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Experimenting with Clinical Legal Education to Address the Disconnect Between the Larger Promise of Law and its Grassroots Reality in India

AJAY PANDEY*

I. INTRODUCTION

Through the occasion of the *Maryland Journal of International Law* and the University of Maryland School of Law's *Re-imagining International Clinical Law* Symposium,¹ this article raises the larger question of the disconnect between the promises of the regime of international human rights law to "we the peoples of the United Nations"² and their reality for the vast majority of people in India.

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1. The *Re-imagining International Clinical Law* Symposium was held on November 17-18, 2010 at the University of Maryland School of Law. *Conferences & Symposia: Re-imagining International Clinical Law*, U. MD. SCH. L., <http://www.law.umaryland.edu/faculty/conferences/detail.html?conf=103> (last visited Mar. 30, 2011).

2. U.N. Secretary-General, *The Millennium Assembly of the United Nations, We the Peoples: The Role of the United Nations in the Twenty-First Century*, ¶ 10, U.N. Doc. A/54/2000 (Mar. 27, 2000).

For even though the United Nations is an organization of states, the Charter is written in the name of "we the peoples." It reaffirms the dignity and worth of the human person, respect for human rights and the equal rights of men and women, and a commitment to social progress as measured by better standards of life, in freedom from want and fear alike.

Making the provisions of this regime work is a challenge facing the international community. The following observation from the Human Development Report of 2005, describing the December 2004 tsunami in the Indian Ocean, underscores some aspects of this challenge:

The tsunami was a highly visible, unpredictable and largely unpreventable tragedy. Other tragedies are less visible, monotonously predictable and readily preventable. Every hour more than 1,200 children die away from the glare of media attention. This is equivalent to three tsunamis a month, every month, hitting the world's most vulnerable citizens—its children. The causes of death will vary, but the overwhelming majority can be traced to a single pathology: poverty. Unlike the tsunami, that pathology is preventable. With today's technology, financial resources and accumulated knowledge, the world has the capacity to overcome extreme deprivation. Yet as an international community we allow poverty to destroy lives on a scale that dwarfs the impact of the tsunami.³

It is important to notice the observation that despite the world's capacity to overcome extreme deprivation we, as an international community, allow poverty to destroy lives on a scale that dwarfs largely unpreventable natural calamities. The question is why this is so. Do we not have the will to overcome extreme deprivation? The regime of international law answers this question in the negative. The Charter of the United Nations, which seeks to secure international peace and security through the protection and promotion of human rights,⁴ recasts the obligation on member nations to secure human rights.⁵ Forming customary principles of international law, the obligations emanating from the Universal Declaration of Human Rights (UDHR)⁶ go even further by binding members and non-

Ultimately, then, the United Nations exists for, and must serve, the needs and hopes of people everywhere.

Id.

3. U.N. Dev. Programme, Human Development Report: International Cooperation at a Crossroads, 1 (2005).

4. U.N. Charter pmbl.

5. *Id.* arts. 55–56. While Article 55 requires the United Nations to promote human rights, Article 56 places a “distinct element of legal duty” on member nations to work for the achievement of the objectives of Article 55. HERSCH LAUTERPACHT, INTERNATIONAL LAW AND HUMAN RIGHTS 148 (1950).

6. Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A./810 (Dec. 10, 1948).

members alike to fulfill the requirements of the international human rights regime.⁷ Additionally, two Covenants, International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR),⁸ further mandate the state parties to achieve the human rights objectives set out in these Covenants.⁹ The UN keeps renewing its attempts to orient the international community towards its commitment to secure human rights for the masses. The slogan, “All Human Right for All,”¹⁰ coined on the fiftieth anniversary of the UDHR, and the Millennium Development Goals (MDGs)¹¹ are some examples of the UN’s commitment to human rights. Given this strong international commitment to human rights and well-being, where does the gap lie between what is committed to people and its reality, and how can international law clinics address this question? There are two critical aspects to this question. First, how does international law complement domestic law, and second, how do domestic law enforcement mechanisms carry out its implementation?

II. THE CASE OF INDIA

The domestic law provisions on human rights in India, flowing from the Indian Constitution, are well aligned with the international

7. There is a strong view that the provisions of the Universal Declaration of Human Rights have now acquired customary law status en bloc. *See* Bruno Simma & Philip Alston, *The Sources of Human Rights Law: Custom, Jus Cogens, and General Principles*, 12 AUSTL. Y.B. INT’L L. 82, 83 (1988-1989).

8. International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., U.N. Doc. A/6316 (Dec. 16, 1966); International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. 16, U.N. Doc. A/6316 (Dec. 16, 1966).

9. *See* sources cited *supra* note 8.

10. The theme of the fiftieth anniversary of the Universal Declaration of Human Rights, expressed through the UN Secretary-General’s message on the fiftieth anniversary of UDHR. *See* Kofi Annan, U.N. Secretary-General, Address at the 50th Anniversary of the Universal Declaration of Human Rights (Dec. 10, 1997), available at http://www.un.org/News/ossg/sg/stories/statments_search_full.asp?statID=47.

11. *Millennium Development Goals*, U.N., <http://www.un.org/millenniumgoals/> (last visited Feb. 27, 2011). Some of the Millennium Development Goals are to eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and the empowerment of women, and to reduce child mortality. *Id.*

human rights law regime.¹² The Supreme Court of India has defined the most fundamental provision of these rights, namely that every citizen has a right to a dignified life, in Article 21 of the Constitution of India.¹³ This provision alone carries most of the internationally recognized human rights in its fold, including the right to the bare necessities of life, such as adequate nutrition, clothing, and shelter.¹⁴ Various laws, national policies, governmental programs, and schemes exist in India to provide for these components and thereby realize the effective implementation of the right to a dignified life for every citizen.¹⁵ The guarantee of equal access to justice for all further strengthens the human rights regime in India.¹⁶

While the structure and promises of a human rights regime exist in India, the grassroots reality in the country is in complete contrast

12. In addition to the key human rights covenants, the ICCPR and ICESCR, India has also passed the Protection of Human Rights Act, 1993. The Protection of Human Rights Act, 1993, *amended by* the Protection of Human Rights (Amendment) Act, 2006, No. 43 of 2006, INDIA CODE (2006), vol. 30. Section 2(1)(d) of the Act defines the term “human rights” to mean “the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.” *Id.* Explaining the relationship between international human rights treaties and domestic law, the Supreme Court of India held, “[i]t is now an accepted rule of judicial construction that regard must be had to international conventions and norms for construing domestic law when there is no inconsistency between them and there is a void in the domestic law.” *Vishaka v. State of Rajasthan*, A.I.R. 1997 S.C. 3011, 3015; *see also* *Apparel Exp. Promotion Council v. A.K. Chopra*, A.I.R. 1999 S.C. 625, 634.

