

# NEURODIVERGENCE IN LEGAL EDUCATION

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## ABSTRACT

*The experience of neurodivergent students in legal education differs from that of neurotypical students. Mapping the causes of this incongruence cannot be solely attributed to their differing cognitive patterns. What becomes the larger cause of this distinction is the widespread and deep-rooted bias against non-normative ways of cognition and disability.*

*The present inquiry aims to highlight the experiences and struggles of neurodivergent law students. It outlines how the experience of neurodivergence is negotiated with the identity of being a law student, specifically in the context of the prominent, limiting, and abled-bodied idea of an ideal law student. This negotiation often entails a tough bargain between expressing one's authentic self while also seeking acceptance. This internal scuffle often pushes the student to mask their neurodivergence in the face of social stigma, which further creates a severe deficiency in social and academic citizenship and a sense of belonging.*

**Keywords:** Neurodivergence, Legal Education, Masking, Belongingness and Accommodations

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## I. INTRODUCTION

At the inception of the present inquiry, the preliminary thoughts about this paper were being discussed with a former law student, Y. She studied law in New Delhi and worked in the discipline for a while. When the focal point of the paper, that is to understand the experience of law students with neurodivergence, was brought up, she suggested with caution, “I am sure there are many law students and practitioners who are neurodivergent, but I am doubtful if many would like to come out and talk about it.” The conversation flowed into the details about how the privacy of the participants would be a crucial and non-negotiable prerequisite in the present endeavour. She concluded by saying “I would ask around, but I will be happy if even one person responds.” On the surface level, this seemed like an empirically mundane issue of the 'sample', but it was immediately realised that Y's suggestion and apprehension spoke of the larger structural issue at hand. It posed two exceedingly pointed questions: Are there truly no neurodivergent students in legal education? And if the prevalence is not nil, why would they not talk about it?

Ruminating with these two initial questions effortlessly chain-reacts into probes about what causes and reinforces this apprehension and, further, how it affects the academic and interpersonal journey of the student, their psychological well-being, and self-concept. These probes became the guiding force in outlining the scope of the present paper. The focus of this inquiry was to understand and highlight the experience of neurodivergent individuals in legal education in the context of contemporary discourse around neurodivergence in higher education. To ensure that the inquiry was rooted in the lived experiences of the students, an open-ended interview was shared via a Google Form with the participants. Three former law students with neurodivergence agreed to share their experiences. To subsequently gather an in-depth understanding of the neurodivergent experience and its relationship with psychological well-being, two mental health practitioners who extensively work with the population were contacted and requested to share insights from their practice in a similar open-ended questionnaire.

The themes elicited from the responses and their echoes in the coeval issues around neurodivergence are discussed in the next sections. The present paper underlines the contemporary understanding and statistical trends of neurodivergence. It further addresses how the sense of self of a neurodivergent student is affected in the context of a culturally potent schema of an 'ideal law student'. It subsequently dives into the issue of weakened recognition and self-perception of one's strengths in the face of this ideality. It focuses on masking used in classrooms, and interpersonal interactions to get through

this gap experienced from the neurotypical ideality. The paper also discusses the effects of masking on seeking institutional accommodations and its enduring consequences on the sense of belongingness and psychological well-being.

## II. DEFINING NEURODIVERGENCE

Understanding neurodivergence poses a special consideration. One could easily fall into the constraints of the dominant biomedical model and visualise neurodiversity just as brain disparities. As much as the neural disparity is a valid consideration in understanding the discourse of neurodivergence, it is also significantly vital to trace its birth to the paradigms of diversity and disability rights.<sup>1</sup> Judy Singer, the sociologist who coined the term neurodiversity, expresses that it is not only a stagnant neurological reality but also extends to a political movement.<sup>2</sup> Stanford School of Medicine describes neurodiversity as “a concept that regards individuals with differences in brain function and behavioural traits as part of normal variation in the population.”<sup>3</sup> This approach is based on the understanding that individuals are different and that diversity is the reality of human existence.

The extension of this diversity is not limited just to observable physical features, cultural idiosyncrasies, or differing nature of social learnings. Diversity also lives in the structural makeup of the brain, as well as psychological and cognitive processes.<sup>4</sup> Thus, just like other facets of biodiversity, humans also have neural diversity, and our meaning-making of the world and the interactions within it are non-identical.<sup>5</sup> This diversity is present in the structure, functionality, and processing abilities of the brain. The commonalities found in these are often seen as socially desirable and become the markers of the average processing speed, memory, and abilities. These are termed as neurotypical compared to the deviancies seen from these norms.<sup>6</sup> These fragmentations suffer from similar social inequalities: the typical becomes the preferred, desirable, and thus superior in hierarchies.

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1 Nick Walker, ‘Neurodiversity: Some Basic Terms and Definitions’ (Neuroqueer: The Writings of Dr. Nick Walker, 2023) <<https://ndclibrary.sjc1.vultrobjects.com/>> accessed 8 August 2024.

2 John Harris, ‘The mother of neurodiversity: how Judy Singer changed the world’ (The Guardian, 5 July 2023) <<https://www.theguardian.com/world/2023/jul/05/the-mother-of-neurodiversity-how-judy-singer-changed-the-world>> accessed 8 August 2024.

3 ‘Stanford Neurodiversity Project’ (Department of Psychiatry & Behavioral Sciences, Stanford Medicine) <<https://med.stanford.edu/neurodiversity.html>> accessed 8 August 2024.

4 Mylène Legault and others, ‘From neurodiversity to neurodivergence: the role of epistemic and cognitive marginalization’ (2021) 199 *Synthese* 12843.

5 Thomas Armstrong, ‘The Myth of the Normal Brain: Embracing Neurodiversity’ (2015) 17(4) *AMA Journal of Ethics* 348.

6 Nicole Baumer and Julia Frueh, ‘What is neurodiversity?’ (Harvard Health Publishing, 23 November 2021) <<https://www.health.harvard.edu/blog/what-is-neurodiversity-202111232645>> accessed 8 August 2024.

Within the clinical paradigm, neurodivergence is synonymous with neurological and developmental conditions such as Autism spectrum disorder, Attention-deficient hyperactivity disorder, and learning disabilities.<sup>7</sup> The clinical approach is criticised as it purely relies on medical underpinnings and often views the disability existing within the individual. It falls back on solutions and cures that can alter the individual with the disability/divergence, as close as possible to an 'able'-neurotypical individual.<sup>8</sup>

Alternatively, a strong social model suggests that the difference only becomes a disability because of the barriers created by a society that makes the world inaccessible for the disabled person.<sup>9</sup> The neurodiversity approach and movement find their home in this social model of disability and the bio-psycho-social model of diseases, which refuses to visualise the solution in terms of altering the person with neurodivergence or bringing their cognition and behaviour closer to neurotypical individuals. The approach addresses the issues by reforming and reshaping the environment.<sup>10</sup>

It is crucial to note that the perspectives within the discourse of neurodivergence are far from unipolar. The historically commanding clinical and medical model is often criticised for pathologising atypical ways of cognition and prescribing a rigid 'normality'. This criticism comes from the social model of disability that roots the inequality within the social structures and not the individual. However, in recent times, the neurodiversity approach has also come under serious criticism, as it is seen to be only imagined as a 'normal biological variation'. This fails to accommodate individuals who face serious neurodevelopmental challenges and can significantly benefit from medical interventions.<sup>11</sup>

Gwendolyn Kansen, a woman with autism, writes in her article, "I think it's great that people want to normalise autism. But sometimes they gloss over how disabling it can actually be." She adds, "We can't have a truly productive discussion about autism

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7 Helen Bewley and Anitha George, 'Neurodiversity at Work' (2016) National Institute of Economic and Social Research, available at: <[https://www.tourettes-action.org.uk/storage/downloads/1482243777\\_Neurodiversity\\_at\\_work\\_0916-\(1\).pdf](https://www.tourettes-action.org.uk/storage/downloads/1482243777_Neurodiversity_at_work_0916-(1).pdf)> last accessed on 8 August 2024.

