From Hyderabad to Harvard: How U.S. Law Schools Make Clerking on India’s Supreme Court Worthwhile

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Abstract: Since the 1990s, judges of the Supreme Court of India have hired law clerks to help them perform some of their routine tasks. However, while clerkships on the U.S. Supreme Court are considered very prestigious and are extensively written about, clerkships on India’s Supreme Court are considered to be of significantly lower value by the local legal profession and teaching market in India. Instead, ironically, clerkships on the Supreme Court of India are most often pursued by students interested in getting an advanced law degree (usually an LL.M.) at a U.S. law school. Relying on interviews conducted with law clerks and interns who have served on the Supreme Court of India, and using India as a case study, this paper argues that advanced degree programs at elite U.S. law schools, meant for foreign students, have inadvertently encouraged students in other countries to “Americanize” themselves by doing the things that stellar American law students do.

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I. INTRODUCTION
Since the 1990s, judges\(^1\) of the Supreme Court of India have hired law clerks and interns to help them perform some of their more ministerial, mundane tasks. With over 58,000 cases pending before the Supreme Court of India, the court’s 31 judges could certainly use all the assistance they can get. However, while clerkships on the U.S. Supreme Court are considered very prestigious and are extensively written about,\(^2\) clerkships on India’s Supreme Court are considered to be of significantly lower value by the local legal profession and teaching market in India. Instead, ironically, clerkships on the Supreme Court of India are most often pursued by students interested in getting an advanced law degree (usually an LL.M.) at a U.S. law school. Since judicial clerkships are considered highly prestigious in the U.S.,\(^3\) admissions departments at American law schools consider judicial clerkships in other countries to be valuable as well. Relying on interviews conducted with law clerks and interns who have served on the Supreme Court of India, and using India as a case study, this paper argues that advanced degree programs at elite U.S. law schools, meant for foreign students, have inadvertently encouraged students in different countries to “Americanize” themselves by doing the things that stellar American law students do.

Though the Supreme Court of India was established in 1950, it was only in the late 1990s that the first law clerk was appointed to serve on it.\(^4\) After clerking with the Chief Justice of the Supreme Court,\(^5\) that law clerk got two advanced law degrees (an

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1. Interestingly, a judge of the U.S. Supreme Court is called a “justice”, not a “judge”, while a lower court judge in the U.S. is called a “judge”. In India, a judge of the Supreme Court is called a “judge”, though he has the title “Justice”. In India, High Court judges also have the title “Justice”, though they too are called “judges”.


3. See, Lazarus, supra note 2, at 18; Peppers and Ward eds., supra note 2, at 12-13; Ward and Weiden, supra note 2, at 1.

4. Ballakrishnen points out that it was around the same time that Indian students started going to U.S. law schools for LL.M.s in large numbers. Swethaa Ballakrishnen, Homework Bound: What Does a Global Legal Education Offer the Indian Returnees?, 80 FORDHAM L. REV. 2441 (2012).

5. Arun Thiruvengadam is widely considered to have been the first law clerk on the Supreme Court of India. He clerked for Chief Justice A.M. Ahmadi. The first law clerk on the U.S. Supreme Court was Thomas Russell, who was hired by Justice Horace Gray in 1882. See, Peppers and Ward eds., supra note 2, at ix.
LL.M. and a J.S.D.) at the New York University School of Law in the U.S. Since then, scores of Indian law graduates have served as law clerks to judges on the Supreme Court of India, and many of them have subsequently gone on to get LL.M.s at elite, east coast, U.S. law schools. The rise of the clerkship on the Supreme Court of India coincided in time with the rise of the internet, which made it increasingly easier for foreign students to apply to U.S. law schools for advanced law degrees – for the first time, law students in India started being able to look up the application requirements of U.S. law schools online, to acquire application materials online, and eventually, to even apply to U.S. law schools online. It was also around this time that U.S. law schools began to vastly expand the graduate programs available to foreign law students. Early law clerks who served on the Supreme Court of India prepared for their clerkships by reading books written by American authors like Bob Woodward and Edward Lazarus on the clerkship experience on the U.S. Supreme Court. Though a clerkship on India’s Supreme Court did little to enhance a law student’s career in India, ambitious Indian law students re-imagined themselves as model American law students who clerk on the U.S. Supreme Court, with the objective of getting an LL.M. at a U.S. university.

Much has been written about the U.S. law school. Following the economic crisis of 2008, a great deal of literature focuses on reform – on why law schools are failing and how they can improve. However, though there are at least 102 U.S. law schools that offer degree programs to foreign law graduates – over half the number of U.S. law schools offering graduate programs in the U.S. – scarce academic attention has been devoted to these programs or their students. Carole Silver and Swethaa Balakrishnen have written about advanced degree programs and foreign students at U.S. law schools, focusing on questions like why foreign students get LL.M.s at U.S. law schools, what those schools gain by admitting foreign law students, and how foreign LL.M.s are received by America’s legal profession. This paper engages with this rising literature on foreign students at U.S. law schools by focusing on the enormous influence these law schools exercise on the early career choices of foreign law students. This paper makes two claims, one about U.S. law schools, the other about foreign law students. First, rather than deciphering the cultural nuances of the structure of the legal profession in different societies, admissions departments at U.S. law schools assess international candidates by applying standards by which American law students are assessed. The brightest and best
American law students clerk on the U.S. Supreme Court, and so admissions departments at U.S. law schools think that clerkships on Supreme Courts in other societies are prestigious as well. Second, as a result of the inability of U.S. law schools to figure out cultural differences between the legal profession in the U.S. and other countries, law students in countries like India have adopted a strategy to “Americanize” themselves: to pursue paths that would not necessarily improve their standing in their own country, but which would make them look like stellar candidates to U.S. law schools.

Law clerks and interns have been around on India’s Supreme Court for about fifteen years, but they have received little scholarly attention. Posts written by former law clerks on blogs, offer short, first-hand accounts of clerks’ experiences on the Supreme Court, but there is very little by way of substantive, scholarly research which has been done on Supreme Court law clerks in India. Two unpublished memoranda, written by former law clerks to the Chief Justice of the Supreme Court of India, looked into how the clerkship experience could be improved in India. Though this paper addresses some of the themes explored in these memoranda, the primary purpose of this paper is to investigate the relationship between LL.M. programs at U.S. law schools and the clerkship on the Supreme Court of India. In 2013, a former intern to a retired Supreme Court judge alleged that she had been sexually harassed by her judge, after which an increasing amount of attention has been paid in the Indian news media to Supreme Court


14 The memoranda were authored by Nick Robinson and Sidharth Chauhan. Robinson is arguably one of the least typical law clerks to have served on the Supreme Court of India. He graduated from the J.D. program at Yale Law School in 2006, and clerked for Chief Justice Y.K. Sabharwal on the Supreme Court between 2006-07. Chauhan graduated from the National Law School in Bangalore in 2008, and clerked for Chief Justice K.G. Balakrishnan between 2008-10.

15 Sidharth Chauhan’s memorandum (addressed to an additional registrar of the Supreme Court of India, and dated May 25, 2010), and an incomplete version of Nick Robinson’s memorandum (addressed to Chief Justice Y.K. Sabharwal, though not dated), are on file with the author. The memoranda are hereinafter referred to as the “Robinson Memorandum” and “Chauhan Memorandum” individually, or as the “Robinson and Chauhan memoranda” collectively.

16 Stella James, Through my Looking Glass, JOURNAL OF INDIAN LAW AND SOCIETY BLOG (November 6, 2013), http://jilsblognjs.wordpress.com/2013/11/06/through-my-looking-glass. See further, Kian Gianz, ‘Second Intern ‘posts to social media, says ex-judge promised never to molest anyone again, LEGALLY INDIA (November 14, 2013), http://www.legallyindia.com/201311144114/Bar-Bench-Litigation/sc-intern-sex-harassment-another-interns-social-media-account; Kian Gianz, Law student sexually harassed by ex-Supreme Court judge, LEGALLY INDIA (November 11, 2013), http://www.legallyindia.com/201311114099/Interviews/sexual-harassment-supreme-court-is-common. In 2014, another intern to a former Supreme Court judge alleged that she had been sexually harassed by her judge, while he was still in office. See, Maneesh Chhibber, ‘Justice S Kumar...put his right arm around me, kissed me on my left shoulder...I was shocked’, INDIAN EXPRESS (January 11, 2014), http://indianexpress.com/article/india/india-others/justice-s-kumar-put-his-right-arm-around-me-kissed-me-on-my-left-shoulder-i-was-shocked/3/.
law clerks and interns.\textsuperscript{17} By contrast, this paper is one of the first scholarly studies of the clerkship experience on the Supreme Court of India. 

This paper relies on semi-structured, qualitative interviews conducted with twenty-eight law clerks and interns who had either already served or were presently serving on the Supreme Court of India when the interview was conducted.\textsuperscript{18} The interviewees had served as law clerks or interns on the court sometime between 2002-2014. Interviewees had studied at any one of eight law schools in India.\textsuperscript{19} Except for two interviewees, all of them had worked for different judges of the Supreme Court of India. Each interview was conducted either over the telephone or on Skype and lasted between 30 minutes to 2 hours. Interviewees were asked a number of questions\textsuperscript{20} relating to their experiences applying for the position, and working for the judge, and the thesis of this paper was by no means apparent to them. Interviewees were all promised confidentiality: they were told that neither they nor their judges would be identified in this paper, which made many of them comfortable with speaking to me in the first place.\textsuperscript{21} Interviews were not recorded, in order to encourage interviewees to speak freely. I used a snowball sampling technique to locate my interviewees.\textsuperscript{22} There is little chance of bias in the data collection process because my original purpose while conducting the interviews was to write a descriptive paper about the clerkship experience on the Supreme Court of India – the findings presented in this paper emerged organically from the interviews.

Part II of this paper discusses why structural differences between the Supreme Court of India and the U.S. Supreme Court make it less prestigious to be a law clerk in India. In particular, it will be seen that in contrast to the U.S. Supreme Court, a larger


\textsuperscript{19} The law schools are: National Law School of India University, Bangalore; Government Law College, Mumbai; National Academy of Legal Studies and Research University, Hyderabad; Campus Law Center, Delhi; National Law University, Jodhpur; University Law College, Bangalore; National University of Juridical Sciences, Calcutta; ILS Law College, Pune.

\textsuperscript{20} The interview questionnaire is on file with the author, and available upon request.

\textsuperscript{21} On the use of anonymous interviewees, see further, DAVID C. POTTER, INDIA’S POLITICAL ADMINISTRATORS 1919-1983 (1986); Woodward and Armstrong, supra note 2, at 3; Lazarus, supra note 2; Ward and Weiden, supra note 2, at 20. Ward and Weiden argued that by guaranteeing anonymity to the U.S. Supreme Court law clerks they interviewed, they also ensured, to an extent, that their interviewees had nothing to gain by inflating their own importance.

\textsuperscript{22} Though the Supreme Court of India publishes a list of law clerks selected to serve on the court, there are several problems with using such lists for selecting a random sample of interviewees. First, the list of law clerks is not easily accessible. A list of law clerks selected to serve on the Supreme Court of India were only available online for a few years. See, e.g., List of law clerks selected in 2009, http://www.supremecourtofindia.nic.in/circular/lawclerk2009-10.pdf (last visited October 5, 2013). Second, no contact information is publicly available for law clerks, so even if it were possible for me to locate the names of law clerks who served on the court, it was impossible for me, in many cases, to locate their contact details. Third, the lists did not guarantee that the clerk actually ended up working at the Supreme Court – often, students selected to be Supreme Court law clerks ended up doing something else instead. Fourth, many law clerks worked for judges under what will be described in this paper as the “informal path”. The names of these clerks are unlikely to have been listed in any of these lists. However, since this paper relies on a snowball sampling strategy, it is important to emphasize here that I cannot claim that my study relies on a representative sample, but only that the results reported here are suggestive.
number of judges share power on the Supreme Court of India, and judges in India serve in office for shorter periods of time. It will also be seen that there is a much stronger tradition of oral advocacy on the Supreme Court of India, and that the court is overworked and less deliberative than its U.S. counterpart. Part III describes the clerkship experience on the Supreme Court of India and argues that law clerks in India are less influential than they are on the U.S. Supreme Court. Clerks in India get fewer responsibilities than their American counterparts, which is not necessarily a bad outcome: the vast amount of influence exercised by law clerks on the U.S. Supreme Court has sometimes been misused and has come under criticism. It will be seen that law clerks in India are outsiders to the system, and gain fewer insights into the secret, inner workings of the court than would ordinarily have been expected of someone in their position. It will also be seen that the clerkship experience in India is a lottery – while some clerks derive a lot from their experience and develop close relationships with their judges, others feel as though their experience was deficient and the time they spent with their judges was inadequate. Part IV argues that the primary reason why Indian law graduates apply to clerk on the Supreme Court of India is that a clerkship on the court serves as a stepping stone for getting into an LL.M. program at a U.S. law school. This paper then concludes with a discussion on the implications of these findings.

