

ACCESS TO JUSTICE
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NYAYA BANDHU
AN APP EMPOWERING COMMON MAN

my GOV
मेरी सरकार

 A pro bono legal services programme ensuring free legal aid to needy litigants

 The App connects litigants with lawyers willing to offer pro bono service

Department of Justice
Ministry of Law and Justice
Government of India

PRO BONO LAWYERING IN DIGITAL INDIA?

The chief justice of India recently highlighted the use of digital technologies the Indian judiciary is experimenting with to make the judicial system more transparent, efficient and accessible. When it comes to free legal aid, however, access to law and justice through digital technologies has limited possibilities. The *Pro bono* Lawyering programme was launched in 2017 to achieve access to justice for all. However, *pro bono* lawyering has not yet become an alternative means to foster access to justice in spite of the IT revolution under Digital India

By Dr Chanchal Kr Singh, Dr Mritunjay Kumar and Aastha Naresh Kohli

THE Supreme Court of India in the last few years has pro-actively been using information and technology, including artificial intelligence-based applications, for facilitating justice administration in India. These technologies include FASTER, e-SCR, live streaming of court proceedings, etc. Different departments of the government of India have, since the last decade, efficiently used Digital Public Infrastructure (DPI) to deliver public services directly to the beneficiaries. Recently, the Minister for Information and Technology, Ashwini Vaishnaw, wrote that there are 84-crore Indians using cost effective internet services. Before 2014, the internet users in India were only 25 crores, and the cost of internet data was not affordable to all Indians.

The Department of Justice, Government of India, has been earnestly making efforts to incorporate DPI for ensuring access to justice under its "National Mission for Justice Delivery and Legal Reforms". The ministry has the main target to provide "access to justice for all", which is not only a statutory obligation, but also a constitutional mandate. The ministry is endeavouring to foster free legal aid, including *pro bono* legal services, and substantial reduction of backlog cases. The government has adopted digital technologies, such as *Nyaya Bandhu* mobile app and is also facilitating the *Tele Law Services* through *pro bono* lawyers to provide requisite legal advice to the needy people. *Nyaya Bandhu* is a mobile application, a digital platform, for access to court and legal representation. Through this app, a seeker of free legal services may contact a registered *pro bono* lawyer, and the legal services are provided free of cost. To ensure access to law, *Tele Law Services* are provided for free legal counselling to poor and needy people.

It is a great emancipatory feature of digital technology that it facilitates the public services or the social welfare programmes without any interference of intermediaries and middlemen. Consequently, it enables new models of governance and development. Such digital technologies facilitate Open Digital Ecosystems (ODEs). ODEs may be

defined as "open and secure digital platforms that enable a community of actors to unlock transformative solutions for society based on a robust governance framework". In this sense, digitization has truly revolutionized the welfare delivery system, where mid-players have almost lost control, making the social welfare programmes less monopolized and more democratized. Direct transfer to MGNREGA account holders, *Pradhan Mantri Jan Dhan Yojana*, and *Atal Pension Yojana* are some of the successful examples of welfare schemes, institutionalized through digitization. Earlier, the benefits, such as money, information or other material things, intended to be delivered to the concerned beneficiaries, were not reaching efficiently, since the middlemen were involved in the predatory practices. The introduction of digital technology has ushered the transparent delivery of resources which has almost obliterated the scope of corruption. Technology, therefore, is facilitating the barrier free access to goods and services under various social welfare programmes.

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Justice administration and education are some of those services whose facilitation through technology may affect their qualities. Education or justice administration is a holistic activity which asks all stakeholders to actively participate in the process. Digital technologies do not enable efficiently to do so.



MAKING AN EFFORT

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Education or justice administration is a holistic activity which asks all stakeholders to actively participate in the process. Digital technologies do not enable efficiently to do so. Rather, it establishes a passive relationship between deliverer and consumer. When it comes to free legal aid and other legal services, access to law and justice through digital technologies has limited possibilities. The Indian legal system has certain foundational barriers rooted in its colonial legacy and the adoption of a market-oriented lawyering model, these structures of barriers or exclusion vis-à-vis access to justice are hardly addressed by digital technologies.