8 Jessica MF Hughes, 'Increasing Neurodiversity in Disability and Social Justice Advocacy Groups (White Paper, Autistic Self Advocacy Network 2016) <[https://autisticadvocacy.org/wp-content/uploads/2016/06/whitepaper-Increasing\\_Neurodiversity-in-Disability-and-Social-Justice-Advocacy-Groups.pdf](https://autisticadvocacy.org/wp-content/uploads/2016/06/whitepaper-Increasing_Neurodiversity-in-Disability-and-Social-Justice-Advocacy-Groups.pdf)> accessed 8 August 2024.

9 Rhoda Olkin, 'Could you hold the door for me? Including disability in diversity' (2002) 8(2) Cultural Diversity and Ethnic Minority Psychology 130.

10 Patrick Dwyer, 'The Neurodiversity Approach(es): What Are They and What Do They Mean for Researchers?' (2022) 66 Human Development 73.

11 Moheb Costandi, "Against Neurodiversity" (Aeon, 12 September 2019) <<https://aeon.co/essays/why-the-neurodiversity-movement-has-become-harmful>> accessed 8 August 2024.

acceptance by sugarcoating the condition. Not until we accept every part of autism will we start finding solutions.”<sup>12</sup> Proponents of the neurodiversity approach respond to this criticism by highlighting that the lens of the approach isn't opposed to interventions that can improve the quality of life by addressing speech issues, self-harm issues, mental health issues, or issues of mobility. It rather distances itself from clinical and medical interventions that aim to alter traits simply because they are atypical.<sup>13</sup> Geraldine Dawson, a professor at Duke Center for Autism, questions this normality forced upon the people on the autism spectrum. She states, “If someone rocks back and forth because it makes them feel calmer” I feel that our society should be accepting of different ways of being in the world.<sup>14</sup>

In this broader context of varying approaches, the present inquiry falls back on the bio-psycho-social model.<sup>15</sup> To understand the experiences of the participants, that is, it takes note of their clinical diagnosis while relying extensively on their idiosyncratic challenges and strengths in the context of their legal educational journeys.

### III. PREVALENCE

Even a swift look at global and national epidemiological findings puts rest to the question of whether or not there are neurodivergent students in legal education. The statistical trends make it clear that neurological diversity is not an alien or non-relevant issue to be cured; it is a biological reality suffering from social inequality and marginalisation that needs to be addressed and rightfully accommodated.<sup>16</sup> The present section discusses the national and global trends of neurodivergence and subsequently sheds light on the growing number of neurodivergent students in legal education. The section also introduces the clinical pictures of the Diagnostic and Statistical Manual of Mental Disorders 5 as, despite the growing criticism of its pathologising approach, it is extensively used for research and diagnostical purposes, which in turn decides the possibility and nature of institutional accommodations.

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12 Gwendolyn Kansen, 'What the Neurodiversity Movement Gets Wrong About Autism' (Pacific Standard, 25 May 2016) <<https://psmag.com/news/what-the-neurodiversity-movement-gets-wrong-about-autism>> accessed 8 August 2024.

13 Ari Ne'eman, 'When Disability Is Defined by Behavior, Outcome Measures Should Not Promote "Passing"' (2021) 23(7) *AMA Journal of Ethics* E569.

14 Devrupa Rakshit, 'How Autism Interventions Are Starting to Move Away From 'Fixing' Autistic People' (The Swaddle, 21 November 2022) <<https://www.theswaddle.com/how-autism-interventions-are-starting-to-move-away-from-fixing-autistic-people>> accessed 8 August 2024.

15 Robert J Gatchel and others, 'The biopsychosocial approach to chronic pain: Scientific advances and future directions' (2007) 133(4) *Psychological Bulletin* 581.

16 Autumn K Wilke and others, 'Access and Integration: Perspectives of Disabled Students Living on Campus' (2019) 46(1) *University Author Recognition Bibliography* 46.

The prevalence of neurodivergence in legal education can be comprehended from a 2023 survey by Bloomberg Law, where 2700 law students, legal educators, and professionals were interviewed. A total of 25% of law students identified themselves as neurodivergent compared to only 7% of the total professionals. The difference in this self-report can possibly be attributed to the growing awareness about neurodiversity and higher mental health literacy at large.<sup>17</sup> Also, 7.6 % of students, 5.0% of attorneys, and 7.7% of law teachers said they would rather not respond to it, pointing to the possible apprehension of self-disclosure.<sup>18</sup> Further, the U.S. Department of Education estimates that 20% of undergraduate students and 12% of graduate students have a diagnosis that falls under the category of neurodivergent.

In terms of diagnostic purposes and classification of mental health disorders, the Diagnostic and Statistical Manual of Mental Disorders 5 understands neurodevelopmental disorders as a set of conditions that typically manifest in the early periods and lead to impairments of personal, social, academic, or occupational functioning.<sup>19</sup> They can affect specific functions or lead to global impairments. The DSM-5 arranges neurodevelopmental disorders into six subcategories: Intellectual disability, Communication disorders, Autism Spectrum Disorder (*ASD*), Attention-Deficit Hyperactivity Disorder (*ADHD*), Neurodevelopmental motor disorders, and Specific learning disorders.<sup>20</sup> It is crucial to note that these diagnostic stratifications are heavily criticised by the social model, which sees neurodivergence as a reality and not as 'a wrong way of being'.<sup>21</sup> However, given the heavy reliance on clinical models for most statistical data, the diagnostical categories are mentioned here.<sup>22</sup>

The diagnostic manual outlines the clinical picture of ASD as deficits in social communication and interaction, restricted-repetitive patterns of behaviour, interests, or activities, repetitive motor movements, use of objects or speech, insistence on sameness, inflexible adherence to routines, or ritualised patterns of verbal or nonverbal

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17 AF Jorm, 'Mental health literacy: Public knowledge and beliefs about mental disorders' (2000) 177 *British Journal of Psychiatry* 396.

18 'Law School Preparedness: Fall 2023' (Bloomberg Law) <<https://aboutblaw.com/bcyE>> accessed 8 August 2024.

19 Deborah J Morris-Rosendahl and Marc-Antoine Crocq, 'Neurodevelopmental disorders the history and future of a diagnostic concept' (2020) 22(1) *Dialogues in Clinical Neuroscience* 65.

20 American Psychiatric Association, *Diagnostic and statistical manual of mental disorders* (5th ed., American Psychiatric Publishing, 2013).

21 Erin Gregory, 'What does it mean to be Neurodivergent' (Forbes, 20 February 2024) <<https://www.forbes.com/health/mind/what-is-neurodivergent/>> accessed 16 August 2024.

22 Peter Tyrer, 'A comparison of DSM and ICD classifications of mental disorder' (2018) 20(4) *Advances in Psychiatric Treatment* 280.

behaviour, highly restricted, fixated interests that are abnormal in intensity or focus, hyper- or hyporeactivity to sensory input, or unusual interest in sensory aspects of the environment.<sup>23</sup>

The prevalence of ASD and ADHD is quite high.<sup>24</sup> Worldwide data by the World Health Organization indicates that 1 in 160 children have autism.<sup>25</sup> The national incidence rate of ASD in children is 1 in 68, showing a congruency with the global numbers.<sup>26</sup> According to a 2023 report by EThealthWorld, about 18 million people in India are diagnosed with autism, and around 1 to approximately 1.5% of children from the ages of two to nine are diagnosed with the disorder.<sup>27</sup> Another disorder that frequently gets mentioned in the discourse of neurodiversity is Attention Deficient Hyperactivity Disorder; it is defined as a persistent pattern of inattention and/or hyperactivity-impulsivity that interferes with functioning or development. It is observable and present in two or more settings, and symptoms are present in the person before the age of twelve.<sup>28</sup> According to the ADHD Institute in Japan, the world prevalence of ADHD ranges from 0.1% to 8.1%. The results from their meta-analysis show a 7.1% pooled prevalence of ADHD among children and adolescents.<sup>29</sup>

DSM-5 classifies Specific Learning Disorders as difficulties learning and using academic skills that include slow or inaccurate reading, issues in written expression, or impairments in mathematical reasoning and understanding without the presence of intellectual impairments.<sup>30</sup> According to the International Dyslexia Association, it has a prevalence of about 10%. Dyslexia is the most common learning disability and has a

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23 American Psychiatric Association (n 20) 14.

