices MC Chagla, Syed Fazl Ali, Sudhi Ranjan Das and Vivian Bose.

Shortly after Indian independence, a government commission chaired by Sarvapalli Radhakrishnan (a noted educationist who would go on to become the President of India), identified the above system as one of the reasons for the neglect of legal education and research in India. The commission observed that the 'opportunity… for original, stimulating study of law hardly existed' in India, as graduates of Indian law schools were historically employed in 'clerical, minor or routine legal services'.[23] The commission thus remarked: 'We have no internationally known expounders of jurisprudence and legal studies. Our colleges of law do not hold a place of high esteem either at home or abroad nor has law become an area of profound scholarship and enlightened research.'[24] The committee also observed that law teachers in India often had 'no real abiding interest in teaching' and missed their lectures.[25] The commission recommended that it was 'imperative' for independent India to 'develop high grade colleges of law, manned by real scholars' and 'give emphasis to this subject second to none.'[26]

In the early decades of independent India, policymakers focused on creating a new set of elite institutions funded generously by the central government. Prominent among these were the IITs (the first of which was established in Kharagpur, in 1951), the All India Institute of Medical Sciences (AIIMS) (established in New Delhi, in 1956) and the IIMs (the first of which was established in Calcutta, in 1961). However, no comparable institution devoted to legal studies was established. A crude guess could be that India's policymakers, under the leadership of Prime Minister Jawaharlal Nehru, did not view law as a subject that could contribute to India's planning and development in the same way as the sciences, engineering or management could.[27] Perhaps they further believed that India's existing law schools were adequate to meet local needs, and that the cream of students would anyway train in England as barristers.

The effect of this apathy, whatever the reasons may have been, was that the quality of legal education continued to suffer. The extent of the poor state of affairs was revealed in three studies sponsored by the Ford Foundation (in the 1950s, 1960s and 1970s respectively), where heads of Indian law schools themselves admitted that the standards of students, faculty and infrastructure were very low.[28] Meanwhile, a report by the Law Commission of India was similarly critical.[29] However, reforming legal education remained 'low priority' for the Indian government.[30] On the contrary, the Bar Council of India (which accredits Indian law schools) permitted hundreds of 'assembly-line law colleges' to operate across India.[31] In comparison, mainly due to the success of the IITs and IIMs, courses in science and management arguably grew to be perceived as more prestigious.[32]

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[23] Report of the University Education Commission, vol 1 (1948-9) 257.

[24] *Id.*

[25] *Id.* 258.

[26] *Id.*

[27] Some quotes by Nehru are revealing. Delivering the first convocation address at IIT Kharagpur, Nehru had said:

> [T]he time has now come when the Engineer plays an infinitely greater role than anybody else …. [T]he major work of the country today deals with ... engineering schemes of various types. We are building up a new India and the administrator who is completely ignorant of engineering does not help much in administering.

Convocation address by Jawaharlal Nehru at the Indian Institute of Technology, Kharagpur, 21 April 1956 <http://www.scholarsavenue.org/news/convocation-address-by-shri-jawaharlal-nehru-at-the-first-annual-convocation-held-on-21st-april-1956> accessed 28 May 2017.

In contrast, in an article written in 1933, Nehru had remarked of lawyers: 'Nothing could be more absurd than the lawyer's mentality, which ignores life and the vital economic issues and can only proceed on the basis of status quo and precedents…he seems to be incapable of looking ahead.' Jawaharlal Nehru, *Whither India* (Kitabistan, Allahabad 1933).

See also Rajeev Dhavan, 'Means, Motives and Opportunities: Reflecting on Legal Research in India', (1987) 50 Modern Law Review 725 (commenting that the Indian government has displayed 'an instrumental bias for scientific and technological subjects' over law).

[28] Jayanth Krishnan, 'Professor Kingsfield Goes to Delhi: American Academics, the Ford Foundation, and the Development of Legal Education in India' (2004) 46 American Journal of Legal History 447. In 1956, the Ford Foundation sponsored a delegation, headed by the then Dean of Stanford Law School, to study the state of legal education in India. The then Dean of the Lucknow University Law Faculty informed the delegation that the major problems with Indian legal education included 'irregular [class] times…low attendance rates by students who faced little if any disciplinary action for missing classes, poor testing methods by instructors, inadequate facilities, outdated curricula, and second-rate instructors who were paid below-average salaries' (ibid 452). In 1967, the Ford Foundation engaged a professor, from Georgetown Law School, in a similar study. The study particularly focused on the Law Faculty at Benaras Hindu University, one of the oldest Indian universities. The study observed that the University's library facilities were 'completely inadequate', the quality of students 'extremely low', and the faculty of similarly low standard, capable only of delivering 'dry' lectures (ibid 464). In 1971, the Ford Foundation again engaged a US law professor (this time from UC Berkeley) for another similar study. The study reported the familiar problems of inadequate library facilities and 'lack of faculty scholarship', but also identified another important defect — few, if any, graduates from Indian law schools secured well-paying jobs (ibid 468-71).

[29] The report was published in 1958 and, among other things, criticised the state of Indian legal education as 'extremely defective' and 'not calculated to produce either jurists or competent legal practitioners.' *Id* 456.