II. BACKGROUND

The first law schools in India were established in the 19th century during the colonial era. Since then, until the 1980s, Indian law schools typically offered three-year graduate programs, which could usually only commence after a candidate had obtained an undergraduate degree. However, in the late 1980s, the Bar Council of India set up a National Law School in Bangalore which offered a combined undergraduate and graduate five-year law course to candidates straight out of high school. The National Law School in Bangalore quickly became one of India’s premier law schools, and the five-year model of legal education has now become the most popular option for students interested in pursuing a career in law. Law schools modeled on the Bangalore school were soon set up in Hyderabad, Calcutta, and a host of other cities across India.

23 See, Lazarus, supra note 2, at 6, 263, 273-275.
24 Lazarus points out that there are good and bad judges to clerk for on the U.S. Supreme Court as well. Lazarus, supra note 2, at 18. Yet, the sense one gets is that the experience of clerking for a “bad” judge on the U.S. Supreme Court is still more prestigious in the legal profession than clerking for a “bad” judge on the Indian Supreme Court.
26 For more on the evolution of legal education in India, see, Ballakrishnen, supra note 25; Chandrachud, supra note 25.
28 See, Ballakrishnen, supra note 4. However, a graduate, three-year law course is still offered by some law schools in India.
Though law schools established in the colonial era still exist in India today,\(^{31}\) the National Law Schools of India are considered to be the most prestigious law schools in India, and have consistently done well in the rankings.\(^{32}\) The rise of the national law school model of legal education in India forms an important backdrop to the institution of the law clerkship on the Supreme Court of India. It is no small coincidence that law clerks started getting appointed to the Supreme Court of India in the late 1990s – a period which coincided in time with the rise of the national law schools. Most of the initial law clerks on the court came from the national law schools.

Since the five-year law program in India commences after high school, Indian students typically graduate law school at the age of 23. By contrast, U.S. law students have to get an undergraduate degree, which takes four years, before they can enter law school, where they have to spend another three years. In other words, at age 23, where an Indian candidate can graduate law school, an American candidate can, at most, be a “1L”, i.e. she can, at most, be in the first year of law school.\(^{33}\) Since Indian law graduates are much younger, on average, than American law graduates, the average Supreme Court law clerk in India is also much younger than the average U.S. Supreme Court law clerk.\(^{34}\) In short, a U.S. Supreme Court law clerk is older, has more years of education, and can theoretically contribute more to the court than her Indian counterpart. Though age is not necessarily a sign of maturity, how old you are counts for a lot in the legal profession in India.\(^{35}\) The fact that Supreme Court law clerks in India are in their early 20s means that they are less mature (or at least that they are perceived to be less mature) than Supreme Court law clerks are elsewhere, and their ability to contribute to the court’s functioning is limited to that extent.

The Supreme Court of India is structured very differently from the U.S. Supreme Court. In India, there are no separate state and federal courts, but a unitary court system consisting of subordinate courts, High Courts (roughly equivalent to federal circuit courts in the U.S.) and the Supreme Court. Located in the capital city of Delhi,\(^{36}\) the Supreme Court was established in 1950, when the constitution of independent India came into being. Initially, the court had only eight judges, and it only decided important cases, but as the years rolled on, its size increased and its docket ominously expanded. Today, the court has 31 judges, which possibly makes it one of the largest constitutional courts in the


\(^{31}\) One such example is the Government Law College in Mumbai, which was originally established in the mid-19th century.


\(^{33}\) This assumes that an American student takes no gap between an undergraduate and law program, which is not always so.

\(^{34}\) It will be seen that Supreme Court law clerks in India are picked straight out of law school, when they are usually in their early 20s.

\(^{35}\) For example, one can rarely become a High Court judge if one is younger than 45 years of age, or a Supreme Court judge if one is less than 55 years of age. See, Abhinav Chandrachud, The Informal Constitution: Unwritten Criteria in Selecting Judges for the Supreme Court of India (May 2012) (unpublished J.S.M. thesis, Stanford Law School) (on file with the Robert Crown Library, Stanford Law School).

\(^{36}\) INDIA CONST. art 130 reads: “The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.”
Judges of the Supreme Court of India are almost always appointed from the ranks of senior High Court judges. They are also appointed from different regions within India in order to ensure that an approximate regional balance is preserved on the court. As this paper is being written, Supreme Court judges in India are appointed by a body of the five most senior judges (including the Chief Justice) of the Supreme Court of India, a body which is referred to as the “collegium”. The Supreme Court of India does not sit in plenary sessions, but in panels called “benches”, usually of two judges, but also of three, five, seven, nine, eleven, and thirteen judges. By contrast, there are only nine judges on the U.S. Supreme Court, who decide cases in plenary sessions. What that means is that every single one of the nine judges of the U.S. Supreme Court has a vote in every case which comes before the court. On the other hand, judicial power is shared on the Supreme Court of India among a larger number of judges, not all of whom get to decide every case which comes before the court. Further, where U.S. Supreme Court judges serve in office for life, Supreme Court judges in India serve in office for short 5-7 year terms and retire at the age of 65. Much like on the federal circuit courts in the U.S., the Chief Justice of the Supreme Court of India is not nominated or appointed, but the most senior judges on the court become Chief Justices in succession. As a result of the retirement age, Chief Justices of India serve in office for short 1-2 year terms, something which makes the post of Chief Justice of the Supreme Court of India less prestigious. The point to be made here is that the average Supreme Court judge in the U.S. is more powerful, has a longer shelf-life on the court, and wields more influence than her Indian counterpart. Working as a law clerk for a Supreme Court judge in India is therefore structurally less prestigious than working as such for a U.S. Supreme Court judge.

37 For example, there are only nine judges on the U.S. Supreme Court, and only twelve on the Supreme Court of the United Kingdom. Perhaps one of the constitutional courts which comes closest to the Supreme Court of India in size is the constitutional court of Germany which has 16 judges on it – still only half the size of the Supreme Court of India.
38 See, Chandrachud, supra note 35.
39 See, George H. Gadbois, Jr., Indian Supreme Court Judges: A Portrait, 3 LAW & SOC’Y REV. 317 (1968-69).
40 However, a bill has been passed by the upper house of India’s Parliament to change the judicial appointments system. Rajya Sabha passes bill for new system of appointing judges, INDIAN EXPRESS (September 5, 2013), http://www.indianexpress.com/news/rajya-sabha-passes-bill-for-new-system-of-appointing-judges/1165167.
41 For this reason, Robinson calls the Supreme Court of India a “polyvocal” court. Robinson, “Structure Matters”.
43 Abhinav Chandrachud, Supreme Court’s Seniority Norm: Historical Origins, 48 ECON. & POL. WEEKLY 26 (2012).
44 Id.
45 For example, a very highly respected Mumbai lawyer, Iqbal Chagla, declined an offer to be appointed directly to the Supreme Court of India in 1999, because, had he accepted, he would only eventually have got to serve as Chief Justice of India for a year, which, according to him, was “not long enough to be able to do something substantially significant”. See, Uniform civil code is a must in this country, but no party will support that, INDIAN EXPRESS (October 28, 2013), http://www.indianexpress.com/news/-uniform-civil-code-is-a-must-in-this-country-but-no-party-will-support-that/-1187995/0.
Further, in contrast to the U.S. Supreme Court where most of the work takes place outside the courtroom,46 India has a strong tradition of oral advocacy.47 Modeled on British legal traditions, Indian judges in the colonial era believed that they could not read case papers in advance of oral arguments, because that might bias their opinions.48 Though India’s Supreme Court judges now read case papers in advance, oral arguments are much longer in India and count for much more than they do in the U.S.49 Though petitions for certiorari in the U.S. do not get an oral hearing, equivalent petitions in India, called “Special Leave Petitions”, usually always get an oral hearing in court. In fact, in one of its most influential reports,50 the Law Commission of India specifically warned that law clerks exercised a great deal of influence on the U.S. Supreme Court because cert petitions do not get an oral hearing there. India’s courts have been specifically designed to ensure that judges, not clerks, decide cases. The design of the Supreme Court of India, and the strong emphasis on oral advocacy in India, work to ensure that law clerks in India exercise a lesser degree of influence than their U.S. counterparts.

Unlike the U.S. Supreme Court, the Supreme Court of India does not merely hear important cases of far-reaching constitutional significance. In many cases, the first appeal from the judgment of a lower court lies before the Supreme Court of India.51 As a consequence, the vast majority of the cases heard by the court are routine cases of no special significance. The docket of the court has vastly expanded over the years. According to the court’s own published data, there were 39,780 cases pending before the Supreme Court in 2006, which rose to 59,816 cases pending in 2012.52 As a result of the staggering backlog of cases pending before the court, the court’s overworked judges are unable to dedicate a large amount of time or thought to each case which comes before them. As a consequence, the decision-making process of the court is less deliberative, and the clerkship experience on the court less intellectually rewarding, than their counterparts on the U.S. Supreme Court.

III. THE SUPREME COURT CLERKSHIP IN INDIA

A. The recruitment process

47 See, Nick Robinson, Structure Matters: The Impact of Court Structure on the Indian and U.S. Supreme Courts, 61 AM. J. COMP. L. 173 (2013). This is a consequence of India’s colonial heritage. The British legal tradition also emphasizes “orality”. Posner, supra note 2, at 50.
49 In contrast to oral hearings before the U.S. Supreme Court, oral hearings at the Supreme Court of India are much longer, and can often last for several days.
51 For example, decisions of special tribunals, like the Securities Appellate Tribunal, are appealable only before the Supreme Court of India.
53 For example, one law clerk told me that whenever her judge wrote a judgment in a case, the other judges never recommended modifications or changes to that judgment. The judgment usually always came back to the office with a note saying “I respectfully agree”. Interview 21. See further, Interview 24. Another law clerk said that the junior judge always agreed with the judgment of the presiding judge in a case, but that the presiding judge often suggested modifications to the judgment of the junior judge in the case. Interview 22. The lack of deliberation in the judgment-writing process was a theme which kept coming up in the interviews. See, Interview 26; Interview 27.
There are two paths by which a person can become a law clerk or intern on the Supreme Court of India: a formal path, and an informal path.

The formal path emerged in the mid-2000s. Under it, the Registry of the Supreme Court sends out a notice to a select number of law schools, soliciting applications for law clerks. Interested applicants are invited to apply to the Supreme Court Registry through their law schools, by forwarding an application packet consisting of a grade transcript and a few other documents, which oddly does not include a writing sample. Applicants under this formal path are barred from applying to individual judges. Applicants are then shortlisted by the Supreme Court’s Registry, and shortlisted candidates are invited for an interview with two judges of the Supreme Court. Like the U.S. Supreme Court, where law clerks usually belong to elite law schools, candidates from the prestigious national law schools of India are given priority for clerkships on the Supreme Court of India. In fact, at the time this was written there was a public interest petition pending before the Delhi High Court, challenging the priority given to the prestigious national law schools in the Supreme Court clerkship process. Interviews usually last no longer than 5-7 minutes, and candidates are asked questions like why they are applying, what their future plans are, whether they have any lawyers in the family, and whether they will be able to manage in Delhi if they are from outside the city. The interview, said one law clerk, was “decidedly perfunctory”. One law clerk told me that the judges conducting his interview asked questions that were designed to figure out whether candidates would be willing to stay on for the entire year. For example, that clerk was asked whether he would be able to manage his affairs in Delhi on the low salary provided to law clerks. Interestingly, one female law clerk was asked during the interview, “how do we know

54 A Supreme Court law clerk is officially called “Law Clerk-cum-Research Assistant”. See, Details of the Committees of Hon’ble Judges, [http://supremecourtofindia.nic.in/committees.htm](http://supremecourtofindia.nic.in/committees.htm) (last visited October 16, 2013).

55 The interview was not always around. Though early law clerks on the court went through an interview, in the mid-2000s, applicants became law clerks without an interview process. The interview was reintroduced in the late 2000s because of a sudden spike in the number of applications. Oddly, the interview is not officially called an “interview” by the court, but an “interaction”. See, Letter from the registrar of the Supreme Court of India to the Registrar of the National Law University, Delhi, dated December 3, 2012, [http://www.legallyindia.com/images/stories/docs/Judicial%20clerkship%20letter%201-2.jpg](http://www.legallyindia.com/images/stories/docs/Judicial%20clerkship%20letter%201-2.jpg) (last visited October 4, 2013).

