



WRITING REQUIREMENTS, STUDENT ASSESSMENT AND PLAGIARISM IN INDIAN LAW SCHOOLS

By Jonathan Gingerich and Aditya Singh

The Bar Council of India (BCI) noted in a June 8 press release that plagiarism is a widespread problem in Indian law schools and law colleges. This was the first official acknowledgement of a phenomenon widely recognized by teachers and students. The BCI asked law schools to take steps to prevent plagiarism and announced that it would support the use of plagiarism detection software.

We are conducting an extensive empirical study on student evaluations and academic integrity in law schools and colleges all over India. In addition to conducting an online survey of law students across the country, we have visited a cross section of law schools and traditional law colleges in all regions of India, where we have interviewed students and teachers about the extent and causes of plagiarism. While our initial findings support the BCI's conclusion that plagiarism is a pervasive problem in Indian legal education, they also indicate that the causes of this problem are deep and law schools cannot adequately address the issue with anti-plagiarism software alone.

THE EMERGENCE OF WRITING REQUIREMENTS IN LEGAL EDUCATION

Traditionally, student evaluation in Indian legal education has revolved around annual final exams. Some institutions, like the University of Delhi, experimented in the 1950s and 1960s by requiring students to write papers for their courses as part of a tutorial system. However, by the 1970s, these experiments had been abandoned and, as a rule, law faculties and colleges assessed their students solely through final examinations.

The most recent implementation of writing requirements for law students began with the

establishment of National Law School of India University (NLSIU). Since it was founded, NLSIU has required its students to write "research projects" (or "term papers") in every course of study.

Now, most five year law programs at national law universities, of which there are currently fourteen, and private law schools, require students to write a significant number of research papers as part of their law school coursework. Indeed, many institutions require their students to write a paper of around 5,000 words in every course that they take, with students often taking five or six courses a semester. These schools seek to advance several objectives by requiring their students to write a significant number of research projects: improving students' writing skills, teaching students how to perform effective legal research, increasing academic rigor, and encouraging students to learn about substantive areas of law that are not taught in class.

THE PREVALENCE OF PLAGIARISM

While the introduction of writing requirements in the past two decades has certainly increased the quantity of written work by students, it has also occasioned the emergence of widespread plagiarism in law schools. Students and teachers at almost every law school with a writing requirement that we visited told us that seventy percent or more of students routinely turn in plagiarized papers (often called "copy-paste"), and most of the students with whom we spoke have readily acknowledged that they plagiarize some or most of their papers.

Students commonly plagiarize by copying and pasting an article from the Internet or an electronic database, by copying chunks of a few different articles

and stringing them together, or by taking papers written by students at their own law school or another law school in a previous year and submitting these papers as their own. Sometimes, and especially when they are worried that plagiarism detection software might be used, students modify some of the material they have copied or paraphrase the papers they have obtained from older students. The BCI's concern that plagiarism pervades legal education therefore seems well founded.

CAUSES OF PLAGIARISM

Students plagiarize research papers for a wide variety of reasons, and the reasons for plagiarism vary from school to school and class to class. Many students told us that some, or even most, of their teachers do not read the research projects that students submit. Even if teachers do read them, they do not provide any helpful feedback to students. Students have repeatedly told us that they are likely to plagiarize projects where they doubt that their teachers will take the time to read and think about their writing. An overwhelming majority of students point out that they are most motivated to do high-quality, original work for teachers they know will thoughtfully read their papers and tell them what they have done well and poorly.

A second cause of copying is that students feel that they do not have sufficient time to write all of the projects assigned to them. When students are asked to write 5,000 words or more for each subject in a semester, often with deadlines clustered closely together, they feel that it is impossible to do original work in every subject. Furthermore, at many colleges, students have class for as many as thirty-five hours per week. Together with the time that students spend on extracurricular activities, like moot courts, law journals, and writing papers for conferences, this leaves students little time to write original research projects for all of their courses. The length and quantity of research projects exacerbates the problem of inadequate feedback to students from teachers, as teachers are unable to closely read and comment on twenty or thirty page projects from all of the students in their classes,

which can have up to 120 students. It is unsurprising that many students who have spoken to us have said that they will do lots of work to write original papers in the one or two subjects that interest them most each semester and are fairly evaluated, but that they do not do original work for projects for other subjects.