[30] *Id* 470.

[31] *Id.* 474.

[32] The IITs and IIMs have gone on to produce alumni of international repute. Their entrance examinations are among the most competitive on the world. See 'Lakhs of Students Appear for JEE Main Test', *Financial Express* (10 August 2015)

Today, the poor-quality 'assembly-line' variety of law schools dominate the Indian legal education scene.[33] Nevertheless, the establishment of the NLUs, beginning with the founding of the National Law School of India University in Bangalore, has certainly introduced a culture of meritocracy in legal education.[34] Much like the IITs and IIMs, the NLUs admit students through a highly competitive entrance examination.[35] And if the traditional criticism of Indian law schools was that its graduates were of mediocre quality and did not secure high-paying jobs, the NLUs have been criticised for producing graduates who disproportionately opt for lucrative careers in the corporate world.[36] Thus, a more updated, accurate comment on the state of Indian legal education was given a few years ago by the then Prime Minister Manmohan Singh, who remarked: 'We do have a small number of dynamic and outstanding law schools, but I am afraid they remain islands of excellence amidst a sea of institutionalised mediocrity.'[37]

Of course, a similar criticism can be levelled at universities in other fields of study,[38] and even the IITs and IIMs have been criticised for various shortcomings.[39] Yet, it can be argued that the state of legal education is particularly worrisome because the NLUs suffer from deficiencies in faculty quality and research output[40] that

<http://www.financialexpress.com/article/industry/jobs/lakhs-of-students-appear-for-jee-main-test/60559> accessed 26 May 2017; Rohit Kapoor, 'CAT 2014: 16 People are 100 Percentilers; 1 in 47 Exam Takers Can Get Into an IIM', *Economic Times* (27 December, 2014) <http://articles.economictimes.indiatimes.com/2014-12-27/news/57441318_1_cat-2013-cat-2014-common-admission-test> accessed 26 May 2017.

[33] In a shocking case, three senior members of the Bar Council of India were recently convicted by a court for receiving bribes to accredit law schools of poor quality. As one commentator points out, this is emblematic of a larger problem. See Kian Ganz, 'Bribery case exposes the rot in legal education' *Mint* (26 July 2016) <http://www.livemint.com/Politics/oS1IH3Hf1bc5dSMmD4fYVP/Bribery-case-exposes-the-rot-in-legal-education.html> accessed 28 May 2017.

[34] For a historical background on the establishment of the NLUs, see Krishnan (n 28) 473-85; NR Madhava Menon, *Turning Point: The Story of a Law Teacher* (Universal, New Delhi 2009) 45-53, 63-70. In a nutshell, In the late 1960s, NR Madhava Menon, a law professor at Delhi University, grew distressed by the deteriorating quality of legal education in India. In 1969, Menon took a year-long sabbatical and visited Columbia Law School. Menon was greatly impressed by the quality of education at Columbia and the prestige attached to the study of law in the US. Menon attempted to replicate such a system in India and create a law school with a curriculum 'as rigorous as any engineering or medical school curriculum', where bright students would aspire to study (Krishnan (n 28) 479). After lobbying with lawmakers and the Bar Council of India for many years, Menon was able to gather enough funds, including a grant from the Ford Foundation, and establish the National Law School of India University in Bangalore, in 1987.

[35] In 2017, around 50,000 students appeared for the entrance examination, for a limited number of seats. See Arun Kumar, 'CLAT 2017 records 93% attendance, Kashmir 90.38%', *Hindustan Times* (16 May 2017) <http://www.hindustantimes.com/education/clat-2017-records-93-attendance-kashmir-90-38/story-yHxBMAtOdUajgRw8sOLPUL.html> accessed 28 May 2017.

[36] See Ajay Gudavarthy, 'Tailored for the Corporates?', *The Hindu* (2 November 2004) <http://www.hindu.com/2004/11/02/stories/2004110203131000.htm> accessed 28 May 2017.

[37] Speech by Manmohan Singh at the Conference of National Consultation for Second Generation Reforms in Legal Education, New Delhi, 2 May, 2010 <http://pib.nic.in/newsite/erelcontent.aspx?relid=61265> accessed 28 May 2017. In a similar vein, a working group of the Knowledge Commission of India, a government-appointed body, had observed:

> A number of law schools have been offering quality legal education. However, the most immediate challenge is to improve the quality of legal education in a vast majority of law schools in the country. This task entails a range of measures including reforms in the existing regulatory structure, significant focus on curriculum development keeping in mind contemporary demands for legal services, recruitment of competent and committed faculty, establishing research and training centres, necessary financial support from the State, and creating necessary infrastructure, especially a well-endowed library. See Knowledge Commission of India, Report of the Working Group on Legal Education, 5 March 2007 <http://knowledgecommissionarchive.nic.in/downloads/documents/wg_legal.pdf> accessed 31 May 2017.