56 Peppers and Ward eds., supra note 2, at 5.

57 In the internship process as well, however, priority is also given to interns from the prestigious law schools of India. In fact, students at other law schools who want to intern at the Supreme Court pursue interesting strategies, like seeking to intern on the court when students from the prestigious national law schools have examinations.


59 Interview 11; Interview 24. For a description of one law clerk’s experience being interviewed by U.S. Supreme Court justice Harry A. Blackmun, see, Lazarus, supra note 2, at 21.

60 Interview 24. Some candidates were also briefly interviewed by the judges they were assigned to. See, e.g., Interview 26.

61 Interview 16. Even the undertaking which law clerks are required to sign [see, infra note 99 and accompanying text] penalizes law clerks who do not work for the entire year. Clause (b) of the undertaking specifies: “If I give up the assignment before completing my term, I shall not be entitled to any experience certificate.”

62 Interview 16.
you’re not going to get married and run away in the middle of the term” – a question which has been repeatedly asked of female applicants.63 One female law clerk told me that the judges interviewing her asked her why she was wearing “such high heels”.64 Given that there have been only five female judges on the Supreme Court of India among over two hundred judges who have served on the court since its inception,65 such questions are likely to be perceived as being sexist. Candidates selected after the interview are then ranked, usually according to their grades, and assigned to judges based on the judges’ seniority, i.e. the more senior judges get the more impressive candidates.

Clerkships on the Supreme Court of India began, however, with an informal recruitment process,66 which remains alive, to some extent, even today. One law clerk called this the “discretionary quota”.67 Under the informal path, a candidate writes to a judge individually, expressing an interest in working as his law clerk. This path is especially availed of by students who do not belong to the prestigious national law schools of India – students who are either not considered eligible to apply for a clerkship on the Supreme Court, or whose chances of becoming clerks on the court are very slim.68 This informal path of becoming a Supreme Court law clerk works, to this day, especially if you know the judge, or if you are otherwise well-connected in the legal profession.69 Though you may not know a judge personally, the informal route might

63 Interview 21 (this law clerk was interviewed by the judges in 2009); Interview 22 (this law clerk was interviewed by the judges 2012).
64 Interview 20.
66 In the early years, leading up to the mid-2000s, the recruitment process for law clerks on the Supreme Court of India was ad-hoc, informal, and unpredictable. The sense that one gets is that there was no formal process according to which law students could apply to the court to become law clerks at the time. If one were interested in working for a judge as his clerk, one had to write to the judge directly, and hope that he took notice. One of the law clerks I spoke to informed me that he happened to get selected to serve on the Supreme Court, between 2002-03, completely by chance. While trying to get some administrative information from the court’s registry on a telephone call from Mumbai, he struck up an interesting conversation with a staff member at the court’s registry, and was invited to come to Delhi to meet some of the court’s judges that following week. In Delhi, he was put through a fairly rigorous 5-10 minute interview with 16 judges of the Supreme Court of India, who asked him questions as varied as his non-legal family background and his interest in Indian classical music. He got the job almost immediately, and was assigned to a senior judge on the court for 9 months. There were only a handful of law clerks on the court at that time.
67 Interview 14.
68 In 2009-10, the following five schools were considered prestigious by the Supreme Court, in the following order: NLS Bangalore; NALSAR, Hyderabad; NUJS, Calcutta; NLU, Jodhpur; NLIU, Bhopal. Interview 11.
69 One clerk informed me that there are three law clerk shortlists prepared by the Supreme Court Registry. The first list consists of students from the prestigious national law schools, while the other two lists consist of students from other schools. Students on the other two lists only stand a chance of becoming law clerks if candidates from the first list are exhausted.
70 For example, one law clerk informed me that though his father was not a lawyer, his father had a friend who knew a Supreme Court judge well, as a consequence of which he got his clerkship on the court.
71 On another occasion, a Supreme Court judge wrote to the vice-chancellor of a law school in Delhi, telling him that he needed a law clerk and asking for recommendations. Interview 24.
sometimes work if you belong to the same geographic region, or city, as the judge.\textsuperscript{71} One law clerk, for example, informed me that she got to clerk for a judge of the Supreme Court because her friend was working for that judge, and he put in a word for her.\textsuperscript{72} She believes that the fact that she was from the same city as the judge, and that her native language was the same as his, also helped.\textsuperscript{73} Interestingly, her application to the judge did not contain anything beside a formal email addressed to the judge – there was no grade transcript, no writing sample, no recommendation letter.\textsuperscript{74} At present, the understanding is that every judge of the Supreme Court is entitled to two law clerks,\textsuperscript{75} one of whom can possibly be appointed under the informal path.

Though there is a formal application process for internships on the Supreme Court of India as well, very similar to the formal process for clerkships described above, interns are often selected by judges under the informal path. In fact, students from less prestigious schools often use internships with judges as doorways to get a clerkship on the court – a law clerk from a non-prestigious school informed me that she interned with a judge in her final year at law school, in January 2013, and asked the judge whether she could come back as his law clerk that July, which the judge agreed to.\textsuperscript{76} However, the informal path also works for students of less prestigious schools who have stellar academic credentials. In short, the more prestigious the law school you belong to, the less necessary it is for you to need connections (or stellar academic credentials) to get a clerkship on the Supreme Court of India.

The recruitment process suggests that there are several reasons to surmise that clerkships on the Supreme Court of India are not very prestigious:

First, academically bright law students at prestigious Indian law schools usually do not pursue Supreme Court clerkships. Interviewees from the prestigious national law schools of India often informed me that becoming a law clerk on the Supreme Court of India was not a very popular option for the stellar academic students of their class. Most of the law clerks I interviewed informed me that they were average students with mediocre grades.\textsuperscript{77} A law clerk from one of the national law schools of India informed me that there were only five or six students in his class who decided to apply for a Supreme Court clerkship, not because the application process was seen as being very exclusive, but because the clerkship itself was “seen as an infra-dig option”\textsuperscript{78} compared

\textsuperscript{71} Interestingly, U.S. Supreme Court justices often prefer their law clerks to be from the region of their own origin. See, Bickel, supra note 2; Ward and Weiden, supra note 2, at 85-86.

\textsuperscript{72} Interview 12.

\textsuperscript{73} Interview 12. Some judges communicated with their law clerks in their native tongues. For example, one law clerk informed me that he spoke to his judge in both Hindi and English. Interview 19. Sometimes, this affected how law clerks could communicate with their judges, if they did not speak the same native tongue as their judges.

\textsuperscript{74} Interview 12.

\textsuperscript{75} By contrast, each associate justice of the U.S. Supreme Court is entitled to 4 law clerks, while the Chief Justice is entitled to 5. See, Peppers and Ward, supra note 2, at x.

\textsuperscript{76} Interview 12.

\textsuperscript{77} For example, I was told: “my grades were mediocre” (Interview 8); “I was nowhere close to being law clerk material. My grades were okay. I had just touched 60%” (Interview 19); “I was an average student” (Interview 22).

\textsuperscript{78} Id. This was also what another law clerk, who served on the court between 2006-07 told me. Interview 13.
to jobs at law firms, which were considered more lucrative.\textsuperscript{79} The sense one gets is that stellar students at prestigious law schools rarely become Supreme Court law clerks\textsuperscript{80} either because they can get more prestigious (and lucrative) jobs at Indian law firms, or because they can proceed to get an LL.M. at a top U.S. university without needing to have a Supreme Court clerkship on their resumes. This was also one of the conclusions of the Robinson and Chauhan memoranda.\textsuperscript{81} A law clerk from one of the national law schools, serving on the court in 2013, informed me that she had been a “very average” student, who needed a Supreme Court clerkship in order to boost her chances of getting into a masters program abroad.\textsuperscript{82} An academically brilliant student from a national law school informed me that she did the Supreme Court clerkship because she did not get into the universities of Oxford or Cambridge, which she had applied to in her final year at law school. The clerkship “wasn’t my plan A at all”, she said.\textsuperscript{83} On the other hand, ordinary students at prestigious law schools, or stellar students at non-prestigious law schools, require the stamp of a Supreme Court clerkship on their resumes in order to get into a prestigious U.S. university for the LL.M.

Second, unlike the clerkship recruitment process on the U.S. Supreme Court, it is not necessary for a law clerk on the Supreme Court of India to have previously served as a law clerk, or even as an intern, with a High Court judge. U.S. Supreme Court clerkships often go to clerks on important federal circuit courts, who work for “feeder” judges,\textsuperscript{84} which signifies that a Supreme Court clerkship in the U.S. is very competitive because even graduating at the top of one’s class at an elite law school is not enough to get through.\textsuperscript{85} This is not so on the Supreme Court of India: most of the law clerks I interviewed informed me that they had never worked with a judge before clerking on the Supreme Court. Law clerks for the Supreme Court are most often picked from students about to graduate from the five year law program at Indian law schools, which means that Supreme Court law clerks rarely have prior full-time work experience as law clerks on a High Court or as practicing lawyers. In fact, many High Courts in India do not have a formal, institutional law clerk system. Since law clerks do not serve on lower courts before getting to the Supreme Court, they lack the training to significantly influence decision-making on the court. Many law clerks informed me that they faced a two to three month gestation period, where they were merely learning the ropes of the judicial process, before they could gainfully contribute to their judges’ chambers.\textsuperscript{86}

Third, Supreme Court law clerks in India are remunerated very poorly, and do not accumulate any tangible monetary benefits once the clerkship terminates. Interns who work for Supreme Court judges are not compensated at all. Law clerks were not

\textsuperscript{79} In fact, many top national law school students were made offers not merely by top Indian law firms, but also by the so-called “magic circle” British law firms. Interview 15.

\textsuperscript{80} Such students might more often be seen serving as interns with Supreme Court judges instead of being full-time law clerks.

\textsuperscript{81} See, supra notes 14-15 and accompanying text.

\textsuperscript{82} Interview 20.

\textsuperscript{83} Interview 18.

\textsuperscript{84} Lazarus, supra note 2, at 19; Peppers and Ward eds., supra note 2, at 6; Ward and Weiden, supra note 2, at 76-85.

\textsuperscript{85} See, Ward and Weiden, supra note 2, at 78.

\textsuperscript{86} For example, one law clerk told me that it was only after spending three months with his judge that his judge took down his cell phone number. Interview 19.
compensated initially either, but they are now paid Rs. 25,000 (approximately US$400) per month, which is still a fraction of what top law firms pay their first year associates in India. In fact, as this is being written, in 2013, some law clerks at the Supreme Court are planning on making a representation to the Chief Justice of India that the salary should be raised to Rs. 30,000 per month. It is therefore possible to surmise that interns and law clerks (especially law clerks who served on the court earlier on, when the compensation was minimal) are relatively well-off. They have the means to travel to Delhi and stay there without getting compensated adequately. In fact, many interviewees told me that they stayed with a relative, or a friend of the family, in Delhi. Once a U.S. Supreme Court clerkship comes to an end, American law firms pay large signing bonuses to former law clerks who sign on as associates at their firms. By contrast, Indian law firms do not pay premiums to law clerks who join their offices. In fact, Indian law firms often do not see Supreme Court clerks as adding substantially more value to their firms at all. One law clerk informed me that he was forced to cut his clerkship with the Chief Justice of the Supreme Court of India short because a law firm which had made him an offer (a firm considered to be one of India’s best corporate law firms), insisted that he quit his clerkship and join them immediately. Law clerks also lose their seniority at law firms if they decide to do a clerkship. What that means is that if two students graduate from an Indian law school in 2014 – one joins a Supreme Court judge as a clerk and the other joins a firm as a first year associate – if the clerk decides to join his classmate’s firm the following year, he would join as a first year associate, as against his classmate who is now a second year associate. A law clerk who works at one of Delhi’s best litigation law firms informed me that though his firm values his clerkship experience, they did not pay him a signing bonus for joining them, and he had to join them as a first year associate though he had clerked for two years with a Supreme Court judge.

Aside from reasons relating to the job profile of a law clerk, discussed in subsequent sections of this paper, structural reasons seen in the previous section might help explain why India’s law firms do not value Supreme Court clerkships. There are only nine judges who serve on the U.S. Supreme Court, and judges on that court serve on the court for life. A law clerk who serves with one of the judges of the U.S. Supreme

87 Interestingly, until 2013, law clerks had to visit the court every month to pick up their pay checks, unlike the other employees of the court, whose salaries were directly deposited into their accounts. A law clerk told me that in August 2013, the court started directly depositing law clerks’ salaries into their bank accounts. Interview 22. See further, Kian Ganz, Supreme Court judicial clerkship stipends hiked to Rs 25k; Attractive enough?, LEGALLY INDIA (September 23, 2010), http://www.legallyindia.com/201009231338/Law-schools/supreme-court-judicial-clerkship-stipends-hiked-to-rs-25k-attractive-enough.