24 Valeria Scandurra and others, 'Neurodevelopmental Disorders and Adaptive Functions: A Study of Children With Autism Spectrum Disorders (ASD) and/or Attention Deficit and Hyperactivity Disorder (ADHD)' (2019) 10 *Front Psychiatry* 673.

25 'Autism' (World Health Organisation, 15 November 2023) <<https://www.who.int/news-room/fact-sheets/detail/autism-spectrum-disorders>> accessed 8 August 2024.

26 'Early Detection and Diagnosis of Autism in India: Importance and Challenges' (India Autism Center, 25 October 2023) <<https://www.indiaautismcenter.org/early-detection-and-diagnosis-of-autism-in-india-importance-and-challenges/>> accessed 8 August 2024.

27 'World Autism Awareness Day 2024: Theme, date, history, significance and other details' (The Economic Times, 01 April 2024) <<https://economictimes.indiatimes.com/news/new-updates/world-autism-awareness-day-2024-theme-date-history-significance-and-other-details/articleshow/108950342.cms?from=mdr>> accessed 8 August 2024.

28 American Psychiatric Association (n 20) 14.

29 Johny K Joseph and Babitha K Devu, 'Prevalence of Attention-Deficit Hyperactivity Disorder in India: A Systematic Review and Meta-Analysis' (2019) 16(2) *Indian Journal of Psychiatric Nursing* 118.

30 Cécile Di Folco and others, 'Epidemiology of developmental dyslexia: A comparison of DSM-5 and ICD-11 criteria' (2022) 26(4) *Scientific Studies of Reading* 337.

prevalence ranging from 3 to 17.5% among school-age children.<sup>31</sup> Research also points out that 10 to 15% of Indian children have dyslexia.<sup>32</sup> Within the national surveys, a 2022 report of the Office of the Chief Commissioner for Persons with Disabilities (Divyangjan), Ministry of Social Justice and Empowerment, points to possible trends in the variance of neurodiversity in India. Although these categories in this report: mental retardation and mental illness, cannot be superimposed on the categories and dimensions of neurodiversity. However, it does depict the approximate percentages of the students with these conditions.

It mentions that 19,98,692 individuals in India have speech and language disabilities, 15,05,964 suffer from mental retardation, and 7,22,880 from mental illness. (The names of the disabilities are mentioned in the categorisation of The Rights of Persons with Disabilities Act, 2016).<sup>33</sup> Among disabled non-workers with mental retardation, 24.5% are students; among the disabled people with mental illness, 9.3% are students; and for the category of persons with multiple disabilities, 15% of the total are students.<sup>34</sup>

#### IV. IMPLICATIONS FOR LEGAL EDUCATION

Reviewing the outlay of the statistical trends is essentially the first step to remind us that neurodiversity is indeed the reality of human existence. In recent times, the question of inclusive law schools has gained serious momentum.<sup>35</sup> Rising attention is being paid

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31 Akhila B Sunil and Others, 'Dyslexia: An invisible disability or different ability' (2023) 32(1) *Ind Psychiatry J* S72.

32 *ibid*.

33 'Acts, Rules & Regulations' (Department of Empowerment of Persons with Disabilities) <<https://depwd.gov.in/acts/>> accessed 8 August 2024.

34 Office of the Chief Commissioner for Persons with Disabilities (Divyangjan), 'Annual Report 2021-22' (Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice and Empowerment) <[http://www.ccdisabilities.nic.in/sites/default/files/2023-11/CCPD\\_AR\\_English\\_2021-22.pdf](http://www.ccdisabilities.nic.in/sites/default/files/2023-11/CCPD_AR_English_2021-22.pdf)> accessed 8 August 2024.

35 Devrupa Rakshit, 'Making Indian Legal Education More Inclusive Is Key to Building a More Equitable Judicial System' (The Swaddle, 22 June 2021) <<https://www.theswaddle.com/making-indian-legal-education-more-inclusive-is-key-to-building-a-more-equitable-judicial-system>> accessed 8 August 2024.

to the specific nature and structure of accommodations required in legal education.<sup>36</sup> In this context, any community that claims to be working for the welfare of all its members cannot minimise social citizenship.<sup>37</sup> Of its neurodivergent population. The previously outlined data loudly echoes that the student population as a subset of the larger population doesn't exist in a vacuum and is indeed neurodiverse.<sup>38</sup>

The seriousness of the question about inclusion intensifies in the case of neurodivergence as it is often invisible. Understanding the experience of the neurodivergent population thus becomes the foundational pre-requisite in designing any accommodation and strategies.<sup>39</sup> Differing contexts breed varied contextual differences, and the specific nature of legal education and law schools calls for specific reconsiderations.

Barriers, discrimination and lack of necessary accommodation are common for people with disability to encounter in the legal profession and education.<sup>40</sup> Transitioning to law school is challenging for most students, but the added pressures of barriers to equal education for students with neurodivergence raise profound questions about their social citizenship.<sup>41</sup> It is pivotal to be cognizant of their distinctive experiences to deconstruct structural challenges and remove these barriers to their education.<sup>42</sup> Discussion in the next sections map the major facets of the experiences and strains of neurodivergence in legal education.

#### *A. Incomplete Schema of a Law Student and Self-Concept*

The dialogues of career choice often circulate around how well one fits into one's desired profession. It seems like a rational implication that possessing the traits that

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36 Shashank Pandey, 'Accommodating the Differently Abled & the CLAT Consortium' (Bar and Bench, 28 December 2020) <<https://www.barandbench.com/apprentice-lawyer/accommodating-the-differently-abled-the-clat-consortium>> accessed 8 August 2024.

37 Sandra Liebenberg, 'Social Citizenship: A Precondition for Meaningful Democracy' (1999) 40 *Citizenship* 59.

38 Scott Michael Robertson, 'Neurodiversity, Quality of Life, and Autistic Adults: Shifting Research and Professional Focuses onto Real-Life Challenges' (2010) 30(1) *Disability Studies Quarterly* 1.

39 Michael Edward Goodwin, 'Making the Invisible Visible: Let's Discuss Invisible Disabilities' (2020) Special Conference Edition *Journal of the Human Anatomy and Physiology Society* 62.

40 Peter Blanck and Others, 'Diversity And Inclusion In The American Legal Profession: First Phase Findings From A National Study Of Lawyers With Disabilities And Lawyers Who Identify As LGBTQ+' (2020) 23(1) *University of the District of Columbia Law Review* 23.

41 Amy L Accardo and others, 'Valuing Neurodiversity on Campus: Perspectives and Priorities of Neurodivergent Students, Faculty, and Professional Staff' (2024) *Journal of Diversity in Higher Education* 1.

42 Heidi E. Ramos-Zimmerman, 'The Need to Revisit Legal Education in an Era of Increased Diagnoses of Attention-Deficit/Hyperactivity and Autism Spectrum Disorders' (2018) 123(1) *Dickinson Law Review* 113.

match the demands of the profession would eventually guarantee success; that is what the student is competent in and can eventually gain proficiency in.<sup>43</sup> However, the way this fit is understood in everyday contexts doesn't always speak of this reflection that aptitude has on the fit; rather, it often assembles an incomplete, stereotypical, and skewed archetype of a law student.<sup>44</sup> The linchpin of this ideal law student is often rotating on an assumed identity associated closely with success and not skill development. Further, it constricts the definition of how this 'success' is pictured.