13. The Supreme Court of India has deemed the “right to life,” as guaranteed by Article 21 of the Indian Constitution, as the most fundamental of all rights and construed it to mean the right to a *dignified* life. *See* INDIA CONST. art. 21; *Francis Coralie Mullin v. Union Territory of Delhi*, A.I.R. 1981 S.C. 746; *Bandhua Mukti Morcha v. Union of India*, A.I.R. 1984 S.C. 802.

14. *Francis Coralie Mullin*, A.I.R. 1981 S.C. at 748.

15. *See infra* notes 47–50, 57–59 and accompanying text.

16. The guarantee of equal justice for all emanates from several articles of India’s Constitution, including Article 14 (fundamental right to equality before the law), Article 39A (directive principles of state policy provision on equal justice and free legal aid), and Article 21 (fundamental right to life). INDIA CONST. arts. 14, 39A, 21. Consistent with the guarantee of equal access to justice, India enacted the Legal Services Authorities Act to “constitute legal services authorities to provide free and competent legal service to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.” The Legal Services Authorities Act, No. 39 of 1987, INDIA CODE (1987).

to the promise of a dignified life for all.¹⁷ Bridging this disconnect is a challenge for society generally, and particularly for people associated with the profession of law. For it is law's promise to secure equality, justice, and fairness to people that enables them to come together and coexist. Therefore, it is particularly important for the legal community to address this disconnect between theory and practice. If this disconnect is not appropriately addressed and bridged, the law and its promises will continue to delude a majority of the Indian population, and this situation will continue to offend people who are committed to the cause of justice. In addition, if this disconnect continues to be ignored, most of the fundamental Constitutional promises¹⁸ will remain unfulfilled, and the rule of law will have a chimerical existence. Law schools are the most befitting forum in which to address this disconnect, and within law schools, legal clinics, by their very function, objective, and nature of engagement are best suited for the purpose in question. However, given the fact that Clinical Legal Education (CLE) is at a nascent stage in India, developing it is in itself quite a challenging enterprise.¹⁹

17. Coming in 119th on the Human Development Index, India remains far behind many developing countries. U.N. Dev. Programme, Human Development Report: The Real Wealth of Nations: Pathways to Human Development, 148 (2010), available at http://hdr.undp.org/en/media/HDR_2010_EN_Complete_reprint.pdf.

18. Reflecting these promises, the Preamble to the Constitution of India reads:

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation; IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

INDIA CONST. pmbl.

19. One of the main reasons CLE is not able to develop effectively in India is the bar on full-time law teachers and students representing clients before courts. See *infra* note 55 and accompanying text. Other challenges include a lack of dedicated faculty and infrastructure for CLE in law schools. See 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, 113 (1990). Although the Bar Council of India requires every law school to have a legal aid clinic run by a senior faculty member, and has prescribed four compulsory clinical papers in the curriculum of legal education, it will require more sincere effort by all

While the development of CLE poses a challenge, the larger legal architecture in India is very supportive of CLE. Within this structure there exist possible experiments that can successfully develop CLE in India as well as address the disconnect between the larger Constitutional promise of a dignified life for every citizen and the reality of undignified human existence for the majority of the population.²⁰ This article discusses one such experiment with CLE to address this disconnect in the context of rural India. This CLE initiative establishes a model that its protagonists hope law schools in India will consider, further develop, and replicate. The most important aspect of this model is its focus on addressing the larger picture rather than only addressing the concerns of individual clients. The model also addresses some major impediments to the effective development of CLE in India, including the fact that full time law professors are not allowed to actually practice law. Moreover, in addressing the disconnect, this model covers some fundamental aspects of peoples' every day well-being, i.e., food, health, education, social security, and access to justice while also emphasizing the value of pursuing the cause of truth.

III. THE EXPERIMENT

A. *Two Determinations*

The experiment with CLE addressing the disconnect in India is founded on two basic determinations: (1) the disconnect exists because of a lack of good governance; and (2) effective citizen participation will assist in the development of sustainable good governance practices. The first is apparent from the fact that India, having structurally committed to being a welfare state,²¹ displays in

stakeholders to effectively develop CLE in India. See *Education Rules 2008*, B. COUNCIL INDIA, <http://www.barcouncilofindia.org/about/legal-education/education-rules-2008/> (last visited Mar. 31, 2011).

20. Indian constitutional imperatives require the state to promote social welfare measures to serve the poor and disadvantaged. The constitutional entitlement to free legal aid applies to many disadvantaged groups in Indian society, including women and the poor, and makes India an ideal setting for developing Clinical Legal Education and pursuing CLE's broader social justice objectives. See *supra* note 16 and accompanying text.

21. The notions of a welfare state are clearly embodied in Part IV of the Constitution of India, containing the directive principles of state policy. As a primary provision of this part, Article 38(1) reads: "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it

its major policies and programmes the necessary elements for securing a life of dignity as promised by the Constitution.²² The State makes huge budgetary allocations to support the effective realization of these policies and programmes for which citizens are taxed variously.²³ However, lack of good governance and rampant corruption²⁴ stifle implementation of these policies and programmes. The issue of the governance deficit in India has recently been raised by some prominent citizens, including some top industrialists, in the form of an open letter²⁵ addressed to political leaders. The Home Minister of India, in answering a question put to him in this letter, admits that there is a governance deficit in India.²⁶

The second determination regarding the role of citizen participation in effecting good governance is again very easy to identify. A democracy's well-being is dependent on participation of its citizens. Vigilance and vibrance²⁷ on the part of citizens is a prerequisite for a healthy democracy. Citizens' effective participation in affairs of country governance has been a missing link in the

may a social order in which justice, social, economic and political, shall inform all the institutions of national life." INDIA CONST. art. 38(1).