[38] On the whole, the standard of higher education in India has lagged behind global standards. Even elite Indian universities have seriously underachieved in international university rankings due to poor research output — an issue that the President of India has raised concern over repeatedly. See, eg, Naveed Iqbal, 'Pranab Mukherjee Calls for Academic System Revamp, Says No Indian Varsity in World Top 200', *Indian Express* (18 November 2014) <http://indianexpress.com/article/india/india-others/pranab-mukherjee-calls-for-academic-system-revamp-says-no-indian-varsity-in-world-top-200/> accessed 27 May 2017; 'President Pranab Mukherjee tells India institutions to take global ranking process seriously' *Indian Express* (8 December 2016) <http://indianexpress.com/article/india/president-tells-india-institutions-to-take-global-ranking-process-seriously-4415935/> accessed 27 May 2017.

[39] See, eg, Raghu Mahajan, 'So Much for So Little?', *Outlook* (6 July 2015) <http://www.outlookindia.com/magazine/story/so-much-for-so-little/294650? accessed 27 May 2017; Apoorva Pathak, 'Why IITs can't stand up to competition' *DailyO* (8 September 2016) <http://www.dailyo.in/politics/iit-qs-world-rankings-reuters-top-universities-education-engineering-colleges-india/story/1/12828.html> accessed 27 May 2017; Kavita Chowdhury, 'Jairam Ramesh says IITs, IIMs good only because of students', *India Today* (23 May 2011) <http://indiatoday.intoday.in/story/jairam-ramesh-slams-iits-says-they-are-good-because-of-students/1/139030.html> accessed 27 May 2017.

[40] Shamnad Basheer, a former NLU professor and NLU alumnus, has pointed to 'the lack of a serious research culture, top-notch faculty, barring a few; and lack of good infrastructure and other resources', and suggested that the main redeeming feature of the NLUs is that their students tend to be 'bright kids' (see Kian

are more serious in comparison to the IITs and IIMs.[41] Furthermore, the NLUs suffer from a harmful anomaly — despite their national character, all NLUs have been established by state governments rather than central governments, which limits their ability to receive funding. Indeed, responding a string of controversies at various NLUs, including complaints about the quality of faculty and infrastructure,[42] the student bodies of three leading NLUs recently issued a joint statement identifying this as the root cause of the problems facing NLUs. Claiming that scarcity in funding was undermining the ability of NLUs to hire quality faculty at suitable salaries, as well as carry out large research projects, the statement called for NLUs to be given the status of 'Institutes of National Importance' — a status bestowed on the IITs, IIMs, and various science and engineering institutes.[43] In August 2017, a Member of Parliament introduced a bill to this effect.[44]

Few would dispute that, if granted levels of funding comparable to the IITs and IIMs, various problems affecting the NLUs are likely to be solved. However, the experience with the MHRD Chairs shows that even with greater funding from the central government, the levels of research at NLUs may not necessarily improve, unless certain reforms are undertaken.

3. IP EDUCATION AT NLUS AND SCOPE FOR REFORM

There are, at present, twenty NLUs in India (with a few more starting in the near future). Of these, four NLUs (in Bombay, Nagpur, Shimla and Trichy) are less than five years old and are yet to see an undergraduate class graduate. Eleven other NLUs were established between 2003 and 2010 (Cuttack, Delhi, Gandhinagar, Guwahati, Kochi, Lucknow, Patiala, Patna, Raipur, Ranchi and Vishakapatnam). Five NLUs were established between 1987 and 2001 (Bangalore, Bhopal, Calcutta, Hyderabad and Jodhpur), and also happen to have been awarded MHRD Chairs. Considering that the last group of NLUs are the oldest of the pack, and have also specifically received funding for IP research, they ought to form an appropriate sample by which we can gauge the state of IP teaching and research at NLUs.

The MHRD Chairs were established as one of several initiatives following India's accession to the WTO TRIPS Agreement. The Chairs were set up with three broad objectives — to promote the study and research of IPRs,

Ganz, 'CLAT: A Filter that Needs Replacing', *Mint* (16 June 2015) <http://www.livemint.com/Politics/Ir3dzlAiKQchbfYxaJqVbP/CLAT-A-filter-that-needs-replacing.html>) accessed 28 May 2015. Senior administrator's at NLUs have highlighted similar problems, observing that very few alumni of NLUs opt for careers in research and teaching in India. See, eg, Anuj Agarwal, 'In Conversation with Dr Ranbir Singh, Vice Chancellor of NLU Delhi', *Bar & Bench* (12 July, 2012) <http://barandbench.com/content/212/conversation-dr-ranbir-singh-vice-chancellor-nlu-delhi#.U6LVPk2IrIU> accessed 28 May 2017; Anuj Agarwal, 'In Conversation with Dr Professor Amita Dhanda, NALSAR', *Bar & Bench* (17 January, 2013) <http://barandbench.com/content/212/conversation-professor-amita-dhanda-nalsar#.U6LWcE2IrIU> accessed 28 May 2017; 'UGC Nod for 1-year LLM from 2013', *Times of India* (14 October, 2012 <http://timesofindia.indiatimes.com/home/education/news/UGC-nod-for-1-year-LLM-from-2013/articleshow/16802384.cms> accessed 28 May 2017 (quoting NR Madhava Menon).