Kelly highlights that cognitive biases are often at play when the preciseness of this definition is envisioned. It frequently follows a singular and reconfirming idea of how a law student should be. Thus, harsh limits are placed on who gets to be an ideal lawyer.<sup>45</sup> The author underlines the confirmation bias at play here, wherein there is a tendency to recruit and select students who are more similar to the people selecting them and maintain the status quo, which leaves negligible space for any form of diversity. This tendency raises grave questions about diversity in law schools.

These biases have significant ramifications on the chances of employment and community citizenship; it is noted that the rate of employment of people with ASD is far less than people with neurotypical cognitions.<sup>46</sup> People with an early childhood ADHD diagnosis show lesser attainments in education and employment as compared to ones without a diagnosis because of the social and structural barriers.<sup>47</sup>

In the present inquiry to understand the schematic motif of this 'good fit', the three participants were prompted to write about who, in their educational experience, would be considered a good law student. O, a former law student who got diagnosed with ADHD in 2017, writes that even though the description of an ideal law student is a subjective matter, according to their professors' perspective, it will repeatedly range between someone who can rote learn to someone exhibiting confidence. A similar impression surfaces in the responses of H, another former law student in his twenties. He

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43 Georgy G Rogozin, 'An aptitude test to forecast success in the dispatching activities of graduating students' (2005) 4(2) *World Transactions on Engineering and Technology Education* 249.

44 Rand Jack and Dana Crowley Jack, 'Women Lawyers: Archetype and Alternatives' (1989) 57(6) *Fordham Law Review* 933.

45 Katherine Kelly, 'Be Curious, Not Judgmental: Neurodiversity in Legal Education' *Ohio State Legal Studies Research Paper No. 830*, 2024 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4747401](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4747401)> accessed 8 August 2024.

46 Darren Hedley and others, 'Employment and Living with Autism: Personal, Social and Economic Impact' in Santoshi Halder and Lori Assaf (eds), *Inclusion, Disability and Culture. An Ethnographic Perspective Traversing Abilities and Challenges* (Springer 2017).

47 Aparajita B Kuriyan and others, 'Young adult educational and vocational outcomes of children diagnosed with ADHD' (2013) 41(1) *Journal of Abnormal Child Psychology* 27.

writes that the characteristics that are seen as a 'good fit' for legal education often involve traits like higher confidence along with good analytical ability, capacity to work hard, and willingness to read extensively.

H has Attentional Deficient Disorder, which is a comorbidity to his obsessive-compulsive disorder. He explains that he struggles with chronic procrastination, inability to focus for over a span of 10-15 minutes, and is only able to work at the final moment, which is often too close to a deadline. When asked about what aspects of his neurodivergence don't fit into the ideal definition he provided, he mentioned meeting deadlines and working continually hard.

O, who also deals with issues in focusing, explains that he gets distracted much faster compared to his peers and subsequently deals with issues in rote learning. He mentions that he also struggles with issues of tasks, as finding the willpower to do them mostly seems challenging. Pointing to the issue of procrastination, which is highly common in ADHD.<sup>48</sup>

Another participant, N, jots down something similar. N was diagnosed with ADHD in 2015 and recently finished her LLM degree. She writes a good law student is considered to be a person who has good memory, logic, and reasoning. When answering the question about the parts of her neurodivergence that do not align with the provided definition, she mentions "all of the above." N describes her issues with attention, time blindness,<sup>49</sup> executive dysfunction, lack of focus on non-interesting things, decision paralysis, and the constant need for sensory stimuli.

The respondents show a big disparity between who would be considered an ideal law student and how far they see themselves from this ideal in the context of their neurodivergence. This experience of not fitting into the imagined epitome brings turbulent feelings of inadequacy, less self-efficacy, and a severe underestimation of their strengths.<sup>50</sup>

A significant facet of this idea of an ideal law student is that they are overachievers and over-produce outputs.<sup>51</sup> If all these traits are layered on one another, the image

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48 Marios Adamou and others, 'Occupational issues of adults with ADHD' (2013) 13 *BMC Psychiatry* 59.

49 R McGee and others, 'Time Perception: Does It Distinguish ADHD and RD Children in a Clinical Sample?' (2004) 32 *Journal of Abnormal Child Psychology* 481.

50 Deanne Lynn Clouder and others, 'Neurodiversity in higher education: a narrative synthesis' (2020) *Higher Education* 80.

51 Katherine Kelly (n 45) 35.

constructed of an ideal -Type A<sup>52</sup> law student that comes up looks far from diverse for both neurodivergent as well as neurotypical law students.<sup>53</sup> Rather, one would be compelled to consider if anyone realistically fits the silhouette of this 'ideal' law student completely, identically, and continually in their entire educational journey. Furthermore, research also suggests that this ideality doesn't always determine success. This especially holds true when the demands of the legal market are looked at; the demands are rigorous, but they are also diverse. That is, it is willing to accept multiple and diverse types of "ideal law students".<sup>54</sup>

## V. INVISIBILISATION OF STRENGTHS

One might think that one's struggles with neurodivergence and the distance felt from this 'ideal' schema would make law an unsatisfactory career match. A pessimistic ableist idea<sup>55</sup> would guide us toward that expectation. The assumption that a typical mind would have all perfect functions and a neurodivergent mind would have all the non-desirable ones is gently overthrown by the further responses of the participants.<sup>56</sup>

When asked about how their neurodivergence has helped them in legal education, N writes that pattern recognition has proven to be an advantage. O states, "I feel my ADHD has always allowed me to analyse a situation from multiple perspectives, and that sometimes makes me feel more confident of my abilities as a lawyer." H looks back and points out his strengths, "I do believe that I have excelled under pressure due to the very characteristics that make it difficult to take on more long-term projects. This aided me when I was a litigator, and it also served me well during my LLM as there was a continuous spate of deadlines and exams." The cultural preoccupation with this perfect fit often invisibilises the strengths that neurodivergent students have.<sup>57</sup>

The medical outlook of neurodivergence pathologises the variation in diversity, and the clinical picture of the attentional disorders falls short and seems two-dimensional

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52 Richard J Contrada and others, 'Personality and Health' in Lawrence A Pervin and Oliver P John (eds), *Handbook of Personality: Theory and Research* (Guilford Press, 1990).

53 Zeus Leonardo and Alicia A Broderick, 'Smartness as Property: A Critical Exploration of Intersections Between Whiteness and Disability Studies' (2011) 113(10) *Teachers College Record: The Voice of Scholarship in Education* 2206.

54 Katherine Kelly (n 45) 35.

55 Carli Friedman and Aleksa L Owen, 'Defining Disability: Understandings of and Attitudes Towards Ableism and Disability' (2017) 37(1) *Disability Studies Quarterly* 1.

56 Charlotte Webber and others, 'Representation in fiction books: Neurodivergent young people's perceptions of the benefits and potential harms' (2024) *Neurodiversity* 2.

57 Carli Friedman and Aleksa L Owen, 'Defining Disability: Understandings of and Attitudes Towards Ableism and Disability' (2017) 37(1) *Disability Studies Quarterly* 1.

when one looks at the varied strengths harnessed because of and as well as in spite of these cognitive differences. A parallel sentiment is echoed in Peter O'Neil's interview. Peter is an autistic attorney and author from Seattle. He was diagnosed with Autism at the age of 65. Post his diagnosis, he realised that what he thought were his strengths as an attorney were actually the determinants of the clinical picture of his ASD diagnosis. He writes, "As I studied what it means to be autistic, I began to realise that my persistence, my eye for detail and patterns, my ability to focus, my visual style of thought, my creativity, my ability to form an intense interest in the products that injure my clients and my ability to work alone are common with my so-called disorder."<sup>58</sup>

Michael Taylor, a Ph.D. candidate of law from Canada, writes in an autobiographical blog, "My dyslexia has also left me with many gifts. Since I struggled to learn with text, I became a great speaker. I love talking, listening, and engaging people with their ideas. I often see more than most people because I see all the various pieces at one time. I have an amazing sense of direction, visually mapping the world around me. I can now read faster than most people because I read the shape of words. I also learn by picturing individual pieces and have an almost photographic memory for visual things. I can take something apart (like a clock) and put it back together perfectly."<sup>59</sup> He also adds that he struggles with spellings, such as "I always spell the as the," names, and directions. He explains that his dyslexia have its struggles but he has learnt to thrive with it.

