



A Saga of Exclusionary Practices: Systemic Hindrances in Obtaining a Certificate of Legal Practice in India- Part II

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Submitted: 27. June 2022
Published: 4. July 2022
Volume: 9
Issue: 3
Affiliation: Centre for Social Justice, Ahmedabad, India
Languages: English
Keywords: Law, India, All India Bar Examination (AIBE), Bar Council of India (BCI), Legal Practice, Advocate
Categories: News and Views, Humanities, Social Sciences and Law
DOI: 10.17160/josha.9.3.830

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This is the second part of a three-part article series that seeks to critically examine the All India Bar Examination, one that law graduates need to necessarily pass to practice law in India. In the first part (which can be found here), the authors brought to light the issues of exorbitant registration fee and other costs related to the AIBE. In this article, we have attempted to map out the complex and inaccessible processes associated with the Bar enrolment such as lack of uniform and outdated guidelines and ambiguities in break-up of fees. It also captures an unpopular narrative regarding the hindrances faced by non-English/non-urban candidates in attempting an open book exam with an OMR answer sheet. This article was first published in LiveLaw (<https://www.livelaw.in/columns/all-india-bar-examination-aibe-bar-council-of-india-bci-197405>) in April 2022.

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A Saga of Exclusionary Practices: Systemic Hindrances in Obtaining a Certificate of Legal Practice in India

Part II

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Abstract

In India, to practice law, a law graduate needs to clear the All India Bar Examination conducted by the Bar Council of India. The popular narrative about the exam is that it is straightforward and easy to clear, however, the system is deeply unequal and narratives around its difficulty are embedded with intersectional privilege. There are multiple challenges that candidates face right from the enrolment stage to the exam stage. Systematic issues such as an exorbitant enrolment cost, cumbersome registration processes, quality of question papers in vernacular languages, and an ineffective grievance redressal mechanism. The article series argues that the entry point of the legal profession in its present form is deeply exclusionary. In our three-part article series, based on our interactions with hundreds of law graduates about their lived experiences of the examination process, we attempt to capture and bring forth these structural inequities into public discourse.

This is the second part of the article series that seeks to critically examine the All India Bar Examination, one that law graduates need to necessarily pass to practice law in India. In the first part (which can be found [here](#)), the authors brought to light the issues of exorbitant registration fee and other costs related to the AIBE. In this

¹ The authors are associated with the [Centre for Social Justice](#) and can be contacted at socjust@gmail.com. The Centre for Social Justice, is a socio-legal organisation that uses the judicial system to fight the rights of the marginalised communities.



article, we have attempted to map out the complex and inaccessible processes associated with the Bar enrolment such as lack of uniform and outdated guidelines and ambiguities in break-up of fees. It also captures an unpopular narrative regarding the hindrances faced by non-English/non-urban candidates in attempting an open book exam with an OMR answer sheet. This article was first published in LiveLaw

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Complex Enrolment Process

Each State Bar Council has its own mandate to determine the costs and processes associated with the enrolment such as verification fees, inspection guidelines etc. An applicant while undergoing the enrolment process faces a lot of ambiguities regarding the costs applicable to them. These unclarities arise clearly as a result of poor planning on part of the State Bar Councils.

We have divided these unclarities into three main categories: (a) Complicated break-up of fees (b) Lack of uniform guidelines (c) Outdated information on the website and no practice of online enrolment in most Bar Councils.

As discussed in our previous article, a law graduate has to incur an exorbitant expense to get themselves enrolled. While states like Gujarat and Bihar charge around 25,000/- for the enrolment process, in India on an average a law graduate might have to pay around 19,000/- to get themselves enrolled with any State Bar.

Complicated break-up of fees:

As shown in picture 1, there are a total of 23 heads mentioned in the break-up of fees. Head number 2 forms two categories of applicants:

1. those who have pursued their LLB from West Bengal- Rs 4,000/-
2. those who have pursued their LLB outside West Bengal- Rs. 6,000/-.

Further, head number 4, talks about the processing fee which makes two distinctions:

1. Within West Bengal- Rs 1,500/-,
2. Outside West Bengal- Rs. 4,000/-

These distinctions create the following points of ambiguity:

1. Whether the term 'outside' refers to education at the school level or college level, or both?
2. Whether the category of applicants who have completed their legal education from outside West Bengal need to pay Rs 4,000/- processing fees over and above the additional Rs. 2,000/- that they have paid for their registration under head number 2?
3. If the fee needs to be paid in each of the scenarios (school education as well as college education outside West Bengal), will an applicant who has done



both their schooling as well as legal education from another state pay Rs 14,000 [6,000 (head 2) + 4,000 (head 4) + 4,000 (head 4)] as verification fees?