[41] While this is perhaps a subjective statement reflecting my personal experience and sentiments, a reasonably objective measure to support this assertion could be a comparison of how NLUs have fared in global university rankings vis-à-vis the IITs and IIMs. Not one Indian law school features in the current ranking of the world's top 300 law schools by Quacquarelli Symonds (QS), or has ever featured in previous versions of the ranking. See QS Law Rankings <https://www.topuniversities.com/university-rankings/university-subject-rankings/2017/law-legal-studies> accessed 28 May 2017. In comparison, despite their shortcomings, the IITs and IIMs still manage to feature in at least a few international rankings compiled by QS, as well as by Times Higher Education. See, eg, Apratim Chatterjee, '17 Indian institutes in THE World University Rankings 2015-16; IISc among top 300', *Careers 360* (1 October 2015) <http://www.university.careers360.com/news/17-indian-institutes-in-world-university-rankings-2015-16-iisc-among-top-300-122036> accessed 28 May 2017. 'IIT Madras, Kanpur added to the QS ranking of top 50 universities in Asia' *Firstpost* (15 June 2016) <http://www.firstpost.com/india/iit-madras-kanpur-added-to-the-qs-ranking-of-top-50-universities-in-asia-2835600.html> accessed 28 May 2017; 'ISB, IIM-A among top 100 world's best MBA schools: FT ranking 2017', *Indian Express* (30 January 2017) <http://indianexpress.com/article/education/isb-iim-a-among-top-100-worlds-best-mba-schools-ft-ranking-2017-4499372/> accessed 28 May 2017.

[42] See, eg, 'Day before his re-appointment, VC Ishwara Bhat got a terrible report card from most NUJS students' *Legally India* (28 September 2016) <http://www.legallyindia.com/lawschools/renewed-nujs-vc-ishwara-bhat-gets-bad-report-card-from-almost-all-nujs-students-20160928-8001> accessed 28 May 2017; Prachi Srivastava, 'Students have locked down NUSRL Ranchi campus for 24h now over perennial cash crunch, mismanagement' *Legally India* (11 April 2017) < http://www.legallyindia.com/lawschools/nusrl-ranchi-s-function-of-poverty-students-lock-out-admin-faculty-demand-admin-overhaul-20170411-8433> accessed 28 May 2017.

[43] See Kian Ganz, 'Inspired by NUSRL: NLS, Nalsar, NUJS student councils unite under groundbreaking manifesto that could make every single NLU better, if successful' *Legally India* (14 April 2017) <http://www.legallyindia.com/lawschools/nls-nalsar-nujs-student-councils-unite-under-groundbreaking-manifesto-that-could-make-every-single-nlu-better-if-successful-20170414-8449>.

[44] See Prachi Shrivastava, 'DSNLU student-drafted NLU bill now introduced in Lok Sabha for 'National Importance' status to NLUs' *Legally India* (4 August 2016) < http://www.legallyindia.com/home/dsnlu-student-drafted-nlu-bill-now-introduced-in-lok-sabha-for-national-importance-status-to-nlus-20170804-8706>.

to create awareness about IPRs through conferences and workshops, and to train government officials.[45] Within these objectives, the Chairs were also expected to provide inputs to the government in international negotiations and create 'knowledge resources'.[46] Thus, it is apparent that carrying out research was only one of the objectives of establishing the Chair. Furthermore, no specific targets were set in terms of research outcomes. In terms of staff, funding was provided for one Chair professor, two research assistants, one stenographer-cum-documentation assistant, and one junior employee. Additional funding was provided for buying books and other facilities.[47] Among the NLUs, the first Chair was established in Bangalore in 2001, and the remaining four in 2008.[48] The funding received by the Chairs was generous by Indian standards, averaging around INR 10 million.[49]

Some years after the establishment of the Chairs, a government-appointed review committee submitted a report where it scrutinised the working of the MHRD Chairs. The report by the committee stated:

> [The] Activities of most of the chairs have been limited to organising one or two day seminars/workshops or delivery of a few lectures by the IPR Chair. All Chairs seems [*sic*] to have awareness creation which needs to be appreciated considering that very few Indian universities dealt with the basics of IPR in their curriculum earlier. The research component has been weak and this may be due to non-availability of researchers and lack of identification of research areas. There is very little evidence of published research papers.[50]

The report did not specify the events organised and the research output (or lack of it) at the various universities. The Centre for Internet and Society, a well-known non-governmental organisation, filed freedom of information requests to various universities endowed with the MHRD Chairs to gather more information about their activities. While the responses listed various seminars and workshops conducted, they seemed to be silent on the details of research output.[51] To investigate further, I recently visited the websites of the concerned NLUs and searched for publications by the present MHRD Chair professors since their year of appointment to the Chair. Two NLUs (Calcutta and Jodhpur) do not have an MHRD Chair professor (an issue I will address later), and were thus excluded from my search. Among the remaining NLUs, two (Bangalore and Bhopal) do not list publications by faculty members. While the website of the other NLU (Hyderabad) does list faculty publications, it is always possible that the list may be outdated. Thus, to address this possible flaw, I also searched the following book and article repositories: Google Books, Google Scholar, Hein Online, Westlaw, SCOPUS and JSTOR. Google Books indexes more than 25 million books, while Google Scholar indexes more than 100 million articles (according to one estimate, around 90 percent of all articles published in English).[52] Hein Online, Westlaw, SCOPUS and JSTOR collectively index most, if not all, of the world's most prestigious and widely read English-language journals in law and the social sciences.