22. See *infra* notes 47–50, 57–59 and accompanying text.

23. Government spending on social welfare programmes increases every year. Taxes on citizens, including income taxes, excise and custom duties, and service taxes are levied to support children's education and infrastructure development.

24. According to a study, in 2008 the poor in India perceived there to be a high level of corruption relating to the provision of basic services; forty-six percent of those surveyed felt there was corruption in the provision of health services, while fifty-four percent felt there was corruption in the Public Distribution System. TRANSPARENCY INT'L INDIA, INDIA CORRUPTION STUDY 13 (2008), available at http://www.transparencyindia.org/resource/survey_study/India%20Corruptino%20Study%202008.pdf. The Indian poor paid an estimated 8.83 billion rupees in bribes in the year the study was conducted, simply to gain access to basic services. *Id.* at 11. In addition, the poor paid nearly 2.15 billion rupees in bribes to the police. *Id.*

25. See *India Inc's Open Letter to the Govt*, UTV MONEY, <http://utvmoney.mangopeople.com/news/2011/jan/india-incs-open-letter-to-the-govt.html> (last visited Mar. 31, 2011).

26. *There is Governance and Ethical Deficit, Admits Chidambaram*, TIMES INDIA, Feb. 12, 2011.

27. The requirements of a healthy democracy, here, are understood as requirements of a healthy human body. As in the case of a human body, where good health requires individuals to be vigilant and ensure that every part remains vibrant and active, a healthy democracy requires its people to be vigilant and vibrant about its affairs. Vibrancy here means participation by the people, which includes casting votes as the first step of such participation.

democratic setup of India ever since its independence in 1947. Yet, in various efforts to bring about good governance, India has not paid much attention to addressing this anomaly.²⁸ Thus, citizens have been largely denied the opportunity to participate effectively in public affairs. Two examples further clarify this point. One is that of the National Legal Literacy Mission, which was launched in 2005 and ended in 2010.²⁹ One of the many expectations attached to this initiative was that it would assist in empowering citizens.³⁰ However, it ended after its term of five years without having had any significant impact.³¹ In the second example, the government of India dedicated 2009-2010 as the year of *Gram Sabhas* (village assemblies)³² to

28. While it is common to train institutions, administrators, and politicians, not nearly enough is done to develop the capacities of the citizenry. Citizen participation is essential to ensuring the rule of law, good governance, and human rights. Allowing people to participate will empower them and create accountability in the system.

29. See, e.g., *Prime Minister Launches National Legal Literacy Mission*, GOV'T INDIA PRESS INFO. BUREAU (Mar. 6, 2005), <http://pib.nic.in/newsite/erelease.aspx?relid=7566>.

30. See, e.g., *Legal Literacy Mission Launched*, FIN. EXPRESS, Mar. 7, 2005.

31. In 2005, upon launching the National Legal Literacy Mission, the Prime Minister of India said that this mission was very dear to his heart and had his support: "I hope that the 'National Legal Literacy Mission' will go a long way in empowering the citizen and in fostering an open society based on the foundations of political awareness, social equality and economic empowerment." *Prime Minister Launches National Legal Literacy Mission*, PRIME MINISTER'S OFF. (Mar. 6, 2005), <http://pmindia.nic.in/speech/content.asp?id=80>. Underscoring the importance of this initiative, the Prime Minister said,

I greatly value the objectives that this Mission has set for itself of promoting awareness, redressing social and economic imbalances, ensuring land rights, providing legal aid to the needy, promoting social consciousness with respect to gender equality, social justice, environmental protection, human security, human development and similar other noble objectives. These are all laudable objectives and I sincerely hope your Mission will focus on them. You have my unstinted support.

Id. Though the Prime Minister's speech gave many people hope, the program has had little impact to date.

32. The *Gram Sabha* (village assembly) is composed of all the adult registered voters of that village. The Constitution of India recognizes the role *Gram Sabhas* play in Indian democracy; their powers and functions are spelled out in different state acts concerning *Panchayats*. INDIA CONST. art. 243. For instance, the Haryana Panchayati Raj Act of 1994 assigns *Gram Sabhas* the role of monitoring and scrutinizing developmental activities and implementation of government programmes and schemes in villages. Haryana Act, No. 11 of 1994, INDIA CODE

encourage good governance and empower people at the grassroots level. These examples demonstrate that the country is aware of the importance of peoples' effective participation in democracy. The challenge is how to turn this awareness into action.

B. *Effective Citizen Participation*

Empowered people and effective participation in democracy mean the same for the purposes of this experiment. Empowerment is understood to involve two things: (1) information; and (2) action or participation on that information.³³ Moreover, effective participation requires engaging participants from all sections of society, with a particular focus on ensuring equal participation by women.³⁴ Another key requirement of effective participation is to ensure that people seek to participate to further the causes of truth, justice, and fairness.³⁵ For this reason, there is a need to train people in how to become effective participants in democracy. Yet, the focus of the experiment is not the training itself; rather, the focus is the outcome of the training in the form of good governance which serves to bridge the disconnect between the theory of human rights and its actual

(1994). Accordingly, the *Panchayat* (the body elected by the *Gram Sabha* for village governance) should be *Gram Sabha*-centric. However, in most cases, *Panchayats* are not *Gram Sabha*-centric because of the lack of *Gram Sabha* governance in day-to-day affairs. One of the main objectives of the year of *Gram Sabha*, therefore, is to secure effective *Gram Sabha* participation in village governance.

33. The focus on action and participation is part of the clinical approach to the experiment. Providing the citizens with information is not enough on its own; it is the second aspect of action on that information that is critical to citizen empowerment. Due to the fact that trainees are engaged beyond the classroom, this experiment is unique when compared with typical legal literacy efforts. *See infra* note 40.