The majority of research on ASD has been deficit-based; recent developments also call for a strength-based approach to balance out this limitation- heavy lens.<sup>60</sup> Just like neurotypicals, neurodivergent individuals have areas they are proficient in compared to areas they would struggle in.<sup>61</sup> One example where limitations can transform into advantages is the clinical issue of prolonged attention and possessing limited areas of interest in ASD. These patterns of thinking and processing can become highly valuable in situations and areas of work that require one to maintain deep focus and be in the flow;

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58 Peter O'Neil, 'My so-called 'disorder' made me a better attorney' (The Seattle Times, 12 May 2023) <<https://www.seattletimes.com/opinion/my-so-called-disorder-made-me-a-better-attorney/>> accessed on 8 August 2024.

59 Michael Taylor, 'Dyslexia Stories: Michael Taylor' (Dyslexia Canada, 11 August 2021) <<https://dyslexiacanada.org/en/blog/dyslexia-stories-michael-taylor#:~:text=My%20name%20is%20Michael%20Taylor,a%20soldier%20and%20a%20teacher>> accessed on 8 August 2024.

60 Robert D Austin and Gary P Pisano, 'Neurodiversity as a Competitive Advantage' (2017) 95(3) Harvard Business Review 96.

61 Aimee Grant and Helen Kara, 'Considering the Autistic advantage in qualitative research: the strengths of Autistic researchers' (2021) 16 Journal of the Academy of Social Sciences 589.

this, combined with the hyper-focus on details and keen interest, can be extremely adaptable and helpful.<sup>62</sup>

Contrary to the widespread myth that there is no space for neurodiversity in legal classroom studies, it is suggested that different ways of processing information add varied perspectives to classroom discussions and make the learning process more enriching for all members.<sup>63</sup> Research indicates that having a non-diverse group can lead to groupthink; that is, if there is a lack of diversity in the group, including low cognitive diversity, then it puts limits on the creative output of the group.<sup>64</sup> Studies show that, when planned effectively and if introduced at the right stage, legal education, collaborative-cooperative learning, and writing can aid in legal classrooms; that is, it allows the students to share and maximize their strengths and work on their points of struggles.<sup>65</sup> Contrary to predominant belief, a legal classroom can benefit from more than one kind of strength. Similarly, it can also accommodate and address varied kinds of weaknesses.

## VI. MASKING

Almost all neurodivergent individuals grow up learning to 'mask', that is to partially or totally conceal their neurodivergence. Masking is constantly reinforced by the social structures as presenting 'typical' ensures a higher degree of social, emotional, and even physical safety. How one is perceived has lasting effects on one's academic and classroom experiences. The collective often suffers from the Halo effect when working with individuals who have a disability. The presence of this effect is often part of the classroom interactions and also affects grading.<sup>66</sup> American Psychological Association describes the Halo Effect as a rating bias in which a general evaluation (usually positive) of a person, or an evaluation of a person on a specific dimension, influences judgments of that person on other specific dimensions.<sup>67</sup> The overall exaggerated and positive evaluation of all the characteristics of the person is based on a singular trait or perception.

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62 *ibid.*

63 Thomas Armstrong, 'First, Discover Their Strengths' (2012) 70 *Educational Leadership* 10.

64 Kaija A DiPillo, 'Diversity, Cohesion, and Groupthink in Higher Education: Group Characteristics and Groupthink Symptoms in Student Groups' (MA Thesis, Youngstown State University 2019) <[https://etd.ohiolink.edu/acprod/odb\\_etd/ws/send\\_file/send?accession=ysu1558780869354439&disposition=inline](https://etd.ohiolink.edu/acprod/odb_etd/ws/send_file/send?accession=ysu1558780869354439&disposition=inline)> accessed 8 August 2024.

65 Elizabeth L Inglehart and Others, 'From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom' (2003) 9 *Legal Writing: The Journal of the Legal Writing Institute* 185.

66 Thomas Hugh Feeley, 'Evidence of Halo Effects in Student Evaluations of Communication Instruction' (2002) 51(3) *Communication Education* 225.

67 Richard E Nisbett and Timothy D Wilson, 'The Halo effect: Evidence for Unconscious Alteration of Judgments' (1977) 35(4) *Journal of Personality and Social Psychology* 250.

Such as, if a student is seen to be confident in the first impression by their peers and educators, they may assume that the student is also smart, diligent, well-mannered, and competent because of this perceived cognitive halo around them. If this tendency is not reflected upon by individuals and communities, then the students with disability can suffer immensely.

As already discussed, the atypicality of the communication style of an autistic student may be wrongly ascribed to them being rude, asocial, and may be assessed as difficult to work with which would severely affect the journey of the student.

This all-bad and all-good idea of atypical and typical cognition, respectively, often braided with the stereotypes about neurodivergence, affects the well-being, social, and academic citizenship of the neurodivergent students. These students are often suffering from stereotype threats,<sup>68</sup> That is they are reluctant to present their original and diverse ways of behaving and thinking as these diversions from the norms are often perceived negatively by others.<sup>69</sup> The common stereotypes that are unfortunately associated with people who are neurodivergent are that they are incapable of performing in class, are unable to study well, are asocial and intellectually inferior. Thus, voicing one's behavioural and cognitive atypicality in a competitive climate that is immensely preoccupied with a straight-jacketed idea of 'smartness' comes with a lot of internal resistance. Masking one's behaviour, emotions, and imperative needs, regrettably, is the way most neurodivergent students avoid being perceived as inferior.

Masking can take different forms in a classroom; a student with sensitivity to light and sound may sit through the entire class even though they are in sensory discomfort, not asking questions when facing confusion, trying to mimic the way others talk, pretend to understand unfamiliar or confusing social cues, not asking for a short break when required and at the risk of complete exhaustion, suppressing emotions, avoiding social interactions, refusing to ask for help or assistance or refusing to share point of struggles.

## VII. EFFECTS OF MASKING

Masking is not only a behavioural adjustment that one makes, but it also takes hold of one's emotional patterns, cognitions, familial or interpersonal relations, and, more crucially, one's self-perception.<sup>70</sup> This attempt of masking, that is to conform to the

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68 Joshua Aronson, 'The Threat of Stereotype' (2004) 62(3) *Educational Leadership* 14.

69 Paula J Manning, 'Word to the Wise: Feedback Intervention to Moderate the Effects of Stereotype Threat and Attributional Ambiguity on Law Students' (2018) 18 *The University of Maryland Law Journal of Race, Religion, Gender & Class* 99.

70 Devrupa Rakshit, 'Masking' for Years Can Leave Autistic People Confused About Who They Really Are' (*The Swaddle*, 25 October 2021) <<https://www.theswaddle.com/masking-for-years-can-leave-autistic-people-confused-about-who-they-really-are>> accessed 8 August 2024.

typical ways of being to escape the unempathetic consequences of stereotyping often comes at the cost of erosion of their personhood.<sup>71</sup>

Two mental health practitioners reached out to uncover the aspects of masking in neurodivergent students for the present inquiry. V, a counsellor based in the state of Punjab, has extensively worked with neurodivergent learners and stated that what becomes the common reason for masking is both acceptance from peer groups and also to avoid labelling, bullying, and ostracisation.

It is crucial to note that this apprehension is not unfounded, as masking is essentially done to ensure the presence of social opportunities and the maintenance of safety. Neurodivergent individuals are more prone to facing bullying and victimisation compared to their neurotypical peers.<sup>72</sup> Unfortunately, this is not exclusive to educational settings but is also prevalent in workplaces.<sup>73</sup> In the case of children with ADHD, it is noted that they experience a significantly higher rate of rejection from their peers and report lower satisfaction when it comes to their social networks.<sup>74</sup> It is also vital to note that the presence of peer bias against ADHD students is present regardless of the severity of their displayed symptoms.