For the sake of brevity, my detailed findings have not been reproduced here, but are available online as a Google document.[53] In a nutshell, my search vindicated the review committee's observations. The Chairs at the NLUs in Bangalore and Bhopal seem to have generated precious little by way of research, although Hyderabad fared better.

As a disclaimer, the search results could fail to reflect several relevant factors. First, it is possible that some of the research conducted by the Chairs may not be in the public domain.

Second, some less prominent journals may not be indexed in the databases searched above.[54] It is also possible (though quite unlikely) that some of the Chair professors have published research in Indian languages, thus missing the radar of the databases searched above.

Third, as seen earlier, conducting research was only one of the purposes for which the MHRD Chairs were set up. It is equally important for the Chairs to organise conferences and seminars, and such events are no doubt valuable. Even the review committee praised the Chairs for organising such events. In the case of NLSIU, for

[45] See Sudhir K Jain, TC James and JK Agarwal, Report of the Evaluation Committee on Continuation of the Scheme of Intellectual Property Education, Research and Public Outreach (IPERPO) in the XII Five Year Plan 2012-17 (2013), para 5 (hereafter 'MHRD Review Committee Report').

[46] *Id*. para 6.

[47] *Id.* para 8.2.

[48] *Id.* para 8.1.

[49] The funding allocation has been explained well in a post by the Centre for Internet and Society. See Nehaa Chaudhari, 'MHRD IPR Chairs — Underutilization of Funds and Lack of Information Regarding Expenditures' Centre for Internet and Society (19 November 2014) <http://cis-india.org/a2k/blogs/mhrd-ipr-chairs-underutilization-of-funds-and-lack-of-information-regarding-expenditures > accessed 29 May 2017.

[50] MHRD Review Committee Report (n 45) para 9.

[51] Nehaa Chaudhari 'RTI Responses - MHRD IP Chairs: Details of Funding & Expenditure' Centre for Internet and Society (31 January 2015) <http://cis-india.org/a2k/blogs/mhrd-ipr-chairs-underutilization-of-funds-and-lack-of-information-regarding-expenditures > accessed 29 May 2017.

[52] Madian Khabsa and C Lee Giles, 'The Number of Scholarly Documents on the Public Web', (2014) 9 PLOS ONE.

[53] The data is accessible at goo.gl/X7nEUv.

[54] For example, a regular Google search revealed that, in 2014, the Chair professor at NLU Bhopal had published an article in an IP journal published by NLIU (Ghayur Alam, 'Qualifications of Copyright Candidate in India', (2014) NLIU Journal of Intellectual Property Law 17). For the Google search, I used the search string +"ghayur alam" +"intellectual property".

example, several conferences and seminars have been organised by the Chair.[55] It is also possible that the Chairs were requested, formally or informally, to place more emphasis on organising conferences, thus taking away the time available for research. Indeed, the Indian government's Department of Industrial Policy and Promotion (which handles IP-related matters and was recently assigned the MHRD's copyright-related matters) recently announced its intention to organise over 4,000 IP awareness workshops across India — an indication of the government's priorities.[56]

Fourth, along with organising conferences, the MHRD Chairs have also offered distance education courses at affordable prices, making IP law education more accessible in India.[57] These projects fulfil an important social obligation, and must also have been time-consuming to carry out.

Fifth, as another component of the agenda of awareness creation, the Chairs at NLSIU, NALSAR and NLIU have all published journals on IP law, with contributions from scholars across India and even some overseas scholars.[58]

Sixth, the Chairs were also set up to support the Indian government in international negotiations.[59] Such activities too are extremely valuable, and limit the time available for research and publications.

Seventh, teaching workloads at Indian law schools, including NLUs, have traditionally been high, limiting the ability of faculty members to carry out research.

Eighth, along with teaching, Chair professors have also been involved in administrative and leadership roles. For example, the Chair professors at Bangalore, Hyderabad and Bhopal all serve as directors of research centres at their respective institutes, but their centres also carry out various non-research related activities.[60] The Chair professor at Hyderabad took leave from NALSAR for around a year as the Dean of RGSOIPL, when the School was in a fledgling state.[61]

Ninth, as noted by the review committee, there may have been a non-availability of research assistants (which led the committee to recommend that higher salaries be offered).[62]

Nevertheless, even if we make such allowances, the overall scenario is still disappointing. Apart from low research output, the review committee had also observed that some universities had been unable 'to find a suitable Professor-level person to occupy the IPR Chair', due to a paucity of scholars with doctoral degrees