34. In selecting the trainees, the focus of the experiment is on villagers coming from every section of society, including farmers, labourers, landless people, elected members of *Panchayats*, teachers, and others. A special emphasis is placed on the participation of women. When selecting trainees, it is made clear to villages that they must nominate a certain number of female trainees in order to be considered for selection. This strategy has proven effective; the participation of women plays a critical role in the success of the experiment. *See infra* note 39 for more on women's participation.

35. Early in the training process, strong emphasis is placed on the importance of ethics and the pursuit of truth and justice. Emphasis on these values is critical to good governance and the success of the experiment.

implementation. To achieve this outcome, it is necessary to focus both on training and diverse participation. With these requirements in mind, the methodology of CLE seems to be the best suited to assist in fostering effective citizen participation. While the “micro” objective of CLE is effective participation, the “macro” objective is to re-emphasize the ethical aspect of it.³⁶

C. *Training of Villagers and Development of Law School-NGO (JGLS/IRRAD) Model*

The process of using CLE to turn villagers into effective participants required developing a law school-NGO relationship. However, in the instant case, the NGO, the Institute of Rural Research and Development (IRRAD), working in Mewat, a rural district of Haryana, India,³⁷ began this experiment without a law school but subsequently partnered with Jindal Global Law School (JGLS).

The first step in helping villagers become active participants in democratic governance is selecting trainees for the experiment. Trainees are selected through a simple and participatory process.³⁸ Any adult villager who is willing to commit to the training for one year is eligible to participate. The selection criteria do not include any educational qualification requirements, which brings many illiterate, marginalized, and poor people to the training. In addition, there is a particular focus on attracting women participants for the purpose of ensuring that the group adequately represents the community. The focus on women’s participation eventually plays a significant role in

36. Micro level objectives of CLE involve building lawyering skills; macro objectives relate primarily to social justice. See Carrie Menkel-Meadow, *Two Contradictory Criticisms of Clinical Education: Dilemmas and Directions in Lawyering Education*, 4 ANTIOCH L.J. 287, 288–89 (1986).

37. Information on the Mewat district is available at *Mewat*, MEWAT DEV. AGENCY, <http://mda.nic.in> (last visited Mar. 2, 2011).

38. Meetings in participating villages are organized to inform villages about the training and to discuss their participation in the experiment. Villagers who wish to participate are required to nominate themselves for training within one week of the meeting. Next, nominees are invited to participate in a group discussion to ascertain their suitability for the training. In these group discussions, nominees are asked questions to determine their availability, commitment to the training, sincerity of purpose, and perspectives on governance issues. Three evaluators, one of whom is from the village of the nominees, then grade the nominees on their responses to the questions. Those nominees who attain a score of fifty points or higher (out of a possible one hundred points) are selected for the training.

the success of the experiment.³⁹ The training is designed to last fifty weeks (roughly one year). Each week, the trainees attend a two to three hour classroom session, and thereafter they work to apply the information they received in the classroom. This “learning by doing” is the key to the effectiveness and sustainability of the experiment. The training begins by making the trainees aware of their rights and entitlements, and then through this awareness, enables them to participate in effecting good governance in their villages. This can be described as a result-oriented community legal literacy initiative.⁴⁰

D. *Clinical Methodology*

The experiment has dual objectives in using the methodology of CLE in the training. On one hand, this methodology is used to achieve the objectives of the experiment, and on the other, the experiment is intended to serve as an avenue to involve law schools through their clinical programmes. Additionally, the experiment aims to serve as a model for involving clinicians and law schools in a socially relevant programme for the benefit of the poor and illiterate rural masses. Thus, the experiment invited several law schools in India, including most of the national law schools,⁴¹ to send their

39. The participation of women in the experiment is vital to its success. Villagers are made to understand that failure to include women in the experiment will effectively disenfranchise half the village population. While initially it is difficult to ensure female involvement, as the experiment progresses, both men and women come to understand the importance of women participating. Now in its third year, women constitute over fifty percent of those participating in the experiment; of 293 trainees, 147 are women. Female trainees play a transformational role in motivating villagers to ensure the effective delivery of basic services to their villages. Because it is often the case in rural India that the public sphere is largely dominated by men who are accustomed to the corrupt status quo, it requires a great deal of effort to change existing patriarchal attitudes about women. Generally confined to the home, women are not part of the political and economic power structure but are often among its victims. As the saying goes, “poverty has a woman’s face.”

40. Ajay Pandey & Sheena Shukkur, *Legal Literacy Projects: Clinical Experience of Empowering the Poor in India*, in *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* 241 (Frank S. Bloch ed., 2010).

41. To achieve excellence in legal education, many Indian states have established national law schools, the first being the National Law School of India University, Bangalore. The flexibility and freedom these national law schools have in choosing how to teach law makes them uniquely suited to experiment with new ideas and to support the development of CLE in India.

students to get involved⁴² in the clinical grassroots experiment exploring the role of law in assisting the poor. Initially it could not attract students from any law school to work on this initiative; organizers believed three primary factors were responsible: (1) the experiment was new; (2) it involved work in rural areas; and (3) the law school curriculum prescribed by the Bar Council of India did not support endeavours like the experiment when it came to students earning credits and getting sufficient support from law schools for the student and faculty community engagement that the experiment required.⁴³ Nevertheless, non-involvement of law schools and law students, in the initial phase of the experiment, did not change the methodology and content of the experiment. This feature also added to the uniqueness of the experiment and widened the scope of CLE. One of the main objectives of the experiment was to develop a model for training rural citizens to encourage their effective participation in bringing good governance to their villages. The experiment was very successful in achieving this objective in its preliminary phase. However, as the experiment progressed, the need for a law school's support was greatly felt.⁴⁴

The experiment is based on CLE's most critical hallmark—"learning by doing."⁴⁵ The villagers participating in the training are required to gain practical experience in applying the information imparted to them in the classroom. This serves twin purposes. When the villagers utilize information received in the classroom in the real world, they learn by doing, and as a result, they encourage good governance in their villages. Yet, another objective that the experiment achieves is increasing villagers' belief and confidence in what they have learned. When they apply the information received in the classroom, the villagers realize that this information works and that there is no disconnect between theory and practical application.