The Ministry launched the *Pro bono* Lawyering (PBL) programme, 2017 to achieve access to justice for all. It is substantially different from traditional free legal aid. The PBL programme aims to fulfil the constitutional mandate of enhancing access to justice for marginalized sections of the society. The PBL was imagined as an alternative initiative to include poor, marginalized, and vulnerable sections of the society with the justice administration led by the official courts in India. Before this initiative, Legal Services Authorities (LSAs) were already carrying forward the legal aid programmes across the country. PBL, a significant responsibility, was also bestowed on them. This initiative is different from the earlier one so much so that it relies on “the moving wheel of Digital India” and the “clas-

sical Indian ethics of professions”. The contemporary model of lawyering in India, based on the market principle, does not allow humane ethics to be easily admitted in the profession.

The free legal aid, through LSAs at national, state and district levels, was conceived to fulfil the moral and constitutional obligations, whereas the state is required to pay requisite fee to the lawyers in lieu of legal services they provide to the beneficiaries. As compared to this, the PBL has been conceptualised by the Ministry in which no money is paid to the lawyers, rather its success depends on the conscientious response to the ethical demands emanated from the social needs. The success of PBL depends on the efficient and progressive wheels of Digital India. Though, there are certain limitations of digital technologies vis-à-vis enhancing the quality aspect of access to justice.

In the six states and Union territories (Haryana, Punjab, Himachal Pradesh, Chandigarh, Jammu and Kashmir), it has been found in a survey conducted by HPNLU, Shimla that very few advocates have registered themselves as *pro bono* lawyers with the respective LSA. The field study shows that a negligible number of cases have been resolved through PBL. Moreover, in the absence of any statutory duty, only beginners in the legal profession, mostly inexperienced advocates, register with LSAs. Most of the intended beneficiar-

ies are unaware about PBL. In spite of the massive inclusion of Indians under the Digital India, a big proportion of the population still suffers from digital disability due to unawareness or lack of skills. With respect of PBL, it is usually found that many lawyers are facing problems in registration on the *Nyaya Bandhu* app, and many are unable to efficiently operate it. In case of intended beneficiaries, digital exclusion and digital disability—both are significant challenges to be conquered in order to make PBL a big success story.

The character of present legal education is developed and determined by the present system of lawyering. The ethics of lawyers are drawn entirely from the normative exigencies of competitive individuality in an all too pervasive “market of rights and desires”. The methods and curricula of legal education, therefore, do not promote the virtue of *pro bono* services. The pervasive use of digital technology has resulted in the de-humanized production of lawyers by the law schools devoid of basic human capacities. Aldous Huxley had rightly predicted in 1961 that the use of modern technology is only debilitating human’s potentiality to be more aware, imaginative, kind and compassionate. Law schools are nowadays lost in the routinized moot court practices so much so that younger minds are neglecting legal studies to gain some skills of mooting. The mechanical use of software such as Grammarly is disabling the students’ abilities to comprehend the grammatical rules and the various usages of words. Many websites are facilitating ready-made notes often relied on by law students without using their analytical skills to test their logical coherence or legal soundness. German philosopher Martin Heidegger once claimed that the modern meaning of technology is reverse to what it was meant for in early civilization, and for them, it was treated as an art or skill to live a harmonious life with nature. Digital technologies have hypnotic effects, in a sense that it has established a paralleled virtual world instead of a virtuous world-life, which has made the natural world less interesting. In this context, one must be too cautious to blindly adopt the



digital technology in the justice administration and legal education.

The claim that Digital India has been successful with respect to social welfare programmes has not worked for the legal system in the judicial arena. The institutionalized imagination established through *Nyaya Bandhu* app has demonstrated many loopholes to achieve universal digital inclusion and digital empowerment. The success of PBL depends on the performance of Digital India, not merely in a formal, but substantive sense. Access to YouTube or other social media platforms is insufficient to prove that the increasing number of internet users in India has culminated into a success story for access or inclusion. The substantive access requires the informed use of internet and smartphones by the users, so as to avail entitled benefits. The PBL has not yet become an alternative means to foster access to justice in spite of the IT revolution under Digital India. ■

—The article is co-authored by Dr Chanchal Kr Singh, Associate Professor, HPNLU Shimla, Principal Investigator, Department of Justice Project on Pro Bono Lawyering; Dr. Mritunjay Kumar, Assistant Professor, Co-Investigator; and Aastha Naresh Kohli, LL. M. Scholar and Research Member

The Pro-bono Lawyering programme was launched by the government to fulfil the constitutional mandate of enhancing access to justice for the marginalized sections of society. Before this initiative, Legal Services Authorities were already carrying forward the legal aid programmes across the country. The *pro-bono* programme, a significant responsibility, was also bestowed on them.