88 The compensation of Supreme Court law clerks has been gradually increased. Some interviewees told me that the salary of law clerks was increased because of the recommendations contained in the Robinson Memorandum. See, e.g., Interview 13.

89 Interview 12.

90 Another popular option for law clerks is the Indian Law Institute, which is directly opposite the Supreme Court of India.


92 Interview 5.

93 Interview 19. There were some exceptions. Some law clerks told me that their clerkship year was counted by their law firms. See, e.g., Interview 13, Interview 21. However, this is, by no means, considered standard practice in India, and depends on the negotiating abilities of the individual clerks.
Court therefore gets an insight into the mindset of a judge who is likely to wield a great deal of influence on the court, and the composition of that court is unlikely to drastically change for a long time. A law clerk who gets to see how a Supreme Court judge in India thinks, or how the court functions as an institution, does not add much value to his firm’s professional life, because the judge he clerked for will be likely to retire very soon, and the composition of the court will also change quickly.

B. The First Day

After a person applies to be a law clerk on the Supreme Court of India and finishes the interviewing process, she is often greeted with deathly silence from the court’s registry.\(^\text{94}\) No information is given about who has been selected to be a law clerk. No instructions are given beforehand to selected law clerks about the exact date on which they are expected to arrive in Delhi. A law clerk who served on the court between 2009-10 told me that she received a phone call from the court’s registry one Saturday in July, informing her that she would be required to travel from Hyderabad to Delhi immediately and report at the Supreme Court of India that Monday.\(^\text{95}\) This seems to have been the typical experience.\(^\text{96}\) Interestingly, a clerk does not even find out which judge she will be working for until she arrives at the Supreme Court on her first day.\(^\text{97}\) No information is requested from law clerks about potential cases they might have worked on as interns at law firms – information which ought to be used to ensure that law clerks are not staffed on those cases.

There has never been a formal orientation process for law clerks.\(^\text{98}\) On her first day, a law clerk arrives at the Supreme Court building in the morning, and meets a member of the staff, who gives the clerk the name of the judge she has been assigned to, and where the judge’s residence is. Starting in the late-2000s, law clerks have been required to sign a short undertaking when they arrive at the Supreme Court, which outlines terms of employment and tells them about their obligations of confidentiality.\(^\text{99}\) The undertaking specifies that Supreme Court law clerks in India, unlike U.S. Supreme Court law clerks, are barred from ever appearing before their judges after the clerkship.

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\(^\text{94}\) One law clerk called it “complete radio silence”. Interview 18.

\(^\text{95}\) Interview 7.

\(^\text{96}\) Most of the law clerks I interviewed had a similar experience. The Robinson Memorandum also found that “[s]ome clerks did not hear they had been accepted for a clerkship until only a few days before they were expected to report for work”.

\(^\text{97}\) Of course, those who applied through the informal route, described above, know the judge they will be working for.

\(^\text{98}\) On the U.S. Supreme Court, law clerks undergo an orientation during the summer. Lazarus, supra note 2, at 27.

\(^\text{99}\) According to a pro forma undertaking on file with the author, law clerks have to agree, among other things, that they are not employees of the court [clause (a)], that their assignment can be terminated without notice [clause (b)], and that they entitled to get eight days of leave during the year [clause (d)]. Three of the ten clauses of the undertaking deal with secrecy: first, law clerks are informed that they have to “maintain a high standard of reputation and integrity”, and that they have to ensure that “no information, document or any other thing is leaked out because of mishandling of papers or [the law clerk’s] deliberations with others” [clause (f)]; second, law clerks are informed that their secrecy obligations continue even after the clerkship comes to an end [clause (g)]; and third, law clerks are informed by the undertaking that they are governed by the provisions of the Indian Penal Code and the Official Secrets Act, as far as they apply to any public servant [clause (h)].
Supreme Court law clerks in India are also barred during the term of the clerkship from practicing law anywhere, or from practicing law in the Supreme Court of India for a period of one year after the clerkship comes to an end. Many of the law clerks I spoke to informed me that they were not given a copy of the undertaking. The “Code of Conduct for Law Clerks of the Supreme Court of the United States” is inaccessible to the public.

After signing the undertaking, a law clerk is then required to report at the residence of her judge. Unlike other cities in India, senior lawyers and Supreme Court judges in Delhi typically work out of offices attached to their own homes. An intern from Mumbai who worked with a Supreme Court judge in 2010 found this quite strange. “It brings a certain amount of informality into the whole thing”, she informed me, in stark contrast to the legal profession of Mumbai, which is more professional, she thought. Interestingly, early Supreme Court law clerks in the U.S. also worked out of their justices’ homes, until the court got its own building in 1932, after which the justices and law clerks of the court worked out of their offices in the new building. Though the Supreme Court of India got its own building in 1958, most judges work out of offices in their own homes. A judge’s office in court, one law clerk informed me, is almost used only like a changing room. This cultural practice of the Supreme Court of India – of working out of one’s home instead of the office – prevents law clerks of the court from socializing with each other. Where U.S. law clerks play an important ambassadorial function, by informally gathering information about other justices from their law clerks, law clerks on the Supreme Court of India are therefore precluded from performing any such functions.

After reporting at the judge’s residence, the law clerk will be shown around the office, and introduced to the judge, who might tell the law clerk what he expects of her, e.g., one judge told his law clerks, on their first day, that he expected both of them to know India’s codes of civil and criminal procedure “inside out” by the next day. The experience, however, varies from judge to judge – while some judges give their clerks a small briefing about what is expected of them, others get to hear no more than a few words of greeting from their judges on their first day at work. Chief Justice Earl Warren of the U.S. Supreme Court gave his law clerks a 33 page guide, which included

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100 It seems as though U.S. Supreme Court law clerks are not barred from appearing before their judges. For example, a former law clerk to Justice Hugo Black, Louis Oberderfer, appeared before Black in a case, and Black even asked him questions. See, Woodward and Armstrong, supra note 2, at 41.

101 Clauses (i) and (j) of a pro-forma undertaking, on file with the author.

102 Peppers and Ward eds., supra note 2, at 10.

103 However, interviewees informed me that judges of the Delhi High Court work out of offices in the High Court building, which makes them interact more than Supreme Court law clerks. Interview 16; Interview 18; Interview 19.

104 Others did not necessarily find the informality of the clerkship experience disappointing. One law clerk had a great equation with her judge’s wife, with whom she often had a cup of tea, and who would frequently tell her that she was free to take a nap in their home if she was tired of working on the files on any day.

105 See, Peppers and Ward eds., supra note 2, at ix, 8; Posner, supra note 2, at 47-48.

106 Interview 19.

107 Peppers and Ward eds., supra note 2, at 8; Ward and Weiden, supra note 2, at 4, 155-170.

108 Interview 11.
instructions on things like how to prepare memoranda.\textsuperscript{109} U.S. Supreme Court justice Harry A. Blackmun gave his law clerks a volume entitled “Helpful Hints for Blackmun Clerks”.\textsuperscript{110} Law clerks on the Supreme Court of India do not get any instruction manual.

\textit{C. The Experience}

1. Relationship with the judge:
Law clerks are appointed to work for a Supreme Court judge for a period of one year, which usually works out to be slightly shorter because of the court vacation. If a law clerk has impressed a judge, the judge might ask him or her to continue working in the judge’s office.\textsuperscript{111} While law clerks are recent graduates from law school, interns are usually in their fourth or fifth years at law school in India. Interns work with a Supreme Court judge for anywhere between one and three months.

The experience of being a clerk on the Supreme Court of India varies according to the judge one is assigned to. Many law clerks developed a close bond with the judge they worked for, and considered their judge to be almost like a grandparent\textsuperscript{112} or mentor\textsuperscript{113}. Some law clerks considered themselves to be like members of the judge’s family, which was especially true when the judge lived all alone at home in Delhi (usually because the judge’s family had not relocated to Delhi). One law clerk would go with his judge for a walk to a park nearby, in the evenings, where they would chat about law and life.\textsuperscript{114} One law clerk was gifted six books by his judge at the end of his clerkship – books that had been personally inscribed by the judge.\textsuperscript{115} When another judge had to once leave his home on some urgent work, he asked his law clerk to look after his aged mother.\textsuperscript{116} Later, when that law clerk graduated from the LL.M. program at Harvard Law School, his judge attended the graduation ceremony with his wife.\textsuperscript{117} Reminiscent of Justice Byron White of the U.S. Supreme Court playing basketball with his law clerks on the fourth floor of the Supreme Court building,\textsuperscript{118} one judge of the Supreme Court of India played cricket with his law clerk and with the law clerks of other judges.\textsuperscript{119} One law clerk taught his judge about new technology – how to transfer music on to an iPod, how to use track changes on Microsoft Word, and even how videos can be illegally downloaded from Youtube.\textsuperscript{120} Others told me that their judges were like mentors who took a great interest in their learning. For example, one judge would sit with his law clerk in the evenings and

\textsuperscript{109} Woodward and Armstrong, \textit{supra} note 2, at 34.
\textsuperscript{110} Lazarus, \textit{supra} note 2, at 28.
\textsuperscript{111} This often happens when a judge has a few months left to retire, and wants his law clerk to continue with him until the end of his term. Though clerkships on the U.S. Supreme Court last for a year, some serve a second year as a “senior” clerk. Peppers and Ward eds., \textit{supra} note 2, at 394; Ward and Weiden, \textit{supra} note 2, at 46–47.
\textsuperscript{112} Interview 2; Interview 6; Interview 11; Interview 12; Interview 20; Interview 22.
\textsuperscript{113} Interview 7; Interview 10; Interview 17; Interview 18; Interview 25.
\textsuperscript{114} Interview 2.
\textsuperscript{115} Interview 15.
\textsuperscript{116} Interview 2; Interview 25.
\textsuperscript{117} Interview 25.
\textsuperscript{118} Woodward and Armstrong, \textit{supra} note 2, at 66; Lazarus, \textit{supra} note 2, at 37.
\textsuperscript{119} Interview 14. One law clerk played cricket with his judge’s five year old grandson. Interview 26.
\textsuperscript{120} Another law clerk told me that he played with his judge’s grandchild. Interview 27.
\textsuperscript{121} Interview 18.
give her lectures on a subject, like constitutional law or criminal process. That law clerk believed that her judge gave her many research assignments not because he wanted to know what she found, but because he wanted her to learn the law, and saw himself as being a teacher to his law clerk. Many law clerks believed that their judges felt glad being around young people, and looked forward to their meetings with law clerks, as pleasant distractions. For example, one judge sat with his law clerks every evening, between 4.30pm-6pm, discussing politics, court news, and corridor gossip, over a cup of tea. Another judge would tell his law clerks stories about how he was elevated to the Supreme Court, and how the collegium system was flawed. Most law clerks met their judges everyday, some for several hours. Some law clerks went to court with the judge, in his car, and discussed court cases on the way there. Many law clerks are still in touch with their judges. For example, some continued to assist their judges on research assignments once the judge retired, especially if the judge was appointed to a post-retirement office by the government. In fact, one former law clerk asked his judge (now retired from the court) whether he could speak with me for this paper. The judge responded in the affirmative, adding, “I have nothing to hide.”

On the other hand, some law clerks got little or no attention from their judge. One law clerk told me that many judges do not interact with their law clerks “for weeks and weeks”. Often, this complaint was made by law clerks who worked for the Chief Justice of India – a judge who, they felt, was overburdened with too much administrative work to be able to give them any time. Some law clerks complained that they did not get much work from their judges. “He didn’t really understand this whole clerkship thing”, one law clerk said to me about his judge. This could possibly be because judges do not trust their law clerks. One law clerk told me that his judge had very low expectations of his law clerks – the judge thought that law clerks were primarily there for their own education, to see how the court functioned, rather than to assist the court’s judges in a meaningful way. Other judges had a reputation for assigning too much work – one judge in particular was known to have “chased out law clerks” with his unrealistic expectations and bad temper. One interviewee told me that a Supreme Court judge often does not have law clerks when he is on the High Court, and it is only when he gets to the Supreme Court that he encounters law clerks for the first time – as such, he is not very sure what to do with his law clerks at first. In a blog post, an intern to a retired Supreme Court judge alleged that she was sexually harassed by her judge.