[55] See, eg, Conference on 'IP Valuation & Securitization' (18 September 2010) <https://nls.ac.in/resources/Finalbrochure.pdf> accessed 29 May 2017; Conference on 'America Invents Act 2011' (9 January 2012) <https://www.nls.ac.in/resources/newacademicprogramme/9thjanuary2012programme.pdf> accessed 29 May 2017; National Conference on 'access to copyrighted works for persons with disability' (26 November 2015) <https://www.nls.ac.in/resources/year2015/cipraconf2015.pdf> accessed 29 May 2017; National Conference on 'Affordability, Availability, Accessibility of Medicines and IPR' (5 January 2016) <https://www.nls.ac.in/resources/year2015/mhrdmedipr2015.pdf> accessed 29 May 2017; Two Day Workshop on 'Copyright Limitations and Exceptions for Libraries and Archives' (4-5 March 2016) <https://www.nls.ac.in/resources/year2016/progcopyrightforlibraries2016.pdf> accessed 29 May 2017; A Panel Discussion on 'IPR Regime in a Healthy and Innovative India' (25 April 2016) <https://www.nls.ac.in/resources/year2016/iprpaneldiscussion2016.pdf> accessed 29 May 2017; Round Table on 'Evolving Jurisprudence on Patent Remedies (PatRem)' (25-26 March 2017) <https://www.nls.ac.in/resources/year2017/patrem2017.pdf> accessed 29 May 2017.

[56] 'DIPP scheme to raise IPR awareness; 4,300 programme in 3 yrs', *India Today* (2 June 2015) <http://indiatoday.intoday.in/story/dipp-scheme-to-raise-ipr-awareness-4300-programme-in-3-yrs/1/969546.html>.

[57] NALSAR offers distance courses in patents law, cyber and media law (details of which can be accessed at <http://www.nalsarpro.org>), while NSLIU offers a distance course in IP law (details of which can be accessed at <https://www.nls.ac.in/index.php?option=com_content&view=article&id=55%3Aoverview&catid=6%3Aacademic-programmes&Itemid=71>

[58] The Chair at NSLIU publishes the Intellectual Property Review (details of which can be accessed at https://www.nls.ac.in/index.php?option=com_content&view=article&id=55%3Aoverview&catid=6%3Aacademic-programmes&Itemid=7), the Chair at NALSAR publishes the Indian Journal of Intellectual Property Law (details of which can be accessed at <https://www.nalsar.ac.in/IJIPL/Home/Home.html>), and the Chair at NLIU publishes the NLIU Journal of Intellectual Property Law (details of which can be accessed at <https://nliujournalofiplaw.wordpress.com>)

[59] For example, the NALSAR Chair advised the Indian government on the WIPO Broadcasting Treaty (see VC Vivekanandan, Statement by India on 'Broadcast Treaty' at the Standing Committee on Copyright and Related Rights: Thirtieth Session (29 June -3 July 2015)). <http://www.pmindiaun.org/pages.php?id=1134> accessed 29 May 2017.

[60] The research centre at NSLIU is the Centre for Intellectual Property Research and Advocacy (<http://www.iprlawindia.org>), at NALSAR the NC Banerjee Centre for Intellectual Property Rights studies (<https://nalsar.ac.in/n-c-banerjee-centre-intellectual-property-rights-studies>) and at NLIU the Cell for Studies in Intellectual Property Rights (<https://www.nliu.ac.in/cell/csipr/csipr-main.html>).

[61] Recently, the Chair professor has again taken leave to serve as the inaugural Dean of a new private law school. See 'Bennett University partners with Cornell Law School for BBA+LLB' *Economic Times* (1 June 2017) <http://economictimes.indiatimes.com/industry/services/education/bennett-university-partners-with-cornell-law-school-for-bballb/articleshow/58951782.cms>.

[62] MHRD Review Committee Report (n 45) para 14(iii).

in IP.[63] These two issues cropped up at a meeting organised by the MHRD with various academicians, in February 2014 (to which I was invited, along with some colleagues at JGLS). At the meeting, several suggestions were put forward on improving the working of the Chairs, such as greater transparency in appointing the Chairs and limiting the teaching hours of Chair professors to enable them to carry out research.[64] Regrettably, little, if any, headway was made in implementing these suggestions. Later that year, I brought the matter to the attention of a young lawyer working as a legislative assistant, who in turn informed a Member of Indian Parliament about it. The Member found the issue serious enough to raise in Parliament. The Member asked the following question to the then Minister heading the MHRD:

> (a) whether the Government is aware of the problems faced by the Intellectual Property Rights Chair Professors such as weak research components, research publication, lack of suitable Professor level personnel as observed in the Five Year Plan;
>
> (b) if so, the details thereof;
>
> (c) the details of the Intellectual Property Rights Chair Professors in the universities across the country;
>
> (d) whether there are any vacancies for the
>
> above positions in the universities and if so, the details thereof, University-wise; and
>
> (e) whether the Government is taking any remedial measures in this regard and if so, the details thereof ?[65]

Unfortunately, there was a technical error in the way the question was asked, for while the MHRD Chairs were funded under the Indian government's Five Year Plan, the observations in question were made in a separate report by the committee reviewing their working, rather than in the Five Year Plan itself. In response, the Minister avoided questions (a) and (b) by simply stating, 'The current Five Year Plan document does not contain these observations specific to Intellectual Property Rights Chair Professor[s]'.[66] The Minister answered question (c) by listing universities with serving Chair professors. She answered question (d) by stating that five universities — including the NLUs in Calcutta and Jodhpur — did not have serving Chair professors (incidentally, a situation that continues over two-and-a-half years since). The Minister answered question (e) by stating that certain faculty members in these universities (some at the level of assistant professor) were acting as co-ordinators and undertaking the activities of the Chair. Thus, taking advantage of a technical error in the question, the Minister —or, more likely, the bureaucrat framing the reply — essentially avoided addressing the problems facing the Chairs.