42. Law schools were invited to send their students for an internship with the experiment.

43. One law school responded to the invitation for law student participation by offering to send first-year students. There is an attitude prevalent in Indian law schools that legal aid and community work is only worthy of the participation of junior level students, while senior students are supposed to intern with law firms and senior attorneys.

44. There are several aspects of citizens' effective participation that need support from law schools and their students. *See infra* Part III.G.

45. *See generally* Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933); Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 FORDHAM L. REV. 1929 (2001).

Thus, the results that the villagers achieve through their work help in instilling confidence in them and keep them motivated and interested in the experiment. It is the CLE methodology of interaction and application that makes this result possible.

E. *The Clients*

In addition to “learning by doing,” the other critical component of CLE that formed the *raison d’être* of the experiment is its being client-oriented with a focus on the needs and concerns of the villagers. There are three sets of clients that the experiment seeks to serve. These are: (1) individuals; (2) groups; and (3) issues, concerns, and problems. It is pertinent to mention that although rural governance has a number of areas and issues of concern in India, the experiment does not cover all of them because it is not possible to do so. However, the objective is to provide a method to villagers to participate effectively in public affairs and through their participation bring about good governance in their villages.

The first way of doing this is by focusing on issues that are of particular importance to villagers. The experiment aims at effecting good rural governance, particularly with respect to villagers’ entitlements to food,⁴⁶ education,⁴⁷ health,⁴⁸ social security,⁴⁹ rural employment,⁵⁰ and access to justice and legal aid to ensure the effective delivery of these rights. In addition, since the experiment looks at peoples’ participation as the heart of the effort aimed at

46. See *infra* notes 57–58. For a discussion about integrating a right to food into Indian law, see Jim Yardley, *India Asks, Should Food Be a Right for the Poor?*, N.Y. TIMES, Aug. 9, 2010, at A1.

47. Every child between six and fourteen years of age has the fundamental right to free and compulsory elementary education in India. INDIA CONST. art. 21A. India later enacted the Right of Children to Free and Compulsory Education Act in 2009 to effectively implement Article 21A. The Right of Children to Free and Compulsory Education Act, No. 35 of 2009, INDIA CODE (2009).

48. Through judicial interpretation, the right to health has been made a part of the fundamental right to life guaranteed by the Constitution of India. See *State of Punjab v. Mahinder Singh Chawla*, A.I.R. 1997 S.C. 1225.

49. Some of the social security schemes run by the government include old age and widow pensions, housing for the poor, stipends for the unemployed, and support for the disabled.

50. The Mahatma Gandhi National Rural Employment Guarantee Act guarantees 100 days of employment for every rural household in India. The National Rural Employment Guarantee Act, No. 42 of 2005, INDIA CODE (2005).

achieving good governance, the right to information⁵¹ is an integral entitlement that cuts across all of the other citizen rights. The right to information in India has the potential to enable even an ordinary citizen to participate authoritatively in public affairs.⁵² Thus, the right to information is used in the experiment as a tool for villagers to participate in the affairs of rural governance. Another area that the experiment covers is the law relating to consumer protection in India.⁵³ The experiment includes the use of the consumer protection law to further strengthen the capability of the citizen to effectively participate in improving the governance of her surroundings. As an example, one trainee who suffered losses due to negligent treatment of his buffalo by a veterinary doctor, used the Consumer Protection Act to redress the losses he suffered and to set an example for others to follow.

All of these areas of law, policy, and governance have been chosen for the experiment for three reasons. The first reason is the experiment's objective to target the delivery of services relating to some of the most fundamental aspects of a citizen's life: food, education, health, shelter, social security, employment, and access to justice. Second, the experiment looks at the effectiveness of citizens' participation, and therefore, includes the legal regime relating to the right to information and consumer protection. Third, the experiment is catered to focus on areas of law in which ordinary citizens, as non-lawyers, can participate.⁵⁴ The third reason is particularly important

51. The right to information has been recognized in India as a part of the fundamental right to freedom of speech and expression guaranteed by the Constitution of India. *See* State of Uttar Pradesh v. Raj Narain, A.I.R. 1975 S.C. 865; S.P. Gupta v. Union of India & Ors., A.I.R. 1982 S.C. 149; India Express Newspapers (Private) Ltd. v. Union of India, A.I.R. 1995 S.C. 965; L.K. Koolwal v. State of Rajasthan & Ors., A.I.R. 1988 Raj. 2; Ass'n for Democratic Reforms v. Union of India, A.I.R. 2001 Del. 126. After the enactment of the Right to Information Act in 2005, information has become more easily accessible for citizens in India. *See* The Right to Information Act, No. 22 of 2005, INDIA CODE (2005).

52. For more information on India's Right to Information Act, see RIGHT TO INFO., <http://righttoinformation.gov.in/> (last visited Mar. 2, 2011).

53. The Consumer Protection Act of 1986 creates consumer forums for speedy and inexpensive redress of consumer disputes. The Consumer Protection Act, No. 68 of 1986, INDIA CODE (1986).

54. In order to effectively develop CLE in India, law schools must find ways of allowing law professors and students to participate in CLE and represent clients. *See infra* note 73 for some examples of the forums where law students can practice without breaching the Indian prohibition on law professors and students practicing

from the point of view of involving students as a part of CLE in India because in India, students can engage in only limited legal work. In addition, the law in India does not allow full-time law professors to practice law.⁵⁵ This is regarded as a major hurdle in developing effective CLE in India,⁵⁶ as this, *prima facie*, deprives law schools of working on real cases with real clients. Therefore, it is important for the experiment to come up with a clinical model where law students and law professors can engage in substantial legal work without breaching the legal provision barring them from practicing law. Above all, the third reason is critical from the standpoint of connecting the common man to law in the quest for justice and fairness.

Having identified issues that are of importance to the vast majority of villagers, the subjects of the experiment, it is next necessary to identify particular subgroups of villagers and their particular needs or concerns. The first step in identifying these clients is taken during the first training session. The trainees are informed of the entitlement of the poorest of the poor⁵⁷ and those below the poverty line (BPL)⁵⁸ under the Public Distribution System (PDS).⁵⁹

law. See generally Ajay Pandey, *Promoting Human Rights in India Through Law School Human Rights Clinics*, 28-29 DELHI L. REV. 67 (2007).

