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Commentary

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Beyond the Bare Act: Re-Imagining Intellectual Property Pedagogy

Abstract

Driven by rapid technological advancements and cultural shifts, intellectual property (IP) law is in a constant state of evolution. Yet its teaching in Indian law schools remains heavily reliant on rote, statute-based instruction. While autonomous institutions enjoy pedagogical flexibility, a large segment of Indian legal education institutes operates under stagnant, centralised syllabi. The Bar Council of India's classification of IP as an "optional" paper unintentionally deepens this administrative lethargy. Instead of encouraging agile curriculum design, it leaves the subject tied to outdated reading lists and rigid examination formats. This structural inertia reflects a broader pedagogical crisis across the Global South, mirroring similar issues in India's STEM education, where practical training is strictly siloed from substantive theory.

Inside the classroom, this outdated structure meets the reality of modern law students. Shrinking attention spans and growing uncritical dependence on generative artificial intelligence (AI) models mean passive lectures are no longer sufficient. Informed by industry interactions and experiential learning frameworks, this commentary outlines practical interventions to bridge the theory-practice gap. It details instructor-led simulations, specifically a lifecycle pedagogy and case study methods for formative real-time assessment. By shifting the classroom from a space of memorisation to that of active simulation, educators can ensure that IP pedagogy finally reflects the spirit of innovation that IP law is designed to protect.

Keywords: Intellectual property law, legal pedagogy, Global South, comparative education, AI in education, Bar Council of India

Introduction

About a decade ago, I walked into an intellectual property (IP) classroom at one of India's premier National Law Universities (NLUs). The semester felt less like an academic inquiry and more like a sprint. In the span of four months, we were to digest the provisions of the Copyright Act, the Patents Act, the Trade Marks Act, and the Designs Act. The pedagogy that was

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followed was essentially that of a survey course: we learnt the definitions, memorised the important provisions, and read the headline cases. By the end of it, we knew what IP was, but had truly little understanding of how it worked. We could confidently answer what evergreening is, but we could not tell how a pharmaceutical company builds its patent strategy. Fast forward to 2026, and I am now on the other side of the podium, teaching IP law. I have taught IP law to diverse undergraduate cohorts navigating the curricula of both independent private law universities and institutions affiliated with state law universities. And yet, when I look at the curriculum across the country, little has changed. The supermarket approach, where we try to stock every single IP regime on the shelf of a single semester, remains the dominant model. A survey of publicly available course manuals of undergraduate IP courses across the country further demonstrates that it is a survey-style, statute-oriented approach that defines the structure and pedagogy of most of these courses.

Through this commentary, I argue that the current state of IP education in India is trapped in a structural bind between outdated university mandates and the evolving demands of the profession. While a comprehensive empirical survey of IP pedagogy across Indian universities is beyond the scope of this commentary, this piece draws on structural analysis, the existing regulatory framework, comparative Global South pedagogy, and qualitative experiential insights to propose immediate classroom interventions. Future empirical studies could further quantify the extent of this pedagogical gap. Drawing from my experience, both as a student and a teacher, I propose that the only way out is not to teach more law but to teach it differently, shifting from rote learning to experiential and active learning.

The Problem of Structures

To understand the crisis, we must look beyond the autonomous "islands of excellence," (Sunderrajan, 2010) the National Law Universities and independent private universities. In such institutions, course instructors often have the freedom to design and update their own courses. However, a vast segment of the broader Indian legal education system still operates under centralised, top-down structures where individual course instructors have far less pedagogical autonomy (Singh & Taak, 2025).

To illustrate the structural challenge, consider the specific predicament of private law colleges affiliated with state universities. Having navigated the exact environment as a course instructor

at a state-university affiliated college, I had firsthand experience with this structural straitjacket. On paper, the institution seemed to have an advantage. Unlike many institutions that follow a one IP paper policy, this university had spread the subject into two separate optional papers. This should have been a luxury, since double the time meant double the depth.

Unfortunately, the reality was a case study in stagnation. The syllabus, set centrally by the state university to which the college was affiliated, had not been updated in a decade. In the world of IP, ten years is an eternity. A decade ago, IP questions related to generative artificial intelligence (AI) did not occupy centre stage, and standard essential patents were not the litigation steamrollers they are today. Yet the syllabus remained frozen in time.

As a course instructor, one tries to innovate, but the instructor is hit by an examination trap. Students in these affiliated institutions are pragmatic. They know that the university sets the final question papers and not their course instructor. If the university's question bank relies on rote learning from ten years ago, the students will rationally reject any teaching pattern that deviates from that pattern. I have seen bright students tune out of a lecture on sociological tensions in IP because "it won't be in the exam." They retreat to the safety of solving the past five years' question papers.

This is where the regulatory framework fails us. The Bar Council of India (BCI) treats IP as an optional paper under Schedule II of the Rules of Legal Education (Bar Council of India, 2008). While it is understandable that the BCI must reserve the mandatory "core" for foundational law papers, this classification has inadvertently allowed universities to treat the IP syllabus with lethargy. The regulatory failure does not necessarily lie in limiting IP as an optional paper, but in failing to mandate dynamic syllabus review mechanisms for these fast-evolving electives.