In fairness, the issue was quite minor to be addressed by the Minister, considering the more pressing issues confronting higher education in India. However, an excellent opportunity to revisit the issue occurred when the Indian government established the National IPR Think Tank. The Think Tank was established in October 2014, under the new administration of Prime Minister Narendra Modi. Prominent members of the Think Tank included its Chairperson, Justice Prabha Sridevan (who served as a Judge of the Madras High Court and as Chairperson of the Intellectual Property Appellate Board), Pratibha Singh (a Senior Advocate specialising in IP litigation, now a judge of the Delhi High Court), and Narendra Sabharwal (a former bureaucrat who served as the Deputy Director General of WIPO). The Think Tank had been assigned the task of drafting a National IPR policy. In December 2014, the Think Tank released a draft version of the Policy. The draft Policy discussed a vast range of topics, one of which was 'Human Capital Development'. Under this head, the draft Policy declared its broad objective to be to 'strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IP.'[67] In the context of the MHRD IPR Chairs, the draft Policy mentioned the need to 'energise' the Chairs to promote 'high quality teaching and research'.[68] In a welcome step, the draft Policy also mentioned the need to 'evaluate their work on performance based criteria.'[69] However, the Think Tank did not make any concrete recommendations on how this was to be achieved.

Following the publication of the draft Policy, the Think Tank sought comments from the public. My colleagues and I at JGLS' Centre for Intellectual Property Rights and Technology Law (CIPTEL) submitted comments on all aspects of the draft Policy.[70] In February 2015, we were invited to make a presentation before the Think Tank.

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[63] *Id*. para 9.

[64] Nehaa Chaudhari, 'Mapping Institutions of Intellectual Property (Part A): India's National Programme on Intellectual Property Management' *Centre for Internet and Society* (10 June 2014) <http://cis-india.org/a2k/blogs/mapping-institutions-of-intellectual-property-part-a> accessed 29 May 2017.

[65] Question by Jagadambika Pal, Member of Parliament, Lok Sabha (17 December 2014) <http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=8891&lsno=16> accessed 29 May 2017.

[66] Statement by Smriti Irani, Minister for Human Resource Development, Lok Sabha, (17 December 2014) <http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=8891&lsno=16> accessed 29 May 2017.

[67] National IPR Think Tank, Draft National IPR Policy (19 December 2014) 23 <http://dipp.nic.in/English/Schemes/Intellectual_Property_Rights/IPR_Policy_24December2014.pdf> accessed 29 May 2017.

[68] *Id* 24, para 7.3.

[69] *Id.*

[70] See CIPTEL, Comments on the Draft National IPR Policy (30 January 2015) <https://spicyip.com/wp-content/uploads/2015/03/CIPTEL-Jindal-Global-Law-School-Comments-on-Draft-IP-Policy.pdf>.

During the presentation, we chose to highlight our recommendations relevant to teaching and research. With respect to the MHRD Chairs, we made several recommendations.

First, we recommended that the hurdle of not finding an appropriate Chair Professor could be met by waiving the requirement of a doctoral degree and/or seniority in suitable cases (such as where an individual has substantial practical experience or a strong research record).[71] There was already a precedent of this happening with on Chair professor (at the NLU in Calcutta).[72] On testing the Chair professor's research output applying the criteria I used for the MHRD Chairs earlier, I obtained a result showing a comparatively prolific output.[73]

The second recommendation we made is that the Chairs should be set specific publication targets. We recommended that a list of well-regarded journals be compiled, and that the Chair professors be expected to publish a minimum number of articles in these journals. We recommended that the list of journals be prescribed in advance to offset the problem of articles being published in 'predatory' journals of dubious quality, a phenomenon on the rise in India.[74]

The third recommendation we made, as a corollary to the second, is that the Chair professors should not be burdened with high teaching workloads (ideally, not more than four hours a week) and be provided with ample opportunities for research leave.

Our fourth recommendation was that stringent reviews be undertaken to measure the research output of the Chairs. If a Chair is found to have fallen short of expectations, the Chair can be transferred to another university through a transparent, competitive bidding process. As only a handful of universities have been awarded the Chair, and the number of NLUs has increased, we argued that such a process will create healthy competition between NLUs. As an example, NLU Delhi is widely regarded as a leading NLU with an IP faculty of good quality, but has not been awarded an MHRD Chair. Here, it should be noted that even the review committee had suggested that Chairs be taken away from universities unable to appoint a suitable Chair Professor.[75] We also recommended that private universities be allowed in the bidding process, citing the example of the renowned Indian School of Business in Hyderabad, which has ranked alongside the leading IIMs in world rankings of business schools, sometimes even outranking them (disclosure: JGLS, though established under a state government statute, also happens to be a private university). It is also worth mentioning that the Indian government is currently working on a scheme to designate the ten best public and private universities in India as 'Institutes of Eminence', and assist them in achieving world-class standards. At the very least, the ten private universities selected by the government can be allowed to in the bidding process.[76]

Among the many other recommendations made by CIPTEL, we recommended that a system be devised whereby academicians can undertake secondments at law firms, companies or non-governmental organisations to learn about contemporary practices and trends. We felt that this could solve the problem of the Chairs being, as claimed by the review committee, unable to identify suitable research topics.