55. The Advocates Act, No. 25 of 1961, INDIA CODE (1961); Bar Council of India Rules, Gazette of India, 2001, part VI, ch. II, § VII, ¶ 49 (Sept. 6, 1975) (“An advocate shall not be a full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practice . . .”).

56. Because Indian law forbids law professors and students from practicing law, India seriously inhibits the development of CLE by preventing teachers and students from building client relationships and working on real cases, essential elements for a clinic to achieve its objectives. Clinicians have long raised concerns about this prohibition. See, e.g., Bloch & Ishar, *supra* note 19, at 119; Jane E. Schukoske, *Legal Education Reform in India: Dialogue Among Indian Law Teachers*, 1 JINDAL GLOBAL L. REV. 251, 265 (2009).

57. This includes all households at risk of hunger, to be identified through criteria set by the government. See *Targeted Public Distribution System*, DEP’T FOOD & PUB. SAFETY, <http://fcamin.nic.in/dfpd/EventDetails.asp?EventId=26&Section=PDS&ParentID=0&Parent=1&check=0> (last visited Mar. 2, 2011).

58. For more information on MDM, PDS, and ICDS, see *The Right to Life is the Right to Food*, SUPREME CT. COMMISSIONERS, <http://www.sccommissioners.org/> (last visited Mar. 2, 2011); *Introduction*, RIGHT TO FOOD CAMPAIGN, <http://www.righttofoodindia.org/> (last visited Mar. 2, 2011).

59. Under the PDS, the state makes subsidized grain, kerosene oil, sugar, and other essentials available to the poor on a monthly basis. Up to thirty-five

After the session, the participants are given the task of making a list of all of the people who are below the poverty line and those who are identified by the government as the poorest of the poor⁶⁰ in the villages covered in the experiment. The trainees are also required to convene a meeting with the beneficiaries of the PDS to discuss their problems. There are three objectives of this exercise: (1) the trainees, while interacting with the poor, develop empathy for them and realize the importance of good governance;⁶¹ (2) the trainees learn to mobilize communities, organize community meetings, discuss community problems, and reduce their thoughts and ideas to writing; and (3) this exercise helps identify clients and set the agenda. Thus, through this process, the trainees, while learning valuable skills, identify relevant clients and problem areas in relation to the PDS. For specific, individual-centric problems, the trainees need to work with individual clients, whereas for general problems the poor beneficiaries as a group are the clients.

F. *Learning the Way to Effect Good Rural Governance*

In the second week of training, the trainees assemble to discuss their experiences working with the BPL and the poor with their entire group of volunteers and team of instructors. Through the discussion in the session, the trainees decide whether to make complaints to the district authorities about the anomalies in the PDS. The trainees also consider whether to seek out the views of ration distributors under the PDS, as doing so may assist in furthering their complaints. With this intent, and with the goal of involving other stakeholders in addressing the problems, the trainees convene a meeting with the ration distributors to distill from them their perspective on the shortcomings of the PDS. As part of this meeting, the ration distributors identify problems that need research, wider debate, and policy intervention.

kilograms of wheat is provided to the below poverty line families from government ration shops at prices as low as two rupees (about four and a half U.S. cents) per kilogram.

60. This is decided based on whether an individual is a widow, belongs to a specific social group, such as the aged, disabled, or infirm, or is a member of a primitive tribe. See *Antyodaya Anna Yojana*, SUPREME CT. COMMISSIONERS, <http://www.sccommissioners.org/schemes/aay> (last visited Mar. 31, 2011).

61. The villagers come to understand the relationship between PDS and good governance through their training. They learn that corruption and lack of transparency and accountability are responsible for the problems in PDS and that once they initiate efforts to bring transparency and accountability to PDS, PDS functions more effectively.

Thus, the tasks of the trainees require them to research and investigate problems afflicting the most basic element of the right to food in India, the PDS. At the same time, the trainees are also exposed to the need for advocating for policy change *vis-à-vis* effective implementation of the PDS.

The experiment includes two other very important components of the right to food, the Mid-Day Meal (MDM)⁶² programme and the provision of supplementary nutrition under the Integrated Child Development Services (ICDS).⁶³ Through the MDM programme, children attending primary school are given a freshly cooked meal in all government run schools in India.⁶⁴ The government sponsors the programme, primarily, with two objectives: (1) to ensure that the children get at least one healthy and nutritious meal a day; and (2) to ensure that the children attend school to complete their elementary education. In India, it is a fundamental right of every child from six to fourteen years of age to receive free and compulsory elementary education.⁶⁵ Under the ICDS programme, children below six years of age, lactating mothers, and pregnant mothers are entitled to supplementary nutrition.⁶⁶ Several other provisions of the ICDS

62. The objectives of the Mid-Day Meal Scheme are to improve the nutritional status of children in classes I-V in government aided schools and other such centres; encourage poor children to attend school more regularly and help them concentrate on classroom activities; and provide nutritional support to children in drought affected areas during summer vacation. *See Mid-Day Meal Scheme*, INDIAN GOV'T, http://india.gov.in/sectors/education/mid_day_meal.php (last visited Mar. 31, 2011).

63. The objectives of the ICDS are to improve the nutritional and health status of pre-school children in the age group of birth to six years; to lay the foundation for the proper psychological development of the child; to reduce the incidence of mortality, morbidity, malnutrition, and school drop-out; to achieve effective coordination of policy and implementation among the various departments to promote child development; and to enhance the capability of the mother to look after the normal health of the child through proper nutrition and health education. *See INTEGRATED CHILD DEVELOPMENT SERVICES SCHEME*, <http://wcd.nic.in/icds.htm> (last visited Apr. 1, 2011).

64. *See supra* note 62.