Another school counsellor, R, communicates what masking looks like in students. She states that masking often involves the emotional suppression of anger, confusion, and frustration, along with conforming behavioural manifestations or social withdrawal. The consolidated persona of masking seen during the adult stages of life often begins in childhood and adolescence.<sup>75</sup> When asked about what becomes the main causal factor for masking, R points to how deviations are reprimanded in our cultural context. She writes that differences are punished in our society. She highlights the struggle of being in a classroom where school educators often have to make sure that the students behave according to the extremely systemic set standards, offering little to no space for varied learners. Students mask as they do not want to be seen as the “so-called

71 Connie Mosher Syharat and others, ‘Experiences of neurodivergent students in graduate STEM programs’ (2023) *Frontiers in psychology* 14.

72 Sohyun An Kim and others, ‘Discrimination and Harassment Experiences of Autistic College Students and Their Neurotypical Peers: Risk and Protective Factors’ (2023) 53 *Journal of Autism and Developmental Disorders* 4521.

73 Sally Lindsay and others, ‘Disclosure and workplace accommodations for people with autism: a systematic review’ (2021) 43(5) *Disability and Rehabilitation* 597.

74 Ailish Power, ‘A Qualitative Exploration of Adult ADHD: Masking, Academic, and Psychosocial Self-Concept and Functioning (BSc (Hons.) Dissertation, Dun Laoghaire Institute of Art, Design, and Technology 2024) <<https://onshow.iadt.ie/wp-content/uploads/sites/6/2024/03/Thesis-1.pdf>> accessed 8 August 2024.

75 Hirotaka Kosaka and others, ‘Symptoms in individuals with adult-onset ADHD are masked during childhood’ (2019) 269(6) *European archives of psychiatry and clinical neuroscience* 753.

difficult” person in the class. V explains that masking is often accompanied by nervousness and uneasiness with the fear of judgment and guilt. In some cases, constant masking can also lead to emotional outbursts.

These outbursts are not surprising, given the constant exhaustion and emotional dysregulation one feels while they are pushed round-the-clock to camouflage into the normal. In a fascinating study where the Reddit posts of people with ADHD were thematically analysed, it was concluded that masking to blend in with others causes distress. Students often see themselves as the cause of problems, and this internalisation of the issues dictates that they suffer in silence. Academic setbacks arise as asking for help risks being perceived as the 'other' and standing out from the norm.<sup>76</sup>

Furthermore, this continuous attempt of masking to find a home in social connections comes at the cost of hiding parts of themselves to avoid bullying and participating in society. That also leads to identity confusion and severe perplexities in understanding who they innately are. Unfortunately, these issues can further give rise to more clinical and social comorbidities, such as social anxiety, social withdrawal, and serious esteem issues. 'Successful' masking dictated by the gender roles at the early stages is also the reason that ADHD often goes undiagnosed in women.<sup>77</sup>

### **VIII. OTHERING, BELONGINGNESS, AND THE SELF**

The 'othering' that the students with neurodivergence go through speaks of the social subordination that the population experiences. This othering challenges the basic human need for affiliation, and the neurodivergent students are at greater risk of it.

The above-mentioned process of masking showcases the legitimate apprehension of social exclusion and possible bullying that neurodivergent students deal with.<sup>78</sup> H, the former law student who deals with ADD and OCD, writes, “I usually don't volunteer this information. I especially hide it from family for fear of being misunderstood.” He adds, “I don't go out of the way to mask things. However, it sometimes causes undue delays that make me avoid supervisors/people I am answerable to. It also makes me anxious about appearing unprofessional.”

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76 Ailish Power (n 74).

77 Darby E Attoe and Emma A Climie, ‘Miss. Diagnosis: A Systematic Review of ADHD in Adult Women’ (2023) 27(7) *Journal of attention disorders* 645.

78 Mehtap Eroglu and Birim Günay Kiliç, ‘Peer bullying among children with autism spectrum disorder in formal education settings: Data from Turkey’ (2020) 75(5) *Research in Autism Spectrum Disorders*.

When asked why N masks her behaviour, she writes that masking ensures easier acceptance in society. Having a close sense of social cohesion is integral to the functioning of individuals and communities. As a student, feeling a part of the larger group is positively correlated with academic achievement, engagement, and motivation. Research shows that law students who are from disadvantaged groups feel less connected to the faculty, staff, and peers.<sup>79</sup>

It is often misunderstood that students with neurodivergence do not want to socialise with others. However, research shows that despite having the desire to make connections, anxieties about bullying and rejection are what keep them away from developing deep social relationships and not a lack of want. The basis of this departure away from one's innate need for affiliation is often social stigmatisation. Stigma is often based on differences in bodies, deviations from prescribed and ideal social and cultural character, and prejudices related to lineages, races, and groups.<sup>80</sup>

The stigma becomes a hurdle in expressing their neurodivergence, making them feel that they are in inauthentic social relationships. The participant, N, writes that masking her neurodivergence makes it a lonely experience for her as she feels most people are unaware of who she really is. The loneliness expressed by N is an experience most neurodivergent individuals are familiar with. The large gap between desired proximal social connections and the actual, deficient nature of social connections causes isolation. Recent literature shows that people with autism are more vulnerable to loneliness.<sup>81</sup> It is often thought that individuals with autism don't want social connections; this stands false as they do desire social connections; however, it is the exhaustion caused by the lack of support and understanding that forces them to choose isolation.<sup>82</sup>

O writes that withholding his real ways of being makes him feel that he is not himself around others. This loss of belongingness and connections seems to be two-fold, not only from others but also away from one's actual self. The inauthentic way of being

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79 Elizabeth Bodamer, 'Do I Belong Here? Examining Perceived Experiences of Bias, Stereotype Concerns, and Sense of Belonging in U.S. Law Schools' (2020) 69(2) *Journal of Legal Education* 455.

80 Graham Scrambler, 'Health-related stigma' (2009) 31(3) *Sociology of Health & Illness* 441.

81 Lisa Quadt and Others, "'I'm Trying to Reach Out, I'm Trying to Find My People'": A Mixed-Methods Investigation of the Link Between Sensory Differences, Loneliness, and Mental Health in Autistic and Nonautistic Adults' (2023) *Autism In Adulthood* 1.

82 Kana Umagami, 'Towards a Better Understanding of Loneliness in Autistic Adults: Examining Measurement Tools and Lived Experiences' (PhD Thesis, University College London 2022) <<https://discovery.ucl.ac.uk/id/eprint/10164705/>> accessed 8 August 2024.

concludes to be counter-intuitive; it is done to ensure/restore peer acceptance. However, this departure from one's true self leaves the student feeling lonely and confused about their sense of self.<sup>85</sup> Subjective assessment of one's well-being in university is seen to be directly correlated to a healthy family and social networks and a perception of good social support.<sup>86</sup> Students with neural atypicality, thus, are at a greater risk of feeling a lack of belongingness in their student community. Research shows that law students who learn differently are not only at a greater risk of feeling isolated but are also more prone to hide their struggle with loneliness.<sup>85</sup>

The issues of belongingness are multifaceted, and they can be clearly understood when the student experiences are studied with all the layers of their identity. The intersectional consideration points out that not every student is experiencing the benefits of law school in the same or equal way. Women experience a lower sense of belongingness in law school compared to male students.<sup>86</sup> Similarly, in a study based in Delhi and Rajasthan, it was concluded that as much as there are no differences in the prevalence of ASD across the socio-economic structures, there are great disparities in awareness and access.<sup>87</sup>

O states that the misconception about neurodivergence in law school is that "I think sometimes, it just simply translates to not having mental faculties at par with the "normal" individual." Minority groups are anyway stereotyped as having intellectual inferiority, which, coupled with the diagnosis of neurodivergence, creates multiple disadvantages for the student when navigating law school.<sup>88</sup>

## IX. BARRIERS TO ACCOMMODATIONS

When effective systems and needful accommodations for each member of the community are not in place, then this lack of consideration indicates to the student the assumption that the university was not expecting them to be there and their needs don't

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83 Devrupa Rakshit (n 70).