This rigidity is not unique to law; it echoes broader pedagogical crises in Indian STEM education. Recent critiques of Indian medical and engineering curricula and pedagogies highlight a similar syllabus paralysis, where centralised regulatory bodies fail to update curricula to match rapid clinical or technological advancements, trapping learners in didactic, rote learning ecosystem (Verma & Singh, 2024).

When we view this structural inertia through a comparative Global South lens, the pedagogical crisis only deepens. Legal education in post-colonial jurisdictions, whether in India, the Philippines, or South Africa, has historically been burdened by the lecture and final exam model. To counter this, regulators across these regions have mandated practical training. The BCI has long mandated clinical legal education and legal aid papers (Bar Council of India, 2008), just as the Philippines (Supreme Court of the Philippines, 2025; see also Golub, 2000) and South Africa (Du Plessis, 2019; see also McQuoid-Mason, 2008) have their clinical mandates.

However, the comparative failure lies in the siloing of this pedagogy. We quarantine practice into four specific clinical papers (Bar Council of India, 2008), leaving substantive doctrinal optional papers like IP trapped in theory. Recent pedagogical reviews in South Africa (Dakacha, 2025), for instance, stress that transformative legal education requires embedding applied problem-solving competencies across the entire curriculum, and not just inside the law clinic. Similarly, educational reformers in the Philippines (Gonzales & Carlos, 2025) backed by the Supreme Court's Revised Rule 138A, are pushing back against rigid recitation methods by institutionalising clinical practice more holistically. The Amended Rules also require the completion of the Clinical Legal Education Program under Rule 138-A or the Law Student Practice Rule, as part of the prescribed law degree courses for admission to the bar (Supreme Court of the Philippines, 2025).

The Problem of Disengaged Classrooms

This structural inertia collides with the cognitive realities of modern classrooms, which are facing an existential crisis of attention. Contemporary students operate in an attention-deficit economy fuelled by short-form content and instant responses. There is a palpable lethargy towards long-form readings; assigning a fifty-page journal article or longer judgments often results in a classroom of blank stares.

This disengagement is driven by the dangerous perception that the classroom itself is optional. In an era of information abundance, students often ask: "Why should I attend a lecture when I can watch a video explainer at double speed or ask an AI model to summarise my readings?" This reliance on generative AI poses a specific pedagogical danger. While the disruption of AI is a challenge across the entire legal education sector, it poses a unique challenge to IP law. The rise of AI notably challenges traditional concepts of IP, such as the legal definition of authorship

and the boundaries of human creativity and innovation (Saw & Lim, 2026; see also Dornis, 2020). Therefore, unlike other areas of law, such as contracts or criminal law, AI has disrupted not only the way of "doing" law but also the very content of it with respect to IP. This emphasises IP's nature as a continuously evolving subject that requires an equally agile pedagogical response (Luk, 2024).

Students treat large language models as oracles, often failing to realise that, without subject-matter depth, they cannot distinguish between an AI hallucination (IBM, 2024) and a legal fact. I have seen students submitting assignments citing non-existent sources because the AI generated a highly convincing, yet entirely fictitious, output. This academic nuisance is now a professional hazard. As recent Supreme Court (Bhalla, 2026) and High Court (Ghosh, 2025; see also High Court of Kerala, 2025; Vasudeva, 2023) reprimands for AI-hallucinated submissions demonstrate, if practitioners are vulnerable, the risk to untrained students is exponential. They fail to understand that AI is a tool for an expert, not a substitute for expertise. Industry practitioners lament that if a student does not know the distinct types of licenses, they cannot face a client and advise on the strategic nuances of IP licensing.

Adding to this pressure is the proliferation of private certificate courses on IP drafting. Students are increasingly seduced by workshops that promise to teach them drafting in a few weeks or over a weekend. This creates a false dichotomy in students' minds: the university is for boring theory, and the certificate course is for real skills. While courses of this nature may certainly add value and further round out a student's legal education, it is necessary that these demands be met, at least in part, by the law school curriculum itself. This is particularly relevant considering financial constraints that students may face while accessing add-on certificate courses. Similarly, law schools other than those falling under the bracket of aforementioned "islands of excellence" may also face both logistical and financial constraints in accessing industry resource persons.

Crucially, an undergraduate classroom is a space of massive student diversity. Unlike a specialised master's cohort, a compulsory or general elective class of undergraduate students comprises future criminal lawyers, corporate hopefuls, and judiciary aspirants. Many are there simply because attendance is required to graduate. The challenge for the course instructor is immense: how does one compete with the internet, teach responsible use of AI, and engage a student who has zero interest in patents?

Experiential Learning: A Solution

The answer lies in active and experiential learning (Kolb, 1984). One cannot prompt an AI to replicate a live, collaborative simulation or fast-forward a negotiation happening in real time. Experiential learning forces presence. It disrupts the lethargy because students are no longer passive recipients of a lecture but active participants in a problem.