65. INDIA CONST. art. 21A.

66. The need for effective implementation of the MDM and ICDS assumes greater significance given the following facts: "India is home to 40 percent of the world's malnourished children and 35 percent of the developing world's low-birth-weight infants; every year 2.5 million children die in India, accounting for one in five deaths in the world. More than half of these deaths could be prevented if children were well-nourished. India's progress in reducing child malnutrition has

relate to health and education of the targeted beneficiaries.⁶⁷ Thus, these programmes cut across various components of the right to food, the right to health, and the right to education. Regarding MDM and ICDS, the experiment adopts the same methodology as it did in the case of PDS. The trainees, in the classroom session, are informed of the provisions of the MDM and ICDS and also the mechanism and procedure for redressing grievances pertaining to their implementation. Similar to the PDS, the trainees are then required to accomplish certain tasks. The preliminary tasks involve meeting with both the beneficiaries and the people directly involved in disbursing the provisions. In the case of ICDS, the beneficiaries are mainly children up to six years of age, most of whom are represented by their parents. Indeed, the clients in the experiment come from diverse sections of the population, including children, women, and the elderly. These sections approach the experiment both as individuals as well as groups. The content of the experiment is thus stimulating, challenging, and interesting.

When the beneficiaries of the MDM and ICDS report to the trainees that these programmes are largely non-functional, the trainees organize meetings with the cooks who are responsible for cooking and serving food to beneficiaries under these programmes. Using the information that the trainees receive from the beneficiaries of MDM and ICDS and the problems that are reported to them by the cooks, the trainees prepare a multi-pronged approach to serve the clients. This approach includes writing complaints; using the right to information to ascertain the status and action taken on those complaints; invoking appropriate jurisdictions in consumer forums, quasi-judicial bodies, and other forums for redressing grievances; and organizing panel discussions with senior government officers and policy makers to discuss issues requiring further debate and policy intervention. This methodology and pattern is used throughout the experiment in all areas of intervention.

been slow.” See *Accelerating Progress Toward Reducing Childhood Malnutrition in India*, INT’L FOOD POL’Y RES. INST., <http://www.ifpri.org/publication/accelerating-progress-toward-reducing-child-malnutrition-india> (last visited Apr. 1, 2011).

67. ICDS includes the provision of the following services: supplementary nutrition; non-formal pre-school education; immunization; health check-ups; referral services; and nutrition and health education. See INTEGRATED CHILD DEVELOPMENT SERVICES SCHEME, *supra* note 63.

The results of the experiment have been very encouraging and have exceeded the experiment organizer's expectations.⁶⁸ Through the experiment, the trainee villagers participate in effecting good governance in their villages. In addition to many fascinating success stories, the experiment also generates useful literacy materials in the native language including booklets, pamphlets, and posters⁶⁹ to further consolidate and strengthen the efforts of villagers in developing good rural governance. The experiment also came up with a slogan, "Good Governance Now."⁷⁰ The efforts of villagers and students in achieving good rural governance in the experiment are carried out under this slogan.

Trainees also have a chance to continue their involvement with the experiment beyond their one year training period. Of the trainees in the first two experiment groups, ten are selected and further trained to become trainers or resource persons to work with the experiment. In 2010-2011, 293 villagers will be working and receiving training in sixty-six villages of Mewat. The total number of villagers directly involved in the experiment, including the trainees of the previous two groups, is approximately 425. The trainees' objective is to make Mewat (a region comprised of about five hundred villages) a well-governed district.

G. *Specific Role of the Law School Clinic*

For the experiment, JGLS established the Good Governance and Citizen Participation Clinic (the Clinic). The Clinic supports the efforts of these villagers, under supervision of the students' professors, in achieving their objectives. In securing wider and effective participation of villagers for good governance, the students

68. The focus of the CLE methodology on learning by doing is particularly effective in promoting good governance. The active engagement of members of the community led to greater community support for the experiment and its goal of good rural governance.

69. The experiment has generated four booklets: one on the RTI Act; one on relevant government programmes and schemes aimed at ameliorating poverty and providing basic services to the poor; one on the roles and responsibilities of elected representatives of the village government; and one on the right of children to free and compulsory education. Posters and pamphlets have also been prepared. All this material is in simple Hindi and thus very useful for legal literacy.

70. People in India must demand "good governance now," and as Dipankar Gupta puts it, "[n]ow that we have the vote, we should all be in a hurry." DIPANKAR GUPTA, *THE CAGED PHOENIX: CAN INDIA FLY?* 9 (2009).

in the Clinic undertake multiple initiatives, in addition to training the villagers, which include:

1. Preparation of legal literacy material in the native language for wider dissemination;
2. Organizing legal literacy events for the villagers;
3. Organizing panel discussions bringing government officials and policymakers face-to-face with villagers;
4. Representing public interest litigation and concerns of villagers at appropriate forums; and
5. Making policy interventions.

The legal literacy material is used in literacy camps organized by the students for the purpose of reinforcing the efforts of the trainee villagers in creating legal awareness within their communities. Through these camps, the students help widen the geographical coverage of the experiment as the camps are organized outside the villages participating in the experiment and thus help in reaching out to more villagers. Through the literacy material exercise, students learn to research, synthesize, and explain laws in simple terms in native languages. The primary lesson they learn, however, is the value of inclusiveness. Through these camps, the students interact with villagers and learn about their problems. This provides the students with the opportunity to analyze situations and apply legal solutions to them. Close interaction with villagers in their surroundings also helps students understand the value of empathy.

Panel discussions organized by the students involve government officers, policy makers, NGO workers, and villagers. These discussions serve as a platform to bring various stakeholders together and serve as a mechanism through which villagers can raise their concerns and sensitize stakeholders to their needs. In organizing these discussions, the students learn to interact with various stakeholders and develop an understanding of the dynamics of a problem from different perspectives. They also get to witness first-hand the democratic value of dialogue and debate.

While participating in good governance training, trainee villagers encounter several problems that relate to the prevalence of corruption, inaction on the part of local government officers, and other related societal ills. Thus, the villagers need to approach various authorities, forums, and courts for corrective measures. Students help

these villagers in representing their cases before these forums and authorities. This provides students the opportunity to learn research, drafting, representational skills, and the importance of pursuing matters to their logical conclusion.⁷¹

For policy interventions, students work on giving suggestions to the legislature for developing new legislation or improving existing legislation. They also suggest ways for effective implementation of provisions of welfare laws. This forces students to further develop and apply their research, drafting, and advocacy skills in advancing the concerns of the common man. In addition to developing technical legal skills, the experiment also emphasizes three additional skills. These include helping the students develop the desire to pursue the cause of truth; the ability to empathize and show compassion; and the ability to make laws and their processes inclusive of the masses.