84 Santiago Yubero and Others, 'Health Contributing Factors in Higher Education Students: The Importance of Family and Friends' (2018) 6(4) *Healthcare* 147.

85 Leah M Christensen, 'Law Students Who Learn Differently: A Narrative Case Study of Three Law Students with Attention Deficit Disorder (ADD)' (2008) 21(1) *Journal of Law and Health* 45.

86 Elizabeth Bodamer (n 79).

87 Kendall Harman, *Autism Spectrum Disorder in an Indian Context: Impact of Socioeconomic Factors on the Experiences of Individuals with ASD and Their Families* (Independent Study Project Collection 2014) <[https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2977&context=isp\\_collection](https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2977&context=isp_collection)> accessed 8 August 2024

88 Elizabeth Bodamer (n 79).

matter.<sup>89</sup> The deep-rooted process of 'Othering' not only happens because of the behaviour of the peers and educators, but it is also rather embedded in the structure of the context that determines the inequality in the overall sub-culture.

A huge barrier to providing and bringing about structural accommodation is the false perception of the institutions that accommodation is something extra that the neurodivergent student receives.

That a need-based equaliser is somehow an unfair bargain against the neurotypicals, who, in reality, do not need the accommodation in the first place. In a study about law students with hidden disabilities, the 2019 case of Operation Varsity Blues in the US was discussed, wherein students were given admission into the university through illegal channels such as bribing and obtaining fake disability certificates to use the accommodations set in place for students with disabilities and neurodivergence. The author highlights that, unfortunately, in the larger discussion and perception, the blame for this unfair mechanism used by the normative and often wealthy population falls upon the non-neurotypical students and strengthens the wrong stereotype against them that they are somehow trying to game the system.<sup>90</sup>

It also becomes more complicated to imagine the accommodation needed for neurodivergent students as their conditions fall within the category of invisible disabilities and often lead to non-disclosure of neurodivergence.<sup>91</sup> The non-apparent nature of the issues and the high prevalence of stigma also instil the irrational scepticism in staff and authorities that students face when they open up about their diagnosis.<sup>92</sup>

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89 John Morrow, 'Law students with Dyslexia and their experience of academic assessment' (PhD Thesis, University of Chester 2017) <<https://chesterrep.openrepository.com/handle/10034/621044>> accessed 8 August 2024.

90 Angelica Guevara, 'Perfectly Imperfect: Law Students with Non-Apparent Disabilities and Disability Law' (PhD Thesis, University of California at Berkeley 2019) <<https://escholarship.org/uc/item/83x642n4>> accessed 8 August 2024.

91 Maria Norstedt, 'Work and Invisible Disabilities: Practices, Experiences and Understandings of (Non)Disclosure' (2019) 21(1) *Scandinavian Journal of Disability Research* 14.

92 Sheila Graham-Smith and Ssereta Lafayette, 'Quality disability support for promoting belonging and academic success within the college community' (2004) 38(1) *College Student Journal* 90.

The participant, H, writes that one of the common misconceptions around neurodivergence in legal education is that it's just an excuse for poor behaviour. When asked if he got any accommodations, he states, "Not really, as my diagnosis is very recent. I am also unsure of what the accommodations would even look like." N, the former law student, states that, as much as there isn't much apprehension in discussing her neurodivergence in her legal circles she would rather not test the waters. Her response showcases the hesitation most neurodivergent law students grapple with. She also states that she isn't aware of any accommodation that could have helped her in her educational journey. When asked about the same, O writes that he isn't aware of any accommodations in the country that he could have availed.

It's worthwhile to note that, firstly, there is negligible awareness about what mechanisms are needed for neurodivergent law students, leading to the lack of accommodations. Secondly, this, coupled with the stigma around deviations, often makes it impossible for students to disclose their diagnosis.<sup>93</sup> While situated in a legal, educational framework wherein the idea of 'smartness' has extreme and obsessive academic/social value, it becomes realistically impossible for a student to mention a diagnosis or express their neurodivergence, which would make others wrongly assume that the student is 'intellectually inferior.' Law students with dyslexia often feel this alienation as their issues with writing or reading are easily rendered as an issue of incompetence and them not trying hard enough.<sup>94</sup>

ADHD creates issues of emotional dysregulation and time management,<sup>95</sup> Assignments in law schools, such as lengthy legal writing, responding to an unexpected and direct cold-call question, and written exams that require high-order planning and not breaking the tasks into smaller steps, can be extremely difficult for such law students if they are not provided with adequate support. Similarly, law students with Autism would need to work much harder to comprehend intangible concepts, requiring multiple definitions, and would face greater pressure to mask and pretend to understand sarcasm or not talk about their hyper/hypo sensory discomfort in the classroom.

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93 Laura Marshak and Others, 'Exploring Barriers to College Student Use of Disability Services and Accommodations' (2010) 22(3) *Journal of Postsecondary Education and Disability* 151.

94 John Morrow (n 90).

95 Hannah MB Shaw, "I Don't Suffer from ADHD, I Suffer from Other People": ADHD, Stigma, and Academic Life' (BA (Hons.) Thesis, Dalhousie University 2021) <[https://dalspace.library.dal.ca/bitstream/handle/10222/80523/Shaw%20Honours%20Thesis\\_%20Final.pdf](https://dalspace.library.dal.ca/bitstream/handle/10222/80523/Shaw%20Honours%20Thesis_%20Final.pdf)> accessed 8 August 2024.

The unreadiness to accommodate students is also often attributed to a concern that institutions are not ready for drastic changes and are not equipped to make such arrangements. Even though the validity of this apprehension is questionable and might have its roots in the stigma against the students, it is also worthwhile to note that not all accommodations are “drastic.”

Contillo, a cyber security analyst who studied criminology, writes in an interview, “My manager is super understanding and allows flexibility in the workplace for me,” she said. “An example of what I mean by this is if there were too many meetings, he understands I might be drained and allows me additional time for breaks if need be.”<sup>96</sup> She has ADHD and struggles with sustained attention; an extra tea break might sound non-serious to even be called an accommodation, but what it speaks of is a context that understands diverse needs.

## X. DESIGNING ACCOMMODATIONS IN LEGAL EDUCATION

The question that often arises is whether the accommodations can reduce the rigor of legal education however in a legal classroom setting, undemanding accommodations such as providing or discussing 5-minute recaps of the previous class, concluding with the summary of the lecture, electronically displaying/ providing handouts of the topic blueprint, repeating the question, offering to scaffold when needed, writing a detailed course structure and providing the seating plans with maps of the classroom in advance can easily be incorporated without changing the integral nature and course structure of legal education.<sup>97</sup>

Additionally, designing an inclusive curriculum with interactive teaching, peer-learning/ mentoring, and practical and experience-based learning, including technological assistance options such as text-to-speech options, mind mapping tools, transcription tools, electronic organizers, and specialized applications, can be beneficial to the students. These strategies, coupled with alternate assessment options with extended timelines, distraction free-examination, and classroom settings with considerations about light and sound sensitivities, can make learning accessible for all students.<sup>98</sup>

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96 Steven Aquino, ‘Inside One Neurodivergent Person’s Journey From Joblessness To Belongingness As A Cyber Threat Analyst’ (Forbes, 5 May 2022) accessible at <<https://www.forbes.com/sites/stevenaquino/2022/05/05/inside-one-neurodivergent-persons-journey-from-joblessness-to-belongingness-as-a-cyber-threat-analyst/>> accessed 9 September 2024.