During the interviews, many law clerks spoke of their judges very fondly, especially about how hard-working, intelligent, and sharp their judges were. One

121 Interview 7.
122 Interview 12.
123 Interview 6.
124 Interview 10, Interview 11.
125 Interview 15.
126 Interview 14.
127 Interview 5.
128 Interview 15.
129 Interview 26.
130 Interview 7.
131 Interview 9.
132 James, supra note 13.
interviewee was surprised by how her judge “could tell you any citation from memory almost on any given proposition on a point of law”. Likewise, another told me that her judge had “an encyclopaedic knowledge of caselaw”. Often, law clerks were surprised by how honest the Supreme Court judges were, despite the stories they had heard about widespread corruption in higher office in India, and despite constant rumors at the bar. One law clerk informed me that on one of her first days in court, a young lawyer came up to her and told her that her judge was “very corrupt”, which she was deeply upset by, because her judge was known to be very honest and upright.

Judges who had women serving as law clerks often took pains to ensure that they got home safe every night. Often, this meant that when a law clerk stayed in office after 8pm, the judge’s car would drop her back home. One judge would insist that his law clerks give him a call when they got back home every evening, so that he knew they were safe – he even gave one of his spare phones to his law clerk for this purpose. To some extent, female law clerks were not treated the same as male law clerks. While male law clerks could stay in the office beyond 8pm quite easily, judges were usually uncomfortable about permitting female law clerks to work in the office late into the evenings. Sometimes, this meant that female law clerks had to make up for the time they would otherwise have spent in the office in the evenings by coming in early in the mornings, and by coming in on weekends.

2. Infrastructure:
Law clerks were often surprised by the inadequate infrastructure they saw in the judge’s office. No law clerk gets his own office to work out of, which is hardly surprising, but many had to share desk space, and many had to share an office with the judge’s secretarial staff. A law clerk who served on the court between 2009-10 was surprised by the fact that there was no computer in the office, no wireless internet, and an insufficient number of chairs. Another law clerk said that his workspace was “very, very bad”, that even small things like office stationery were inadequate. One law clerk serving on the court between 2013-14 informed me that three law clerks and one intern shared one desk between themselves in the judge’s office, but that even so, it was all very comfortable and “there’s nothing to complain about”. Some offices were well equipped. One judge, for example, provided his two law clerks with an office for themselves, where they each had desk space and a computer. Some law clerks are also initially very surprised by the fact that they are almost considered to be outsiders to the system. At the U.S. Supreme Court, the 36 incoming law

133 Interview 4.
134 Interview 7.
135 Interview 7.
136 For the role of gender on the clerkship system of the U.S. Supreme Court, see, Ward and Weiden, supra note 2, at 87-93.
137 This is not surprising because even associates at law firms in India would not get their own offices when they start their careers. The norm is that it is only law firm partners who usually get their own offices. The experience of one law clerk in the late 1980s suggests that even U.S. Supreme Court law clerks do not get their own offices. See, Lazarus, supra note 2, at 39.
138 Interview 14.
139 Interview 12.
140 Interview 11. Other law clerks were satisfied with their work space. See, e.g., Interview 13, Interview 15; Interview 16.
clerks’ pictures are memorized by the court’s security staff, and they are not required to flash their identity cards in order to get in.\textsuperscript{141} At the Supreme Court of India, however, law clerks are not recognized by the security personnel who stand outside the courtroom.\textsuperscript{142} Thus, though anybody wearing the customary dress of an advocate (a pair of bands and a gown) can freely get in and out of the courtroom, law clerks are thoroughly frisked by security personnel before they are permitted to enter the courtroom.\textsuperscript{143} This was also my own experience interning with the Chief Justice of the Supreme Court of India in 2006.\textsuperscript{144} Though I often met the Chief Justice and sat within a few feet of him in the evenings, posing no apparent threat to his security or well being, the security personnel outside his courtroom were not instructed that they could wave me in. As a consequence, while anybody dressed like an advocate could freely enter and leave the courtroom, a security guard would pat me down (and even lift up my trousers to inspect my socks), outside the courtroom, before I could enter. However, this seems to be slowly changing. A law clerk on the court in 2013 informed me that the security staff at the court waive her through and even allow her to take her belongings into the courtroom,\textsuperscript{145} which is, however, by no means the typical experience.\textsuperscript{146}

There are scarce opportunities for law clerks to socialize with other judges’ law clerks, or to meet other judges. The U.S. Supreme Court has a Law Clerk Dining Room, but law clerks in India do not have any dedicated space in the Supreme Court building where they can socialize.\textsuperscript{147} This meant that law clerks often ate lunch and socialized in the lawyer’s cafeteria, though they are meant to keep a distance from lawyers during the clerkship. This also often meant that law clerks did not get to meet each other. One law clerk, for example, informed me that though she believed that there were about 40 law clerks on the court in 2013, she had only met about 8 of them.\textsuperscript{148} One law clerk was asked by her judge whether she could continue as a law clerk on the court for another year, but she declined because of the poor compensation and the loneliness: she worked alone, and met no other law clerks during her stint with that judge.\textsuperscript{149} Chief Justice Warren Burger of the U.S. Supreme Court once hosted a tea for law clerks at all the chambers in the Supreme Court.\textsuperscript{150} A clerk who served on the U.S. Supreme Court in the late 1980s said

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\item \textsuperscript{141} Lazarus, \textit{supra} note 2, at 24; Ward and Weiden, \textit{supra} note 2, at 2.
\item \textsuperscript{142} This was also brought up in the Robinson and Chauhan memoranda. \textit{See, supra} notes 14-15 and accompanying text.
\item \textsuperscript{143} Interview 7; Interview 13.
\item \textsuperscript{144} In the interest of full disclosure, I must point out that I interned with Chief Justice Y.K. Sabharwal in the months of August-September 2006 (I was officially called a “Law Trainee”), and that I graduated from the LL.M. program at Harvard Law School in 2009.
\item \textsuperscript{145} Interview 20.
\item \textsuperscript{146} Interview 22.
\item \textsuperscript{147} The Robinson Memorandum recommended that there should be some space dedicated to law clerks in the Supreme Court building. \textit{See, supra} notes 14-15 and accompanying text.
\item \textsuperscript{148} Interview 12.
\item \textsuperscript{149} Interview 13. Chief Justice Warren Burger of the U.S. Supreme Court worried that his law clerks would reveal things about him to the law clerks of other justices. Woodward and Armstrong, \textit{supra} note 2, at 34-35. Seen from Burger’s point of view, the absence of a dedicated space to law clerks on the Supreme Court of India might work to prevent leakages of information between the law clerks of different Supreme Court judges. However, the absence of a law clerks’ room in the Supreme Court forces law clerks to socialize in venues accessible to lawyers, and it is far worse for lawyers to get information on judges than for law clerks to get information about each other’s judges.
\item \textsuperscript{150} Woodward and Armstrong, \textit{supra} note 2, at 112.
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that there was a welcoming cocktail party for law clerks held at the Supreme Court by the justices every year, at the end of the summer recess.\footnote{Lazarus, supra note 2, at 36.} There is no formal welcome for law clerks who serve on the Supreme Court of India, and Indian law clerks rarely get acknowledged in the same way.

The lack of a dedicated space for law clerks at the Supreme Court building also has other drawbacks. Until recently, law clerks were not permitted to carry their laptops or other belongings into the courtroom. At the Supreme Court, law clerks also do not have any assigned space where they can leave their belongings. Most law clerks worked out an informal arrangement with a member of the Supreme Court staff and keep their belongings temporarily in an unlocked file cupboard in one of the offices in the building.\footnote{Some law clerks leave their belongings in the chambers of their judge, though this is not a common practice. Interview 12.} More recently, an interviewee informed me that the court’s security personnel now permit law clerks to carry their belongings into the courtroom.\footnote{Interview 20.}

Inside the courtroom, there was no consistently defined seating space for law clerks, for a long time.\footnote{Interview 20.} Some sat prominently, next to the court master, on an elevated platform between the bar and bench.\footnote{For example, one law clerk complained on at least two occasions to her judge that the lack of assigned seating for law clerks made it difficult for her to attend court sessions. Interview 13. This was also brought up in the Robinson Memorandum. \textit{See}, supra notes 14-15 and accompanying text.} Others sat on chairs specially demarcated for law clerks in a corner of the courtroom, where they could see both the lawyers and judges.\footnote{This often means, however, that these law clerks could not leave the courtroom when they pleased, but that they had to sit and rise with the court.} Law clerks who got into court late sometimes found their seats taken by lawyers, which meant they had to stand until the lawyers left.\footnote{However, sometimes, there were not enough chairs for a judge’s clerk. For example, one law clerk informed me that her judge had three law clerks, and some courtrooms only had one chair for a law clerk, so two of them had to stand in court. Interview 12.} Some law clerks sat on chairs meant for lawyers, at the front of the courtroom. Others sat all the way at the back of the courtroom, in the visitor’s gallery, meant for litigants. However, the sense that one gets is that this seems to be changing, and that law clerks now have defined seating space within the courtroom. Courtrooms are assigned to judges based on their seniority on the court – the more senior judges get the better, bigger courtrooms. For example, the Chief Justice of the Supreme Court sits in courtroom number 1, the biggest and brightest courtroom, beneath the dome of the Supreme Court building. Other courtrooms are smaller, and the courtrooms numbered nine and onwards are particularly small, with the result that there is usually not enough space for many law clerks to sit in court together. A law clerk informed me that her judge would usually always sit with another judge in courtroom number 9 or 10, where there was not enough space for more than one law clerk to sit.\footnote{Interview 18.} Accordingly, she had to work out an arrangement with the clerk of the other judge, for sharing seating space within the courtroom.

3. Insights:

\footnote{Lazarus, \textit{supra} note 2, at 36.} \footnote{Some law clerks leave their belongings in the chambers of their judge, though this is not a common practice. Interview 12.} \footnote{Interview 20.} \footnote{For example, one law clerk complained on at least two occasions to her judge that the lack of assigned seating for law clerks made it difficult for her to attend court sessions. Interview 13. This was also brought up in the Robinson Memorandum. \textit{See}, \textit{supra} notes 14-15 and accompanying text.} \footnote{This often means, however, that these law clerks could not leave the courtroom when they pleased, but that they had to sit and rise with the court.} \footnote{However, sometimes, there were not enough chairs for a judge’s clerk. For example, one law clerk informed me that her judge had three law clerks, and some courtrooms only had one chair for a law clerk, so two of them had to stand in court. Interview 12.} \footnote{Interview 18.} \footnote{Interview 7.}
Though experiences varied, law clerks got to see a side of the Supreme Court, and its judges, which is usually closed to outsiders. Some of their insights into the secret world of Supreme Court judges were not necessarily illuminative of the court’s decision-making process, but were nonetheless interesting commentaries on the culture of the court. Many law clerks told me about rituals followed on the court when a judge is about to retire.\footnote{One law clerk recounted his judge’s last days in court. On his penultimate day in court, lawyers made nostalgic speeches in his honor during the last half hour or so, recounting their experiences appearing before him, which nearly left the judge in tears. On a judge’s last day in court, the judge sits with the Chief Justice. Though it is customary for judges to enter and leave the courtroom in the order of their seniority, it is customary for a retiring judge to enter and leave the courtroom before the Chief Justice on his last day in court. Interview 10.} Among other rituals, farewell dinners are hosted in the retiring judge’s honor by his colleagues on the bench. One law clerk attended one such party hosted by her judge at his residence, when the Chief Justice of India was about to retire. The law clerk found that the party was gender stratified – the women and men sat separately and did not mingle.\footnote{Interview 7. This also came up in Interview 16.} She said it reminded her of dinner parties seen on the American television series *Mad Men*, set in the 1960s. Judges and their families had traditions for when they got together. Supreme Court judges met in court every Wednesday for lunch, where the responsibility to cater the event alternated between each judge of the court.\footnote{Interview 11; Interview 14.} Judges’ wives got together too, about once a month.\footnote{Interview 12.}