In mid-2016, the Indian government published the final version of the National IPR Policy. To our disappointment, the final Policy merely repeated the draft Policy's recommendations and did not elaborate further.[77] None of CIPTEL's suggestions found a mention. Whether our suggestions were ignored by the Think Tank, or by the government, can only be a matter of conjecture.

4. CONCLUDING OBSERVATIONS

The establishment of the NLUs has changed Indian legal education for the better. However, the functioning of the MHRD Chairs shows that the NLUs lag behind in IP law research. A commentator on the *Spicy IP* blog has remarked: 'The current (non) working of the MHRD IPR Chairs is one of the many ways the country is holding back on development of IPR research and policy in the country.'[78] This remark may seem a little harsh, given

[71] *Id.*

[72] Shamnad Basheer, founder of the Spicy IP blog, was appointed as the MHRD Chair at the NLU in Calcutta. At the time of his appointment, in 2008, Basheer was still a doctoral candidate at Oxford University (though nearing completion) and significantly younger than the usual age at which faculty members are appointed as professors at NLUs. Basheer resigned from his position prematurely, reportedly after differences with the administration. See 'Prof Shamnad Basheer quits NUJS after losing "trust" in "vindictive" VC' *Legally India* (2 January 2014) <http://www.legallyindia.com/lawschools/shamnad-basheer-quits-nujs-20140102-4210> accessed 29 May 2017.,

[73] The findings are accessible at goo.gl/X7nEUv.

[74] See GS Seethapathy and others, 'India's scientific publication in predatory journals: need for regulating quality of Indian science and education', (2016) 111 Current Science 1759.

[75] MHRD Review Committee Report (n 44) para 14(viii).

[76] 'Select Indian institutions to become "Institutes of Eminence"' *Business Standard* (18 August, 2017) <http://www.business-standard.com/article/news-ians/select-indian-institutions-to-become-institutes-of-eminence-117081800750_1.html>.

[77] Government of India, National Intellectual Property Rights Policy (2016) <http://dipp.nic.in/sites/default/files/National_IPR_Policy_English.pdf> 18, para 7.2. accessed 29 May 2017 (hereafter 'National IPR Policy').

[78] Arundhati Venkatraman, 'MHRD IPR Chairs- The Anarchy and Hollow Attempt at Development of IPR in India' *Spicy IP* (21 February 2015) <https://spicyip.com/2015/02/mhrd-ipr-chairs-the-anarchy-and-hollow-attempt-at-development-of-ipr-in-india.html> accessed 29 May 2017.

that the Chairs have been active in areas other than research. However, in any sphere of higher education, research output must surely be one of the primary criteria by which the performance of a research chair ought to be judged. That Indian policymakers seem to have looked past the problem, and not imposed systems of transparency and accountability, is indeed unfortunate.

While the challenges outlined in this paper, and the recommendations I have discussed, relate very much to the distinctive Indian context, there may be elements of this experience that may be relevant for policymakers in other developing country settings. For instance, it may be helpful in some circumstances to accept a certain flexibility in formal credentials in order to attract promising younger scholars, or academics with a broader background (considering also the importance of teaching and research in IP beyond strictly the teaching of lawyers as such - a matter discussed by other contributors in this volume [references], indeed exemplified in the backgrounds of some contributors. This case study also highlights the challenges of measuring academic impact, both through quantitative and qualitative measures of publications, and setting research outputs against other expected contributions of IP academics, some of their own backgrounds). The foreword to this edition of the WIPO WTO Colloquium Papers points out that one purpose of the WIPO WTO Colloquium series, and the rationale for the development of this very journal, are found in the need to work with emerging scholars in developing countries to improve their research writing and to bolster their academic publication skills. WIPO and WTO collaboration in this area, and the promotion of collaborative networks of scholars, could also help to overcome shortfalls in quality academic publications in the IP field from scholars in the developing world. Indeed, the National IPR Policy has also emphasised the need to 'strengthen IP teaching, research and training in collaboration with WIPO, WTO, other international organisations and reputed foreign universities.[79] After all, it is vital for developing countries to have intellectually independent and domestically rooted, but internationally connected and informed, IP scholars and analysts, and teachers, so as to ensure that countries do have the wherewithal to consider, review and implement policy options that are consistent with the international framework but are suitably tailored for domestic needs and circumstances; and to ensure a skilled workforce in private practice and in public policy, so that the domestic IP system is designed, administered and used in a way that better ensures it delivers on its intended social benefits, again in a way that reflects the distinctive needs and context of individual developing countries.

[79] National IPR Polcy (n 77) para 7.1.

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