We need to move away from teaching IP in silos. Currently, while teaching IP alongside specialised courses on AI and law, I regularly incorporate experiential exercises. However, a past conversation with an industry practitioner during an IP Summer School organised by SpicyIP (SpicyIP, 2025) prompted a crucial pivot in my pedagogy. They observed that if we want students to understand IP, we must teach it the way the market experiences it, not as isolated legislation, but as interconnected assets.

Realising that even my practical exercises were still bound by statutory silos, I adapted my approach. Building on this industry insight, I refined my experiential pedagogy into two primary interventions:

The Lifecycle Pedagogy

To break the one-semester bottleneck, I take a single commercial product and track its legal journey across multiple regimes. For example, we track the lifecycle of a pharmaceutical drug.

In the patent module, we start with the molecule of a drug and simulate its exclusivity timeline. If clinical trials take six years, how much effective patent life is left? This demonstrates that evergreening strategies are not abstract ideas, but a business necessity that students must critically evaluate.

In the trademark module, using the same pill as an example, we question whether the colour of the medicine can be trademarked. This question leads to discussions on whether such a monopoly impacts public health, thus grounding trademark law in immediate questions of social justice.

Lastly, in the copyright module, we look at the information leaflet folded inside the packaging to discuss the originality doctrine in copyright.

The Case Study Pedagogy

This experiential method shifts the instructor's role from a lecturer providing information to a moderator of strategy. Crucially, it allows for formative assessment, testing students as we progress through the course rather than awaiting final exams.

In a traditional two-hour lecture, the pedagogy must shift from continuous delivery to immediate application. Rather than teaching a legal concept and hoping that students remember it during exams, I introduce a micro-case study immediately after the topic is covered.

While the traditional case law method has long been a staple of legal education, its conventional use heavily relies on closed-scenario hypotheticals to test pre-acquired knowledge. The proposed micro-case study approach diverges by utilising real-life, current, and unresolved events. Empirical research supports this distinction; students report that it is more useful and engaging to examine cases in the real, current world than to rely on previous landmark cases (Luk, 2024).

For example, after spending forty minutes discussing the theoretical threshold for copyright infringement, I reframed a recent IP dispute as a classroom hypothetical. Students spend about ten to fifteen minutes applying the law they have just learnt to advise a future client. By engaging with ongoing, open-ended disputes, students learn to navigate uncertainty in law alongside current affairs. This shifts the energy in the classroom, tests conceptual clarity, and validates their learning. If the majority misinterpret the law, we stop and re-evaluate. This pushes students towards active experimentation rather than passive listening.

An IP Classroom Toolkit

Beyond these structural shifts, there is a broader toolkit of experiential simulations that IP educators can deploy to bridge the theory-practice gap and offer immediate takeaways for students.

Implementing such a toolkit approach would certainly benefit universities that have access to premium prior art search software or exclusive artists' contract agreements, thereby necessitating formal industry-institute collaborations or significant institutional funding. However, for institutions working with constraints in this regard, there is also a wealth of free, public databases for patent and trade mark searches, alongside open-access contract templates

available online. Consequently, any law professor can easily deploy these experiential tools in their classroom without requiring specialised industry contacts, resource persons, or extensive institutional backing.

For example, instead of interpreting anticipation or novelty from patent statutes and case law, an instructor can turn the classroom into a patent registry. Pulling up a live public database and running a prior art search for an everyday object or a student's hypothetical invention will help students visually grasp the threshold of novelty. In doing so, they will realise that patent law is not just interpretive but deeply investigative.

Similarly, while teaching copyright, educators can utilise publicly available artists' contracts. Moving beyond the text of the Act, analysing real world agreements shifts the conversation from statutory compliance to sociological realities. By examining actual licensing and assignment clauses, students can understand the inherent power dynamics between individual artists and massive record labels. They see firsthand how a single poorly worded clause can permanently impact a creator's livelihood.

Conclusion

For too long, Indian legal education has largely operated in silos. All too often, centralised examination systems dictate archaic testing, regulators quarantine practical training into specific clinical courses, and course instructors find themselves constrained to teach distinct substantive acts that rarely speak to one another.

We need to stop viewing IP as just a checklist of statutes to be memorised. It is a vocational reality deeply intertwined with equity, economics, and human livelihood. By adopting experiential pedagogy, where the course instructor guides students through case studies, live searches, and the messy yet overlapping reality of a product's life, we can bridge the gap. We can and should produce lawyers who, beyond the law, know the power it holds. Ultimately, the inertia in IP classrooms mirrors broader systemic flaws in Indian legal education, where theory and practice remain strictly siloed. Fixing IP pedagogy offers a valuable blueprint for wider educational reform in India. By shifting from centralised, didactic instruction to agile, experiential learning, we can help dismantle the syllabus paralysis currently stifling innovation in India's STEM, medical, and legal fields. After all, if intellectual property is the law of human creativity, our pedagogy and curricula must reflect that same spirit of innovation.

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