BAR COUNCIL OF WEST BENGAL		
2 & 3, Kiran Sankar Ray Road, City Civil Court Building, Kolkata - 700 001		
REVISED RATE OF FEES WITH EFFECT FROM		
1ST OCTOBER, 2020 AND ONWARDS AS PER ORDER		
SL. NO.	PARTICULARS	Revised Rate
	Cost of Enrolment Form	Omit
1	A Enrolment Fees (General Candidates)	3000
	B Enrolment Fees (S.C. / S.T. Candidates)	1500
2	A Registration Fees (Those who have passed LLB. within 5 years)	4000
	Registration Fees (Those who have passed LLB. within 5 years) Out side of West Bengal	6000
	B Registration Fees (Those who have passed LLB above 5 years within upto 10 years)	5000
	Registration Fees (Those who have passed LLB above 5 years within upto 10 years) Out side of West Bengal	7000
	C Registration Fees (Those who have passed LLB above above 10 years within upto 15 years)	13000
	Registration Fees (Those who have passed LLB above above 10 years within upto 15 years) Out side Bengal	15000
	D Registration Fees (Those who have passed LLB 15 Years onwards)	15000
	Registration Fees (Those who have passed LLB 15 YEARS onwards) Out side of West, Bengal	17000
3	Building Fund	700
4	Processing Fees	1500
	Processing Fees Out side of West Bengal	4000
5	Library Development Fund	500
	Declaration Form	Omit
6	Rule - 40 Form Charge	100
7	Rule - 40 Form Subscription Fees	1000
8	Identity Card From Charge	Omit
	Identity Card Fees	250
9	Fees For Duplucate Identity Card	300
10	Fees For Resumption of Practice	23000
11	Fees For Urgent Letter of Enrolment	150
12	fees For Duplicate Letter of Enrolment	500
13	Fees For Duplicate Certificate of Enrolment	1000
14	Fees For Continuity Certificate	800
15	Fees For Change of Surname	500
16	Fees For Transfer (Outgoing)	3060
17	Fees For Transfer (Incoming))	2500
18	Fees For Notary	3000
19	Fees For Disciplinary Case	1000
20	Application for certified copy of order sheet certified copy of order sheet	20 Per sheet
21	Adjournment Cost Or / D.C.	200
22	Fees For Car Sticker	200
23	Inspection Fees	100

Picture 1: Break-up of Registration fees in West Bengal.



While the break-up provided by West Bengal is ambiguous and confusing, many states like Gujarat do not even provide such break-up. The Bar Council of Gujarat charges around Rs 2,500/- from applicants who have not done their schooling from Gujarat State Board. Thus, even if one has done their schooling in Gujarat but from any other board (such as CBSE, ICSE), they still have to pay this additional fee. This additional fee which is over and above the enrolment fee, however, is not mentioned in the enrolment form or on their website.

Lack of uniform guidelines:

Even in the same Bar, the practice of inspection of documents for enrolment carried out by the officer-in-charge differs due to the lack of uniform guidelines. One of the applicants we spoke to, was asked to submit an additional affidavit verifying her name due to the fact that in her degree certificate the names of both her parents were mentioned, whereas in her school certificates only her father's name was mentioned. However, this additional affidavit was not required to be submitted by her batchmate who had similar documents. Procuring each of these additional affidavits can cost a minimum of 1,500/- to 2,000/- rupees each including the advocate's fees as well as the minimum stamp value of 300/- rupees.

Outdated information on the website and no practice of online enrolment in most Bar Councils:

Most State Bars do not allow online enrolment of law graduates even though it has been two years into the pandemic. Though the forms are available on the website of some State Bars, many of them are not updated. Thus, most applicants still have to visit the State Bar Council office to procure the application form as well as visit again to submit it.

To clarify confusions or to avail information about the payment process, one has to either call or physically visit the Bar office. The latter is often required as the information available on most of the State Bar's websites is either not updated or is tabled in a complex manner (mostly in English). Some Bars, such as the Bihar Bar Council (as shown in Table 1), do not even have a website, thus, leaving physical visits to the Bar office as the only resort.

Even though the registration process for the AIBE exam is completely online, the local Bar Councils generally do not have information on the AIBE exam. To clear queries or ambiguities regarding the exam process or recent notifications, the applicants have to again travel/contact the state Bar Council office (most State Bars do not have a functional phone desk).



As mentioned in our previous [article](#), the Bar Council of India had issued a notification in February 2021 disallowing candidates from using Bare Acts with short notes/comments during the AIBE. While the notification was still effective and not withdrawn, many candidates tried to unsuccessfully contact the local Bars to get clarity regarding the same. Neither the Local Bars nor the State Bars were able to conclusively advise the candidates.