Law clerks sometimes got to see how judges interacted with each other off the bench. Some law clerks found it amusing that judges addressed each other as “brother”.\footnote{Interview 7, Interview 12; Interview 16.} Many found that there was “an immense respect for hierarchy” and seniority on the court,\footnote{See, Interview 22.} which strongly governs relations among judges on the bench. Many law clerks were able to point out how judges decided who would write the opinion in a case – like the U.S. Supreme Court,\footnote{On the U.S. Supreme Court, the most senior judge in the majority assigns the judgment-writing responsibility. That means that where the Chief Justice is part of the majority, he assigns the judgment writing responsibility. See, Woodward and Armstrong, supra note 2, at 3. Seniority is thus not altogether irrelevant on the U.S. Supreme Court. In post-hearing judicial conferences held at the U.S. Supreme Court, judges speak in the order of seniority. Woodward and Armstrong, id., at 42-43. Law clerks are not permitted into the justices’ conference in the U.S. Lazarus, supra note 2, at 28. Ward and Weiden argue that this constitutes an important check on clerk influence. Ward and Weiden, supra note 2, at 155.} the senior judge on the bench in India usually has the prerogative to either write the judgment himself, or to assign the judgment-writing function to another judge.\footnote{Interview 3, Interview 7, Interview 15. See further, Abhinav Chandrachud, *Speech, Structure, and Behavior on the Supreme Court of India*, 25 COLUM. J. ASIAN L. 222 (2012). One law clerk told me that his judge, who was the senior on the bench, wrote judgments in important cases, but made the junior judge write the judgment in ordinary cases. Interview 2. Another law clerk informed me that the judges on the bench on which his judge was serving wrote judgments in every alternate case. Interview 17.} One judge of the Supreme Court had a reputation for not writing many judgments.\footnote{See, V. Venkatesan, *Judges have to watch their scorecard*, THE HINDU (May 27, 2013), http://www.thehindu.com/opinion/lead/judges-have-to-watch-their-scorecard/article4753636.ece.} A law clerk told me that though her judge was the senior judge on the bench, he was unable to convince that judge to write any judgments.\footnote{Interview 11.}
Another Supreme Court judge had a reputation for coming to court late. Two law clerks working for different judges told me that their judges often complained about the fact that this judge would come to court late. One law clerk told me that her judge was great friends with a High Court judge (who later became a Supreme Court judge himself) who used to stay at her judge’s residence whenever he came to Delhi. Some law clerks also saw that their judges (usually, judges on the collegium) were often visited by High Court judges, who sought a promotion to the Supreme Court. After one such meeting with a High Court judge, a Supreme Court judge jokingly informed his law clerk, “this person wants to come to the Supreme Court next”. One law clerk also told me that Supreme Court judges who are in line to become Chief Justices of the court according to seniority are given a special status on the court. For example, though the judge he worked for was not on the collegium, he was always kept in the loop on important issues like judicial appointments and budgetary allocations, because he was in line to become the Chief Justice of the Supreme Court a few years later. Others got to see the decision-making process of the Supreme Court of India from a legal realist standpoint. For example, one law clerk told me that she learned that her judge had his own set of prejudices, which he brought to the cases he decided.

A few law clerks saw how government officials tried to influence Supreme Court judges. One law clerk told me that he was privy to a telephone conversation between an official in India’s intelligence organization and his judge, where the official tried to convince the judge to hold in their favor. The law clerk informed me that this did not work, and that the judge decided the case without fear or favor. Another law clerk saw a cabinet rank minister visit his judge’s residence at a time when the court was hearing an important case concerning his ministry.

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170 Interview 7; Interview 18. See further, Interview 24.

171 The High Court judge once had a heart-attack at her judge’s residence and had to be rushed to the hospital. He survived, and later became a judge of the Supreme Court himself.

172 The name of one High Court Chief Justice, who was subsequently elevated to the Supreme Court only a few days before his retirement from the High Court, kept coming up in the interviews. Many law clerks informed me that that judge came to meet their Supreme Court judges to potentially lobby for his elevation to the Supreme Court.

173 Interview 11. See further, Interview 12; Interview 16. A law clerk who served on the court between 2013-14 informed me that when the Supreme Court was going to designate senior lawyers, many lawyers tried to approach his judge to lobby their case. Interview 14.

174 See, Chandrachud, supra note 43.

175 Interview 16.

176 Interview 16. Another law clerk informed me that such judges, who were in line to become Chief Justices of India, were also staffed on the bench on important cases, perhaps in order to ensure that those decisions would have the blessings of future Chief Justices of the court (who would otherwise have the ability to have those decisions subsequently overruled).

177 Interview 21.

178 Interview 3.

179 Interview 26. That law clerk was unable to tell me what the outcome of the case was.
D. The Work:

One’s work as a law clerk at the Supreme Court of India depends almost entirely on the judge one is assigned to – while some are given numerous, meaningful responsibilities, others do little or no work. The law clerks I interviewed informed me that they usually had four primary responsibilities: 180

First, the overwhelming majority of Supreme Court law clerks prepare notes summarizing Special Leave Petitions (or “SLPs”) filed under Article 136 of the constitution – petitions which seek the Supreme Court’s discretionary leave to appeal from a judgment of a lower court. This is usually considered to be the main job profile of a Supreme Court law clerk. 181 Unlike petitions for certiorari on the U.S. Supreme Court, these discretionary petitions get an oral hearing in court, where lawyers typically appear for both sides in the case, though each hearing might not last for more than a few minutes. As a consequence, the influence that a law clerk can wield in these cases is far smaller than the influence U.S. Supreme Court law clerks can wield in cert petitions. 182 Further, unlike the U.S. Supreme Court, there is no “cert pool” in India, i.e. a law clerk prepares summaries only for the cases being heard by his own judge, as against U.S. Supreme Court law clerks, most of whom prepare reports on cert petitions for nearly all the justices of the court. 183 In other words, the work done by a law clerk in cert petitions on the U.S. Supreme Court reaches out to nearly all the judges of the court, whereas the work done on SLPs by a law clerk on the Indian Supreme Court reaches out only to the individual judge the clerk is working for. SLPs are heard by the Supreme Court on every Monday and Friday. 184 A law clerk’s most typical task is to sit with the SLP files when they arrive at the judge’s residence, 185 and to prepare a short summary (usually no longer than a page), of the file. One law clerk informed me that his short, bulleted, one-page summary would try to address the following questions: “What are the facts of the case? What’s the question of law? What’s the submission? What’s the governing case law? What’s lacking, or what has not been addressed?” Another law clerk paid attention to the

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180 Law clerks on the U.S. Supreme Court draft opinions for their justices, write bench memos and post-argument memos, comment on drafts circulated by other justices, make recommendations on cert petitions, and advise their justices on emergency applications. Lazarus, supra note 2, at 29; Peppers and Ward eds., supra note 2, at xi.

181 There are exceptions. One law clerk informed me that his judge did not make his clerks work on even a single SLP.

182 Recommendations made by U.S. Supreme Court law clerks to their justices on cert petitions have been said to “carry great weight”. Lazarus, supra note 2, at 31.

183 See, Peppers and Ward eds., supra note 2, at x. Ward and Weiden argue, however, that the cert pool diminished the influence of law clerks on the overall cert process of the U.S. Supreme Court. Ward and Weiden, supra note 2, at 109-149. However, in the absence of a cert pool in India, law clerks do not prepare memos on all the SLPs which are filed before the court, but only on those SLPs which come up for hearing before their own judges. On the U.S. Supreme Court, law clerks divide cert petitions between themselves, but their memos are read by nearly all the justices of the court. On the Indian Supreme Court, SLPs are divided between the judges of the court, and law clerks’ memos are only read by their own judges.

184 Most judges at the Supreme Court usually gets through SLPs on these days pretty quickly, as a result of which the court day on Mondays and Fridays is usually shorter. Court time on Tuesdays, Wednesdays and Thursdays is occupied by final hearings.

185 SLP files for Monday usually arrived at a judge’s residence on Friday, and files for Friday usually arrived on Tuesday. That meant that Monday was relatively relaxed day for law clerks whose primary responsibility was summarizing SLP files.
questions her judge asked in court on Mondays and Fridays to get a sense of the judge’s thought-process, and prepared her summary by highlighting what she thought her judge was looking for in SLP cases.\textsuperscript{186} Most described this task as routine or mundane, which involved doing nothing more than making an executive summary of the file.\textsuperscript{187} However, some law clerks concluded their summaries by offering their own conclusions about which way a case ought to be decided, which possibly exercised a certain level of persuasive influence over a judge. Such law clerks, however, usually also informed me that their judges often disagreed with their conclusions.\textsuperscript{188}

Second, most law clerks carry out legal research assignments for their judges, on issues selected by the judge.\textsuperscript{189} Sometimes a judge wants research to be done in order to confirm that his own view on a position of law is correct. On other times, judges ask law clerks and interns to carry out exploratory research where the lawyers’ research appears to be deficient. For example, in a case decided by the Supreme Court sometime between 2002-03, a Supreme Court judge unstapled the research note prepared by his law clerk from the file, in open court, and handed it to the lawyers appearing in the case, to demonstrate to the lawyers that better research in that case was possible.\textsuperscript{190} Interestingly, one law clerk who served on the court between 2012-13 informed me that memoranda prepared by law clerks are routinely destroyed after a case is concluded\textsuperscript{191} – as a result, scholars might never subsequently have access to law clerks’ memoranda in important cases.\textsuperscript{192} Research notes are frequently relied on by judges to write the judgment in a case. Interestingly, one judge used his interns to go through his previous judgments (including judgments he wrote as a High Court judge), in order to ensure that the view he was taking on the Supreme Court was consistent with the views he had previously taken.\textsuperscript{193}

Third, some law clerks, even some interns, get to write judgments for their judge.\textsuperscript{194} One intern who served with a judge on the court in the early 2000s informed me that his judge once had to get up in the middle of dictating a judgment, in order to take an important phone call, so he asked the intern to continue dictating the judgment. “It was quite a responsibility”, the intern informed me, though when the judge subsequently came back, he checked what the intern had dictated and found that it was okay.\textsuperscript{195} The sense that one gets is that an increasing number of law clerks are being tasked with writing judgments on the court. Many clerks informed me that their judges took pride in writing everything themselves and never allowed law clerks to do any judgment writing at all.\textsuperscript{196} One law clerk informed me that she and her fellow law clerks sit with the judge while he is dictating a judgment, and assist him on clerical issues, e.g. they locate a counter-

\textsuperscript{186} Interview 7.
\textsuperscript{187} See, e.g., Interview 8; Interview 22.
\textsuperscript{188} See, e.g., Interview 2.
\textsuperscript{189} Usually, the research is done on “CAV” (i.e., “Case Awaiting Verdict”) matters. Interview 19, Interview 22.
\textsuperscript{190} Interview 3. This incident has been independently verified by this author.
\textsuperscript{191} Interview 10.
\textsuperscript{192} Likewise, law clerks on the U.S. Supreme Court are instructed to throw away their drafts and notes in “burn bags”, where they are destroyed. Ward and Weiden, supra note 2, at 11.
\textsuperscript{193} Interview 1.
\textsuperscript{194} See, e.g., Interview 16.
\textsuperscript{195} Interview 9.
\textsuperscript{196} See, e.g., Interview 7; Interview 11; Interview 20.
affidavit in the file and give it to him if he needs it during the dictation process. Some law clerks, who do not get to write judgments, write notes for their judges, on the facts of the case or on the law, and some of the notes are incorporated into judgments. However, many law clerks get to write the first draft of the entire judgment of the court, from start to finish. One law clerk told me that his judge rarely ever wrote a judgment himself – his clerks would write it and he would make alterations to it, much like a junior lawyer at the Bar in India writes the first draft of a plaint and a senior lawyer “settles” or revises it. That judge would discuss with his clerk what he wanted in the judgment, and the clerk was then expected to write the judgment. That judge had quite a unique style of functioning. In every case, the law clerks for that judge wrote two separate judgments – one in favor of either side, and after the hearing concluded, the judge would pick the judgment for the side he and his brethren had decided should win the case.

The judgment writing function of law clerks is very controversial, even on the U.S. Supreme Court. When a law clerk once tried to get Justice Thurgood Marshall to make a change in his draft opinion, Marshall told his clerk that he was missing two things: nomination by the President and confirmation by the Senate. Law clerks who served on the Supreme Court of India usually felt uncomfortable, even embarrassed, to tell me that they wrote judgments for their judges. Supreme Court judgments are binding on every court in the country, and are almost treated as the gospel by Indian lawyers. It would therefore be quite startling for the Indian legal profession to discover that the judgments they revere were actually written by 23-year-old, newly minted law graduates. More worryingly, if law clerks are not trained in matters like what constitutes plagiarism, there is a serious risk that judgments of the Supreme Court of India will undergo a fall in standards. Their proximity to judges and the judgment writing function also makes law clerks vulnerable to criticism. While conducting interviews, I came across a credible rumor circulating at the bar and among law clerks that one of the law clerks at the Supreme Court was recently responsible for leaking a judgment which was going to be delivered by his judge in an important constitutional case, perhaps because the judgment had been written by the law clerk. Further, one law clerk who served on the court between 2009-10 informed me that her judge was once very annoyed when he received a poorly written judgment from one of his colleagues on the bench – her judge believed that the judgment had been written by a law clerk. Though some of these rumors and

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197 Interview 12. This was also the job profile of another law clerk: Interview 22.
198 See, e.g., Interview 16, Interview 17. These interviewed informed me that their judge would give them a skeletal outline for the judgment, and that they would have to prepare the judgment using the outline.
199 Interview 10.
200 Interview 10.
201 Interview 10.
202 See, Peppers and Ward eds., supra note 2, at 8; Ward and Weiden, supra note 2, at 200; Posner, supra note 2, at 21, 46, 127-128, 236-286.
203 Peppers and Ward eds., supra note 2, at 12.
204 INDIA COST. art. 141.
205 Interview 4, Interview 10, Interview 12, Interview 13. On the U.S. Supreme Court, only one law clerk was ever fired for leaking a judgment – Ashton F. Embry, in 1919. Ward and Weiden, supra note 2, at 12. Law clerks on the U.S. Supreme Court are bound by a “ninety-second rule”: any law clerks who speaks to a journalist for more than ninety seconds is fired. Ward and Weiden, supra note 2, at 11.
suspicions might not be true, it is clear that there is a burgeoning feeling at the bar and bench in India that the judgment writing responsibilities of law clerks have the potential to undermine the integrity of the Supreme Court and the quality of its judgments. Of course, permitting law clerks to prepare drafts of judgments is not entirely reprehensible. After all, law firm partners seldom write opinions or draft agreements from scratch – the first draft is always written by a junior associate, so it is unfair to expect that a Supreme Court judge, in his late 50s or early 60s, should draft a multitude of judgments from scratch, with no assistance. However, this is still something which makes judges, law clerks, and the legal profession uncomfortable.