97 Katherine Kelly (n 45) 35.

98 Deanne Lynn Clouder and others, ‘Neurodiversity in Higher Education: A Narrative Synthesis’ (2020) Higher Education 80.

Further, integrating supportive and specific programs such as cognitive-behavioural therapy, study skills programs, working memory training, and support group programs may provide the necessary holistic support.<sup>99</sup> Establishing mental health support systems that are cognizant of the neurodivergent experiences goes a long way in ensuring students vocalise their struggles and need for accommodations.<sup>100</sup> The way law schools teach has not changed significantly. However, the type of learners has.<sup>101</sup> There is a growing number of neurodivergent law students; the numbers are exceedingly more than what most reports claim, as many of them are undiagnosed/unreported.<sup>102</sup> Creating peer support/lecture systems that help students to understand their style of learning, that is, auditory/visual/kinesthetic/multimodal, can aid law students who learn non-normatively.<sup>103</sup> Teaching using various techniques, not just the Socratic method, is also beneficial for students who face attentional and learning issues.

## XI. DIATHESIS-STRESS MODEL AND FUTURE DIRECTIONS

Developing comorbidities is regrettably extremely common in individuals with neurodivergence. Research indicates that women who have a neurodivergent diagnosis also have a higher risk of additional medical and mental health issues, specifically including mood disorders, anxiety disorders, eating disorders, and substance use disorders. The leading cause of early death in neurodivergent females is suicide, especially those who have ASD diagnosis.<sup>104</sup> ADHD, with an overall prevalence rate of 2.5%, has a high overlap with mood, anxiety, personality, and substance use disorders.<sup>105</sup> Over 60% of the children who have dyslexia also have an additional psychopathology.<sup>106</sup>

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99 Reilly Morgan Gray, 'A Review of Executive Functioning and Social Communication Supports for Neurodiverse College Students' (Honors Theses and Capstones, University of New Hampshire 2024) <<https://scholars.unh.edu/cgi/viewcontent.cgi?article=1850&context=honors>> accessed 8 August 2024.

100 Devrupa Rakshit, 'Indian Mental Health Professionals Continue To Be Ignorant About Neurodivergence. How Are People Coping?' (The Swaddle, 20 April 2023) <<https://www.theswaddle.com/indian-mental-health-professionals-continue-to-be-ignorant-about-neurodivergence-how-are-people-coping>> accessed 8 August 2024.

101 David R Lyon and Others, 'More than "learning to think like a lawyer:" The empirical research on legal education' (2000) 34(1) Creighton Law Review 34.

102 Caroline Riches and Angela North, 'Why are so many neurodivergent women misdiagnosed?' (Australian Psychology Society, 14 March 2024) <<https://psychology.org.au/insights/why-are-so-many-neurodivergent-women-misdiagnosed>> accessed 8 August 2024.

103 Leah M Christensen, 'Law Students Who Learn Differently: A Narrative Case Study of Three Law Students with Attention Deficit Disorder (ADD)' (2008) 21(1) Journal of Law and Health 45.

104 Clive Kelly and others, 'Recognising and Responding to Physical and Mental Health Issues in Neurodivergent Females' (2020) *Qeios* 1.

105 Martin A Katzman and others, 'Adult ADHD and comorbid disorders: clinical implications of a dimensional approach' (2017) 17 *BMC Psychiatry* 302.

106 Alaa M Darweesh and others, 'Psychiatric comorbidity among children and adolescents with dyslexia' (2020) 27 *Middle East Current Psychiatry* 28.

Neurodivergence seems to have a significant burden of susceptibility to additional diagnosis. Surely, the high risk is a worrying condition, but it also poses questions about the disparities in the onset. The fact that not all who are neurodivergent will have another disorder points to the intermediate factors that make or not make an additional disorder a pronounced reality in one's life.<sup>107</sup>

The diathesis-stress model states that pathologies have a predisposition often attributed to internal vulnerabilities; however, the activation of these predispositions takes place because of stress in the environment.<sup>108</sup> This elaborate fusion of nature and nurture determines the possible manifestation of psychopathology. The predispositions are often seen as internal factors such as genetics, cognition, biological and physiological specifications, and personality traits that blend with external life circumstances and the living context.<sup>109</sup>

In the context of neurodivergent students, the higher vulnerability and diathesis are apparent. Reducing vulnerability is not only impossible because of the genetic and organic causal nature of neurodivergence, but it also goes against the idea that neurodiversity is nature's reality; however, what becomes crucial and possible is reducing the risk factors and stressors in the environment. The interplay of the inner and outer causes of this manifestation is where the resolution for the neurodivergent struggle lies.

As mentioned above, reasonable accommodations are crucial to the process, as for most neurodivergent law students, navigating a space that is not designed for them can cause added distress. Incorporation of diverse and inclusive options for assessment, provision for reasonable extra time, the option of additional short breaks, and providing assistive technologies, especially for reading and writing, in the structural fabric of the college systems will ensure that the students can prioritise their academic aspirations and not be worried about how to navigate the university space while camouflaging as neurotypicals.

The existence of these flourishing and accommodative structures is surely a vital response to the diversity in the student population; however, it is also naive to assume

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107 Dennis C Turk, 'A diathesis-stress model of chronic pain and disability following traumatic injury' (2002) 7(1) *Pain Research and Management* 9.

108 L. Colodro-Conde and Others, 'A direct test of the diathesis-stress model for depression' (2018) 23 *Molecular Psychiatry* 1590.

109 Kenneth S Kendler, 'A Prehistory of the Diathesis-Stress Model: Predisposing and Exciting Causes of Insanity in the 19th Century' 177(7) *The American Journal of Psychiatry* 576.

that the practice of putting them as 'rules and guidelines' to be ticked off is sufficient. Students are unwilling to disclose their neurodivergence as these accommodations make them visible to their peers and increase their chances of being discriminated against.<sup>110</sup> Neurodivergent students, as compared to the majority of neurotypicals, have anxieties about facing discrimination and being seen as non-intelligent or unserious about their classes, which affects their sense of trust and belongingness in the institution.

Providing accommodation in an unequal climate can also lead the students to compare themselves to neurotypicals and can affect their self-confidence. In an environment where non-normative ways of being are perceived with extreme scepticism, the entire onus of accommodating by 'coming forward' and obtaining the accommodation while educating, convincing, and assuring the institution that they belong there cannot be solely and erroneously put on the neurodivergent law students.<sup>111</sup>

Accommodations are not machines operating in a vacuum; they are run by people, their ideologies, and institutional visions. Expecting diversity in law schools, redefining what it means to be a law student, and educating the larger student body, educators, and staff are essential scaffolds that would be required for the accommodations to churn.

## **XII. CONCLUSION**

The growing number of students with autism, ADHD, and dyslexia in legal education poses the question of what experiences are waiting for them in law schools. In a culture that is preoccupied with a singular and rigid idea of legal smartness and ideality, the space that formal and informal institutions offer to neurodivergent students is limited. This, coupled with a lack of accommodation and prevalent stigmatisation, creates an unwelcoming environment for any cognitive diversity. Previously reinforced masking and concealing one's way of being often becomes the only tedious and limiting solution for most neurodivergent law students. This masking often has double-edged results: the student is unable to disclose their neurodivergence and also is unable to value and openly harness their neurodivergent strengths. This double silencing of their reasonable requirements and diverse strengths pushes them away from authentic social connections, forces an inauthentic way of being, and can snowball into further clinical comorbidities.

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110 Barbara Piotrowska and John Barratt, 'Investigating low intelligence stereotype threat in adults with developmental dyslexia' (2024) 30(2) *Dyslexia* 1.

111 Angelica Guevara (n 90).

In light of these challenges, it becomes significant for the legal community to readdress what it means to be a law student and expand on the definition, reflect on the stereotypes within the community, and how it is hurting the social, economic, and academic citizenship of the students. This reconsideration becomes antecedent to the reexamination of the teaching and examination structures and further establishment of the need for accommodations.