Penalties for plagiarism tend to be light and are almost never enforced. Even when teachers detect that a student has submitted a plagiarized project, they will most commonly respond by simply admonishing the student not to plagiarize again, reducing the student's marks on the project, or asking the student to resubmit her or his project. Students who are asked to resubmit their projects because of plagiarism are likely to make a few changes to their plagiarized projects to make them look a bit more original, hand in a new project plagiarized from another source, or, if they are frightened by the teacher, write a new, original project. Even if a student receives zero marks, or very low marks on a plagiarized project, she or he will typically still be able to pass the class by achieving a high enough grade on the final examination. While some law schools have set up formal mechanisms to take action when plagiarism is reported to the school administration by a teacher, these mechanisms are very rarely used. Even when such formal mechanisms consider imposing serious penalties on students for plagiarism, like requiring them to repeat a year of law school, students commonly apologize for their misconduct and the school will decide not to impose severe penalties.

Yet another cause of misconduct is that many law schools neither clearly define plagiarism nor teach their students how to avoid it. While some schools have definitions of plagiarism, such definitions are often vague, and interpretation of these vague definitions may be left up to disciplinary bodies instructed only to follow "natural justice" in their interpretation of the definition. While a handful of professors discuss plagiarism with their students, hardly any law schools provide their students with formal training about what plagiarism is and how to avoid it. Thus, students are often unaware of what plagiarism is and of how and

when they must reference the materials that they use in writing projects.

PROPOSALS TO ENHANCE ACADEMIC INTEGRITY

The BCI has suggested that making use of software to detect plagiarism in student papers would be an effective means of preventing students from handing in copy-paste projects. NLSIU has also recently licensed the anti-plagiarism software Turnitin for use by its professors. Other schools are trying out less technological solutions. For instance, the West Bengal National University of Juridical Sciences (NUJS) has reduced the quantity of writing that students are required to do in their first two years of law school and has introduced a system of “tutorials,” where fourth and fifth year students instruct first and second year students in small groups and give advice on their written projects. Individual faculty members at many institutions have taken steps to reduce copying by their students, like providing more comprehensive and transparent feedback to students on their writing.

We believe that the use of anti-plagiarism software is only a partial solution to the problem of copying by students. We have spoken to students whose teachers use software to detect plagiarism, who have told us that the threat of the software changes the manner in which they plagiarize: rather than copying and pasting without changing the original material in any way, they will copy by paraphrasing the ideas of the article, book, or website on which they are relying. Anti-plagiarism software is unable to detect this type of plagiarism.

The one solution that is likely to be highly effective in reducing plagiarism is building up a competent, qualified, and committed legal professoriate, with teachers who have the ability and inclination to read and provide helpful feedback on student research projects. In the institutions that we have visited, we have seen signs that the building up of an excellent faculty is beginning to happen, but this will take

money, institutional and regulatory support, and a great deal of time.

However, we believe that law schools could change how they evaluate student writing in some ways that would have a more immediate impact on improving the quality of legal education. By reducing the length of the research projects that students are required to write, or by reducing the number of projects that students are required to write every semester, these institutions could give their students more time to do quality original work and give their faculty more time to evaluate student projects and provide helpful feedback. Secondly, they could monitor faculty to ensure that they grade students’ projects on the quality of their research and writing and that they provide helpful feedback to their students. Thirdly, law schools could clearly define plagiarism and institute formal training programs to teach students how to properly reference works from which they quote. Finally, if law schools consistently enforced prescribed penalties for plagiarism, they could more credibly tell their students that plagiarism is not tolerated and could better deter students from plagiarizing.

While these suggestions, and any other proposals to modify the structure and procedures of student evaluation, such as NUJS’s tutorial system and BCI’s software proposal, will make it more difficult for students to plagiarize and increase the incentives for students to write original papers, they are incomplete solutions as long as students believe that their professors are unlikely to read the work that they hand in or doubt the ability of their professors to understand and fairly evaluate the projects that they write. Thus, structural changes to law school evaluation must be accompanied by a commitment to hire more talented, enthusiastic law professors, or they will leave the problem of copying largely unchanged.

Jonathan Gingerich and Aditya Singh are conducting research on academic integrity and student evaluation in Indian law schools as Student Empirical Research Fellows with the Harvard Law School Program on the Legal Profession.

Additionally, Mr. Gingerich is a Ph.D. student in the Department of Philosophy at the University of California, Los Angeles, and Mr. Singh is a final year B.A.,LL.B. (Hons.) student at NALSAR University of

Law, Hyderabad. They may be contacted at indianlegaleducation@law.harvard.edu.