Fourth, and finally, law clerks write speeches for their judges. In fact, one law clerk told me that he was also sometimes required to write speeches for his judge in Hindi. Interview 17.

Judges are often invited to attend a number of conferences, lectures, seminars, and other speaking engagements all over the country, especially on the weekends, and it is the task of the law clerk or intern to write the judge’s speech. One judge, for example, would use the speech written by his law clerk as a template, breaking away from the script, on occasion, to narrate a related anecdote. However, rarely do the law clerks get to attend events where their judges deliver their speeches. Law clerks also do a lot of miscellaneous writing for their judges. For example, if a judge has to write a salutary message in a commemorative volume or college magazine, or a foreword in a book, the message is often written by a law clerk or intern. One Supreme Court judge made his law clerk write short reference letters for the interns who had worked at his office.

Though the four tasks described above are part of the usual job profile of the law clerk, some law clerks get to perform other, more interesting tasks. One law clerk was once asked by his judge to screen a phone call – the judge wanted to avoid taking calls from lawyers, and so the judge made the law clerk take the phone call to see who it was. Even more interestingly, one senior Supreme Court judge who was on the collegium in the mid-2000s used law clerks to research the judgments of lower court judges who were being considered for elevation. This was very atypical, and few other law clerks got to perform similar tasks. Most law clerks who worked for judges on the collegium informed me that they did not get to do any work for the collegium and never heard about it. Law clerks who worked with the Chief Justice of India informed me that collegium meetings were often held at the Chief Justice’s residence. Since Chief Justice A.M. Ahmadi’s time, the deliberations of the collegium have been maintained in files kept in the Chief Justice’s office: files to which the Chief Justice’s law clerks have no access. Some other law clerks had functions which were even more interesting. For example, a clerk who served on the court between 2002-03 was told by his judge to call up an important official in the Central Bureau of Investigation (India’s equivalent of the

207 In fact, one law clerk told me that he was also sometimes required to write speeches for his judge in Hindi. Interview 17.
209 Interview 10.
210 Interview 15.
FBI in the U.S.) and to tell him that if his car continued to remain parked outside the judge’s residence (with the hope that he would eventually get an audience with the judge), the law clerk would call the press.213 Oddly, that law clerk informed me that he was once also deputed to do some research for the Attorney General of India in a case, though his judge was not hearing that case. The fact that a Supreme Court judge’s law clerk was deputed to do research for a government lawyer certainly ought to raise some eyebrows. Law clerks were sometimes similarly deputed to do research for outsiders to the court – for example, a law clerk who worked on the court between 2009-10 was asked by his judge to help the Indian Law Institute with some academic research.214 Another was deputed to do some research at the Law Commission of India over the summer.215 Again, this was not the typical job profile of the typical law clerk.

Interestingly, many law clerks informed me that they seldom attended court hearings. One interviewee, for example, informed me that she only attended court on one day during her year-long stint as a law clerk at the court between 2009-10.216 Given the strong tradition of oral advocacy on the Supreme Court of India, the fact that many law clerks do not go to court suggests that they are not an integral part of the decision-making process, and lack influence on the court.

IV. THE BENEFITS OF CLERKING ON THE SUPREME COURT OF INDIA
What motivates a final-year law student to apply to be a law clerk on the Supreme Court of India? It has already been seen that Supreme Court law clerks do not get paid well, and that law firms in India do not pay a premium to former Supreme Court law clerks who join their offices.217 In fact, Indian law firms often frown upon clerkships because they think it means that clerks will subsequently apply for LL.M.s and never return to them.218 Why, then, do Indian law graduates work for judges on the Supreme Court? Intuitively, one would have guessed that a Supreme Court clerkship would typically be pursued by students interested in a career in litigation219 or academia. However, the interviews suggest that this turns out not to be true. Most law clerks are not interested in a career in litigation, and do not end up as litigators.220 Most told me that they applied to be Supreme Court law clerks because they were interested in or curious about the experience and wanted to learn how the Supreme Court functioned, and how judges thought. However, the obvious motivation for the overwhelming majority of law students applying to be Supreme Court law clerks was that they wanted to get an LL.M., and they believed that a Supreme Court clerkship would help them get into a U.S. law school. This is not lost on the judges of the Supreme Court of India. One law clerk informed me that his judge was of the opinion that though the institution of the law clerkship was set up to encourage law

213 Interview 3.
214 Interview 16. The law clerk who succeeded him also performed this task. Interview 26.
215 Interview 18.
216 Interview 21.
217 Indian law students who get job offers from U.K. law firms do not get special treatment if they have clerked on the Supreme Court of India either. Interview 23.
218 Robinson Memorandum. See, supra notes 14-15 and accompanying text.
219 In fact, one law clerk informed me that his judge introduced him to top senior litigating lawyers in Delhi, which would have been very helpful to him had he been interested in a career in litigation. Interview 15.
220 See, e.g., Interview 5, Interview 11; Interview 15; Interview 20.
graduates to get interested in careers in litigation, most Indian students were using it as a stepping stone to do LL.M.s instead.\footnote{221}{Interview 18. In fact, many interviewees informed me that Chief Justice Kapadia had a reputation for thinking that law clerks were not very useful to have around, possibly for this reason.}

One law clerk informed me that the majority of the law clerks she knew on the Supreme Court were planning on applying for an LL.M. in 2013.\footnote{222}{Interview 12} “I’m very sure I want to apply for an LL.M.,” she told me, and continued, “I don’t think working in a law firm will help me apply for an LL.M.”\footnote{223}{Id.} When another law clerk was asked why he wanted to be a Supreme Court law clerk, he replied, “the LL.M. was somewhere at the back of my head”.\footnote{224}{Interview 10.} Yet another told me, “it would have looked good on my resume for admission to a U.S. university”.\footnote{225}{In interview 9. See further, interview 25.} Most of the law clerks I spoke to, got recommendation letters from the Supreme Court judges they worked for (letters which were often written by the law clerks themselves),\footnote{226}{See, Interview 24.} and were admitted at elite, east coast U.S. law schools, like Harvard, Yale, Columbia, Pennsylvania, and New York. In fact, many law clerks applied to these universities while they were serving as law clerks, and they went to study at these universities immediately following the termination of their clerkship. “I wouldn’t have got into Harvard unless I did this clerkship”,\footnote{227}{Interview 2.} one law clerk told me. His grades at law school were ordinary, and the clerkship added weight to his application. When another was asked why he applied to be a law clerk at the Supreme Court, he replied, “my thing is that I wanted to do a masters….I wanted a good letter of recommendation from a Supreme Court judge”.\footnote{228}{Interview 14.} Another told me that she had a word with the dean of admissions at Columbia Law School, and got the sense that the applications of Indian candidates who do clerkships at the Supreme Court of India are given at least a close look by Columbia Law School.\footnote{229}{Interview 1.} Some law clerks informed me that they did not have the LL.M. in mind when they applied for the Supreme Court clerkship – yet, they agreed that the clerkship on the court is often pursued today because students hope to use it as a stepping stone for getting into LL.M. programs in the U.S.\footnote{230}{Interview 13; Interview 15, Interview 16; Interview 17; Interview 23.} One of the rare law clerks I spoke to who did not pursue an LL.M. program after the clerkship said to me, “let’s be very honest…most people do clerkships to get a recommendation letter for the LL.M.”\footnote{231}{Interview 23.} Some clerks did not go into the clerkship wanting to the do the LL.M., but ended up getting a recommendation letter from their judges, and doing the LL.M. program at a top U.S. law school anyway.\footnote{232}{See, e.g., Interview 16; Interview 18.} Both the Robinson and Chauhan memoranda\footnote{233}{See, supra notes 14-15 and accompanying text.} concluded that one of the main motivations for doing a clerkship on the Supreme Court of India was to apply for an LL.M. in the U.S.\footnote{234}{It has been seen that law clerks are barred, by contract, from appearing before the Supreme Court of India for one year after their clerkship ceases. One interviewee suggested that some might argue that this...}
Law clerks believe that an LL.M. at a U.S. law school is more prestigious, and worth more, than a clerkship on the Supreme Court of India.235 In fact, one law clerk was offered the option of continuing with her judge for an additional year, but she chose to leave and pursue an LL.M. at a U.S. law school instead.236 Another law clerk was admitted into the LL.M. program at an elite U.S. law school before her clerkship on the court began, and she decided not to clerk on the Supreme Court of India but to go to the U.S. for the LL.M. instead. Many interviewees informed me that law clerks or interns were often only interested in getting a recommendation letter from their judge for their college applications, and that they lost interest in the work once the recommendation letter was secured or once admissions decisions had been made.237

Of course, some law clerks pursue advanced degrees at U.K. universities, especially at the faculties of law either at Oxford or Cambridge. Yet, the sense one gets is that U.S. universities, especially Harvard and Yale, are at the top of everybody’s list. One law clerk told me that she “did the clerkship because everybody said it would be a good idea for college applications, especially for U.S. colleges”.238 Another told me that she only wanted to apply to U.S. universities for the LL.M. because “clerkships in the U.S. count for a lot more” than they do in the U.K. 239 After getting an LL.M. from a U.S. law school, Indian lawyers have much that they can do. Many write a state bar examination in the U.S. (usually, New York or California) and work at a U.S. law firm either in the U.S. itself, or in Asia 240 (usually, Singapore or Hong Kong). But those who want to go back to India find that an LL.M. opens doors for them in India as well. Ballakrishnen241 finds that though an LL.M. degree does not necessarily carry with it any tangible benefits in the legal profession in India, it confers “halo” advantages to Indian lawyers, among other things.

Importantly, law clerks are well aware that a clerkship on the Supreme Court is not considered as prestigious in India as it is in the U.S., where being a law clerk is an honor which distinguishes you for life, like being a Rhodes Scholar.242 As one law clerk very tellingly revealed during an interview: “In the U.S., a clerkship is a huge, huge deal….If you tell somebody in the U.S. that you did the clerkship, they fawn over you… and here if you tell somebody you did the clerkship, you still have to waste a little time telling them what that is”.243 This was a theme which kept coming up during the

serves as a justification for law clerks to apply for the LL.M., since they are barred from practicing before the Supreme Court for a year anyway. However, the interviewee informed me that this is quite implausible. Interview 18. Law clerks are not barred from practicing law before other courts in India, and rarely do junior lawyers start a flourishing law practice directly in the Supreme Court anyway. Further, one law clerk told me that this rule (viz., that law clerks cannot ever appear before their judges, and that they cannot appear before the Supreme Court for a year after their clerkship) is not strictly enforced. Interview 28.

235 Interview 9.
236 Interview 11.
237 Interview 18. By contrast, a law clerk who was admitted into the LL.M. program at one of London University’s top colleges, decided to defer his LL.M. by a year and to do the clerkship. Interview 17.
238 Interview 18.
239 Interview 22.
240 Foreign law firms are still not permitted to open offices in India.
241 Ballakrishnen, supra note 4.
242 Lazarus, supra note 2, at 20.
243 Interview 11.
One law clerk said of her clerkship experience, “people [in the U.S.] were mightily, unduly impressed that I was a clerk on the Supreme Court of India, because you know how it works in the U.S., right…?” That clerk believed that her clerkship on the Supreme Court and her judge’s recommendation letter enormously helped her get into the LL.M. program at Columbia Law School. When another law clerk was asked why few students in his law school had applied for a clerkship on the court, he replied, “my own impression is that in America it has a particular prestige attached to it…in India that’s not the case.” Yet another law clerk told me that the Supreme Court clerkship is “a concept which is highly regarded in the [United] States…but in India it’s not that important.”