Unfamiliar methods

On the official website of the [All India Bar Examination](#), the [instructions to register](#) and [instructions for the application process](#) are uploaded only in English. This defeats the purpose of conducting the exam in 11 languages as the first step of taking the exam itself makes the process inaccessible.

This is also one of the leading reasons behind confusions that lead to the withholding of results. Results of many of the candidates we interacted with were withheld due to the fact that their documents were not submitted in the format that they were supposed to be submitted in. Had the instructions been provided in vernacular languages, many confusions (such as which document needs to be attested, notarised, translated and attested and so on) would not have arisen.

Another kind of unfamiliarity that plagues the system is with respect to attempting the AIBE exams. Students of most law schools in India are unfamiliar with the exam pattern of AIBE on multiple levels. The filling of OMR (Optical Mark Recognition or Optical Mark Reading) sheets is a fairly urban practice that candidates outside the National Law Universities and expensive private colleges are unacquainted with.

Due to this unfamiliarity, candidates have an additional 15 minutes (over and above the 3 hours for attempting the questions) for filling in their personal details on the OMR Sheet. The Bar Council of India office confirmed this practice when we contacted them. However, we were informed by a lot of the candidates in Gujarat that they did not get this additional time. This led to a lot of confusion and many candidates were not able to complete their exams.

During our interaction with one of the candidates, we were informed that in their exam hall, a two-digit exam code had to be marked in a space where there were three blank spaces. Not knowing that a zero (0) had to be added before the two-digit centre code meant that multiple candidates ended up marking only the first two bubbles and leaving the third space blank. Such mistakes can result in withholding/cancellation or failure in the exam.



In *Kirtee Kumari v. The Bar Council Of India*, the petitioner had approached the Court after being disqualified from the AIBE due to a technical error in filling the Set Code, despite securing the marks needed to qualify for the exam. The court had decided that the default was also committed by the invigilator appointed by the Monitoring Committee of the AIBE, who is responsible to check whether the Set Code has been mentioned by the candidate or not before signing the answer sheet. Holding that the petitioner is not to be solely blamed for the lapses, the petitioner was asked to approach the Chairperson of the BCI and on the other hand, the Chairperson of the BCI was instructed to consider the application “sympathetically”.

While this precedent can help other candidates also obtain similar favourable decisions, it is undisputed that only a few candidates would have the social capital and financial ability to opt for a similar path.

Challenges with open book exam pattern

An open book exam pattern cursorily seems unchallenging but it is a pattern that most candidates are not familiar with. The trick to attempting the questions that can be directly found in Bare Acts is to:

firstly identify the legislation the question is from;

secondly to identify which chapter of a particular legislation the question is from;

thirdly to identify whether the question can be answered from the index or whether the section needs to be referred to;

fourthly whether it is a question from the main text of the section or its exception or its illustration or its explanation.

While this strategy might seem simple, the art of reading the Bare Act is not taught at most law schools. Each Bare Act has an average of 50-100 pages and one carries 15-20 Bare Acts for the exam. Thus, candidates who are not familiar with the contents of a Bare Act and the scheme of the legislation, get lost and take a lot of time in finding the answers.

It is pertinent to note that the Bar Council of India has a statutory duty under section 7 of the Advocates Act, 1961 to promote legal education. They also set standards for legal education and grant recognition to Universities whose degrees in law will serve as qualifications for enrolment as an advocate. It is therefore their duty to ensure that the universities are providing the necessary training to their students for clearing the enrolment exam. That is however not the case.

There is a need for bringing uniformity in the enrolment stage and one way of achieving that can be by making the process also available online. Till the infrastructure is developed, all the information related to all the steps and



documents required should be made available in the vernacular language spoken in that state on the official website of the State Bar.

While we have already mentioned that students need to be familiarised and trained to be better equipped to give these exams, invigilators, as well as other stakeholders, also need to be trained in terms of their roles and responsibilities such as verifying whether the answer sheets have been filled correctly (SET code) as well as ensuring that adequate time for reading the question paper and filling the OMR sheet is given to the candidates.

These interventions are small steps that would make the entry point of our legal profession inclusive. The fact that there has been no action taken to clarify these ambiguities and streamline the processes, highlights the apathy that exists in the system and there is a need to relook at the role and responsibility of our Bar councils to reduce the structural inequalities.

In the third and last part of the article, we will highlight the poor quality of questions papers and the inadequate grievance redressal system of AIBE.



About the Author

The authors are research associates at the Centre for Social Justice, Ahmedabad. The Centre for Social Justice is a socio-legal organisation working in the sphere of access to justice, that uses the judicial system to fight the rights of the marginalised communities. The authors have their respective field areas. Gatha works with the Gumla unit in Jharkhand, India; Tanvi works with the Amreli unit in the coastal area of South Gujarat India; and Nivedita works with the Dang unit in the tribal area of South Gujarat, India.