The support of the Clinic bolsters community participation in effecting good governance and makes such participation more authoritative and effective. The Clinic brings both technical support and commitment to the experiment's efforts. The support of the Clinic also firms up the motivation of villagers as they see their initiatives reaching logical conclusions. At the same time, this experiment has dual learning purposes for the students. On the one hand, they use the methodology of CLE, as part of the Clinic, to support the experiment. On the other hand, they see this methodology put into action by the trainee villagers.

The Clinic students get to experience substantial and socially relevant areas of law practice and policy intervention.⁷² In addition to practicing in various legal areas, the students get to work in multiple

71. The trainees write complaints to authorities to redress grievances and write letters to obtain information under the right to information law. Villagers need support from law students to help sustain these initiatives. Such support is critical to keeping the villagers motivated and to helping them realize results from their efforts.

72. The varied legal instruments that the students get to practice using in the Clinic include: The Constitution of India; The Right to Information Act, No. 22 of 2005, INDIA CODE (2005) (RTI Act); The Consumer Protection Act, No. 68 of 1986, INDIA CODE (1986) (CP Act); The Commissions for Protection of Human Rights Act, No. 10 of 1994, INDIA CODE (1994) (CPHR Act); The Legal Services Authorities Act, No. 39 of 1987, INDIA CODE (1987) (LSA Act); The Commissions for Protection of Child Rights Act, No. 4 of 2006, INDIA CODE (2005) (CPCR Act); and The Right of Children to Free and Compulsory Education Act, No. 35 of 2009, INDIA CODE (2009) (RTE Act).

forums.⁷³ By engaging in this manner of legal work, students assist in overcoming some major impediments to the development of CLE in India. The students thus add value to the initiative, and at the same time they learn lawyering skills and values. The collaborative efforts of the NGO and the Clinic succeed in addressing the disconnect in the villages between what law and policy promise to people and their grassroots reality. Through these collaborative efforts, the Clinic serves both “micro” and “macro” objectives of CLE and also helps in making law and its processes inclusive of the masses.

IV. CONCLUSION

In order for law schools to be involved in mainstream legal work,⁷⁴ law school clinics have to assume leadership roles. The JGLS/IRRAD experiment, which is developing into a legal model to be emulated through other collaborations, is an example of ways in which to experiment with CLE, not only to strengthen its development in India but also to respond to challenges posed by the disconnect in society. For effective development of CLE in India, the sustainability of CLE experiments is a primary challenge. The other aspect that needs attention is that of the outcome of these experiments. Developing legal skills and values in students is certainly an outcome to which CLE aspires; however, the disconnect in society requires that we go beyond this outcome.

Emphasis on outcome is necessary for several reasons. Developing student interest in the objectives and activities of CLE is

73. These forums include the Courts of Writ Jurisdiction (under provisions of the Constitution of India, for remedies against violation or non-provision of fundamental rights); Commissions for Right to Information (for complaints and appeals of right to information applicants under the RTI Act); Commissions for Protection of Human Rights (for complaints against violation of human rights under the CPHR Act); Commissions for Protection of Child Rights (for complaints against violation of rights of children under the CPCRC Act, including their right to free and compulsory education under the RTE Act); Consumer Protection Forums (for redress of consumer disputes under the CP Act); Offices of Banking and Insurance Ombudsman (for complaints against deficiency in service on the part of banks and insurance companies); Supreme Court’s Commissioner for the Right to Food (for complaints against poor implementation of provisions under the PDS, ICDS, and MDM); and Legislative Committees (for policy interventions).

74. Mainstream law in India must necessarily emphasize legal aid, public interest, and the law’s role in empowering the poor and the indigent and putting them on par with the richest and strongest in the practical sense of these constitutional imperatives.

not easy. Thus, it is important to identify an outcome that will attract and motivate students to join law school clinics. It is also important that outcomes be framed such that students can take pride in their association with a project that succeeds in achieving such outcomes. A substantive outcome resulting from the activities and engagement of law school clinics is also important from the standpoint of community mobilization. If communities benefit from the outcome of their engagement with a law school clinic, they will be motivated to strengthen that engagement. Subsequently, it is through this motivation and engagement that communities develop faith and confidence in law, its promises, and processes—and in law school clinics. This will enable law school clinics to get real clients, real cases, and real work, which will be satisfying and rewarding for law schools. This will also provide opportunities for law schools to engage larger questions of law in their day-to-day practicality.

All of these aspects have been taken care of in the JGLS/IRRAD experiment. Collaborative initiative by law schools and NGOs will bring sustainability and continuity to the initiative. The main actors in clinics, the students, have different engagements in different semesters. In addition, they have breaks, exams, and a variety of priorities. For instance, in their final year, the students' focus is more likely on placements and career opportunities than on their clinical legal work. Therefore, the support of clinic students to the experiments, like the one discussed in this article, is like a flowing river or a relay race—the flow needs to be seamlessly channeled, and the baton needs to be passed on smoothly and effectively. With a sense of continuity and sustainability, NGOs can accomplish these tasks successfully.

The outcome of the experiment is also linked to these concepts of continuity and sustainability. In the case of the JGLS/IRRAD experiment, the clinic students are part of a continuing and sustained initiative to bring about good rural governance through effective citizen participation. They witness the way identifying an outcome can motivate villagers, and this motivates the students as well. In addition, the overall outcome envisaged by the experiment, namely developing a model of a well-governed district, and thereafter posing it for wider replication and adoption by other law schools and NGOs in different parts of India, motivates students to become associated with the experiment and to take pride in their association. Within the given framework of the Indian system and the kind of challenges that society faces, be they of poverty, poor governance, corruption, or of

other such ills, such collaborations are both feasible and desirable. This is a way for law schools and NGOs to effectively develop CLE in India and play a transformational or revolutionary role in building societies and addressing their concerns.