Even so, Indian students pursue clerkships on the Supreme Court because they believe that U.S. law schools would consider Supreme Court clerks to be stellar candidates. A law clerk who now teaches at a prominent law school in India informed me that his clerkship experience, though valuable, did not help him get a job on the teaching market in India. Another law clerk who now practices law at the Delhi High Court informed me that her clerkship experience, though very memorable, did not really prepare her for a career in litigation.

There are more prestigious work opportunities for law students in India than a Supreme Court clerkship. One law clerk told me that if she had been offered a job at a prestigious corporate law firm like Amarchand Mangaldas, she would have taken it over the Supreme Court clerkship, not only because it paid better, but also because it was seen as being more exclusive and harder to get than a Supreme Court clerkship. Marc Galanter and Nick Robinson have written about the “Grand Advocates” of India—high paid and powerful Supreme Court lawyers who have been around on the court longer than most Supreme Court judges. In the legal profession in India, it would be considered far more prestigious to work for one these Grand Advocates than, say, to clerk with the Chief Justice of the Supreme Court. A person who has clerked on the U.S. Supreme Court is forever identified with the judge he clerked with, but in India, though a litigating lawyer is forever identified with the “Grand Advocate” he worked for, a lawyer is rarely identified with the judge he clerked with. Yet, the feeling one gets is that

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244 One law clerk said virtually the same thing to me in Hindi. In India, he said, “law clerks ki koi aukaad nahi hain. U.S. mein challey jaon, waha pe bahut value hogi. It’s very sad ki India mein koi value nahi hain”. Interview 19.
245 Interview 21.
246 Interview 16.
247 Interview 17.
248 Interview 24.
249 Interview 28.
250 Interview 21. According to this law clerk, every student who applied from her school for a Supreme Court clerkship got selected and assigned to a judge, whereas only the top students got jobs at firms like Amarchand Mangaldas.
252 For example, working as a junior lawyer in the offices of Ram Jethmalani, Soli Sorabjee, or Harish Salve would probably be valued far more in the legal profession in India than working with a Supreme Court judge.
254 For example, constitutional law scholar H.M. Seervai, top constitutional lawyer Nani A. Palkhivala, and Supreme Court Chief Justice P.N. Bhagwati, were always identified at the Bombay Bar as belonging to the chambers of the legendary Bombay lawyer, J.B. Kanga.
admissions departments at U.S. law schools are likely to rank a Supreme Court clerkship higher in India than a stint with one of the Supreme Court’s Grand Advocates, simply because these schools do not have the capacity to gather that working for a Grand Advocate like Harish Salve255 or Ram Jethmalani256 has more value in India’s legal profession than working for the Chief Justice of the Supreme Court. In other words, a U.S. law school assesses international LL.M. applicants by the cultural standards which apply to American law graduates. Since the best U.S. law students do Supreme Court clerkships, it is assumed that a clerkship on the Supreme Court of India is more prestigious than other kinds of work opportunities.

Of course, that is not to say that law clerks derive no value from their clerkship experience, aside from a recommendation letter for a U.S. law school. Most Supreme Court law clerks thoroughly enjoyed their experience working on the court, and learned a great deal. It has already been seen that many developed a close personal bond with the judge they worked for, and learned about the system from a unique standpoint. Many were mentored by their judges, and now have professional godfathers who might be able to open doors for them in the legal profession.257 Many did substantive work like writing judgments and discussing cases with their judges. “You’ve made me re-live the most memorable days of my professional life”, one law clerk told me, at the end of an interview.258 An interviewee who clerked on the court between 2005-06 told me that he still considers his judge to be one of the most inspiring people he has ever met in his career.259 In a landmark constitutional case involving euthanasia decided by the Supreme Court in 2011,260 the judges deciding the case even acknowledged their law clerks in the judgment—perhaps the first time in the history of the court that this had happened. The


257 However, the sense I got was that retired Supreme Court judges can do less to open doors than “sitting” or active Supreme Court judges. Most of the judges of the Supreme Court serve short tenures, and so most law clerks do not have a sitting Supreme Court judge as a godfather for very long. Further, not all law clerks I spoke with were still in contact with their judges, which obviously means that they do not have this advantage.

258 Interview 19.

259 Interview 25.

260 Aruna Shanbaug v. Union of India, (2011) 1 SCALE 673 (India).

261 The law clerks were Manav Kapur (Justice M. Katju) and Neha Purohit (Justice G.S. Misra).
clerkship experience on the Supreme Court of India cannot, by any stretch of imagination, be described as hollow in the absence of the inevitable LL.M. application. In fact, most interviewees who wanted to do an LL.M. also cited other reasons why they did the clerkship, e.g. the insight it could provide into how judges think.

However, the overwhelming motivation for clerking on the Supreme Court of India is that it is seen as an experience which enhances a person’s chances of getting into an LL.M. program at a U.S. law school. The experience of being a law clerk in India varies drastically according to the judge you are randomly assigned to, and there is strong risk when one applies for a Supreme Court clerkship that the clerk’s judge will not give her any work, or any time. Further, the clerkship brings no tangible benefits to the law clerk in the job market or teaching market in India. Even so, students apply for the clerkship, and what motivates students to apply for clerkships on the Supreme Court of India, more than anything else, is the tangible likelihood that their chances of getting into a U.S. law school will become stronger if they work for a Supreme Court judge, especially if their judge writes them a recommendation letter.

V. CONCLUSION
This paper yields two narratives: one about U.S. law schools, another about foreign law students. Admissions departments at U.S. law schools are often tasked with the responsibility of assessing foreign LL.M. applicants. To do so effectively, they should be figuring out where those students stand within the cultural contexts of the societies to which they belong. Instead, admissions departments at U.S. law schools are assessing foreign LL.M. applicants by looking for characteristics in them which one would expect to find in a model American law student. A clerkship on the U.S. Supreme Court is reserved for the most academically brilliant American law students, so admissions departments at U.S. law schools think that foreign LL.M. applicants who have clerked on the Supreme Courts of their respective countries are brilliant students as well. This fails to account for cultural differences between the structure of the legal profession in different societies. This paper has demonstrated that the clerkship experience on the Supreme Court of India is vastly different from its counterpart on the U.S. Supreme Court, for structural and cultural reasons. Since India is a developing country, it is natural to expect that the infrastructure and resources available to Supreme Court law clerks in India would be inferior to the kind available to U.S. Supreme Court law clerks, and the clerkship experience on India’s Supreme Court therefore cannot be faulted on that count. However, this paper suggests that it is not merely in matters like infrastructure and resources in which India’s Supreme Court clerkship falls short of its U.S. counterpart. Yet, the U.S. law school has arguably been unable to look beyond the cultural context of its own society in assessing Indian LL.M. applicants.

In turn, foreign law students have figured out that in order to come across as strong candidates to U.S. law schools, they have to undergo a process of “Americanization”, by pursuing opportunities which may not necessarily be beneficial to them in the legal profession of their own societies, but which may bolster their chances of getting into an LL.M. program at a top U.S. law school. In India, law students have pursued clerkship opportunities on the Supreme Court, despite the fact that a clerkship on the Supreme Court lacks prestige and brings very few tangible advantages in the local legal profession, because it enhances their chances of getting into elite, east coast U.S.
law schools for the LL.M. Seen another way, the U.S. law school has globalized the image of the model American law student.

Though getting an LL.M. at a U.S. law school was the primary motivation for students who applied for a Supreme Court clerkship, three factors can be said to be additionally responsible for the rise of the clerkship on the Supreme Court of India. First, law clerks started getting appointed to the court at a time when the internet was revolutionizing how foreign law students were applying to U.S. law schools – because of the internet, it was now enormously easier for Indian law students to apply for LL.M.s, which made pursuing strategies like applying for Supreme Court clerkships viable in the first place. Second, law clerks started getting appointed to the Supreme Court of India against the backdrop of the “liberalization” of India’s economy, which occurred in the 1990s. The liberalization of India’s economy made getting an LL.M. at a U.S. law school seem more attractive than ever before to Indian law students, who were faced with the likely prospect of returning to India and servicing foreign clients, for the first time. Third, law clerks started getting appointed to the Supreme Court at a time when the model of legal education in India had undergone a tectonic shift. Most of the law clerks on the Supreme Court belonged to the new national law schools of India, which served to make legal education more competitive and global. These three factors – the internet, liberalization, and legal education – must also be considered responsible, in addition to the U.S. law school’s LL.M., for the law clerkship on the Supreme Court of India.

Pursuing a clerkship on the Supreme Court is not the only strategy Indian law students employ to get into U.S. LL.M. programs. There are other strategies out there as well. One such strategy is for Indian law students to publish papers in law reviews. It is considered very prestigious for an American law student to publish a note in a top tiered U.S. law school’s law review. Likewise, being on a law review committee is highly regarded by the American legal profession – the president of a law review at an elite U.S. law school is likely to bag numerous job offers from blue-chip law firms. In India, publishing a paper in a law school’s law review, or being the editor of a law review, counts for much less in the legal profession, and is far less prestigious than it is in the U.S. Yet, Indian law students pursue these opportunities as a way of making themselves more appealing to admissions departments at U.S. law schools. Of course, that is not to say that being the president of a law review, or publishing a paper in a law review, in India, is entirely worthless: far from it. India needs to do much more to develop a scholarly tradition in legal academia and its law reviews may make small, incremental changes to the culture. Yet, unlike U.S. law reviews, India’s law reviews are not meant for law professors trying to get tenure, but for law students trying to get into Harvard.

It is important here not to oversimplify or overstate the results of the study presented in this paper. Of course, not every Indian law student who does a clerkship on the Supreme Court of India wants to get an LL.M., or does the clerkship solely with the intent of getting into a U.S. law school. Many law clerks are interested in careers in litigation or academics, many want to see for themselves how judges think, many are curious about the experience and want to do something they know they will never again


263 See, Ballakrishnen, supra note 4.
get the chance to do. Often, law clerks come away from the clerkship experience feeling satisfied and having learned a lot. Further, though landing a prestigious job in India’s legal profession sometimes requires access to family networks and connections, the Supreme Court clerkship in India is relatively meritocratic, and gives students with no access to those networks the ability to work for a Supreme Court judge. However, a Supreme Court clerkship lacks prestige in the Indian legal profession, and for a significant number of Indian law students, the primary (though perhaps not the only) motivation of doing a clerkship is to enhance one’s chances of being admitted to an LL.M. program at a top-tiered U.S. law school. By contrast, law clerks on the U.S. Supreme Court are perhaps the least bit interested in getting into advanced degree programs overseas.

Further, it should be pointed out that not every Indian law student who gets into LL.M. programs at elite U.S. law schools has previously done a clerkship on the Supreme Court of India. For example, consider that the LL.M. class of 2014 at Harvard Law School had approximately fifteen students from India, of whom only approximately three had previously clerked on the Supreme Court of India. However, the sense that one gets is that a Supreme Court clerkship certainly enhances an applicant’s chances for getting into an LL.M. program in the U.S., especially for applicants interested in studying constitutional law.

It should also be pointed out that there are some similarities between the legal professions of the U.S. and India. In particular, bright Indian law students often eagerly seek job offers at prestigious corporate law firms in India like Amarchand Mangaldas or AZB & Partners, much like their American counterparts who seek jobs at prestigious firms like Cravath or Skadden. It is considered prestigious to work for some corporate law firms in India, something which admissions departments at U.S. law schools can culturally relate to. Thus, associates at good Indian law firms often get admitted to LL.M. programs at elite U.S. law schools. However, it is far harder for U.S. schools to assess foreign law students with non-corporate-law backgrounds, who may pursue career opportunities in India with which U.S. law schools are unfamiliar. A Supreme Court clerkship is a language U.S. law schools are familiar with – a language foreign law students have learned to speak.

The Supreme Court clerkship has been around as an institution in India for less than 20 years, and as such, it is still in its nascent stages. The clerkship institution on the U.S. Supreme Court itself underwent a gradual, evolutionary process of change, and being a law clerk on the court today is arguably more prestigious than it might have been in the late 19th century. A time may come, several decades from now, when the clerkship may genuinely be considered a prestigious position in the Indian legal profession, especially if subsequent generations of top litigators, judges, and law professors in India are all former Supreme Court law clerks. However, the institution of the Supreme Court clerkship today is not there yet, but it is prematurely considered prestigious, for now, because it is perceived to be a stepping stone for getting into an LL.M. program at a top U.S. law school.

264 Ward and Weiden argue that law clerks went through four phases on the Supreme Court: initially, they were secretaries, but they later became research assistants, then “junior justices”, and finally, “sorcerer’s apprentices”. Ward and Weiden, supra note 2, at 21-53. See further, Peppers, supra note 2; Posner, supra note 2, at 41-42.