

---

# ACCESS TO JUSTICE THROUGH INFORMATION TECHNOLOGY: A COMPARATIVE STUDY

---

Aditi Pandey, Symbiosis Law School, NOIDA, Symbiosis International Deemed University, Pune

## Background/Objectives

Access to Justice is one of the major problems faced in India by the marginalized section. There are still many states in the country where people are not aware of their rights and the latest trends in the field of law. India is developing a lot in the field of technology and this development in the field of technology is also being used in providing justice in the country. Government and many private organizations have taken initiatives to reach out to the large section of people and to make the justice accessible to them.

## Methods/Statistical analysis

A major part of the study is carried out by the method of secondary research and data collection of the working of legal incubator is done by the primary data collection.

## Findings

Article 39A of the Constitution Of India mentions the duty of the state to provide free legal aid to the citizens and especially those who could not afford legal aid. Further various programs has been initiated by the government of India keeping in mind the need of access to justice through adopting new technological advancements. Those initiatives are :

- (i) Pro Bono Legal Services
- (ii) Tele Law Portal
- (iii) NyayaPath
- (iv) Prarambh
- (v) Perry4Law Techno Legal Base

### **Improvements/ Applications**

In the case of Access to Justice in an efficient manner one needs to adopt various technological innovations in the present legal systems and to initiate smooth running of the legal system. To achieve this one has to be aware about the technical advancements taking place across the world and should know the art of clubbing legal system with technology and making it user-friendly for the society.

## INTRODUCTION

*“We educated, privileged lawyers have a professional and moral duty to represent the underrepresented in our society, to ensure that justice exists for all, both legal and economic justice.”* These are the words rightly said by Justice Sonia Sotomayor<sup>1</sup> which highlights the importance of the duty that one possess being an advocate of justice for the common people. Millions of people face threat to their life and property everyday and those millions have to turn to the law for the protection of the rights that they possess which are protected under The Constitution Of India<sup>2</sup>. Despite of the stated right of an individual under Article 39A of the Indian Constitution which clearly describes how one has the right to get free legal aid and that not a single citizen should not be denied for seeking justice by economic or any other disabilities from the state, there are still cases of unjust behavior registered where the people are deprived off their rights to seek redressal in the court of law. Due to this injustice which is rampant across the country, the marginalized population is the one which usually bear the brunt of the system that is already broken at various levels.

Access to justice in India is a challenge in itself which is far from the universal as India being a country has low level of awareness, high costs and delays “ in getting justice due to the soaring number of pending cases in the Indian courts<sup>3</sup>. According to The Theory of Justice given by John Rawls , he clearly believed that no matter how efficient and well-arranged the laws and the particular institution is , if they are unjust in nature and are not able to provide justice to the people who actually need it should be abolished and reformed according to the need of the era. The society and the professionals are more towards making money rather than the benefit that they can provide to the people at large through their skills. One such example was stated by John Rawls which carries the essence that justice is way more important than economic gains and if through these gains even the whole society is benefitted , it is not just regardless<sup>4</sup>.

Judicial System made access to justice highly exorbitant that about 70 percent of those who actually face disputes regarding issues in their personal as well as professional lives in past 5 years reached out to the informal courts rather than the formal judicial system for the redressal

---

<sup>1</sup> Associate U.S. Supreme Court Judge (November 2002)

<sup>2</sup> Fundamental Rights stated under Part III of Constitution Of India..

<sup>3</sup> National Judicial Data Grid (NJDG) report as of 27<sup>th</sup> December 2018.

<sup>4</sup> John Rawls , *A Theory Of Justice* , Harvard University Press.

for their conflicts. Here Daksh , a non-profit organization conducted an elaborated study <sup>5</sup> in 2017 which focused on the ways on how Indians initially approached the court or the different ways they adopt to find out the solutions to their donnybrook. The results were rude awakening for the Indian Judicial System as it further revealed that even today a large section of society still prefer informal ways of getting justice i.e. firstly consulting their family, friends, elders of the house and caste or religion based panchayats rather than engaging in the judicial proceedings as they are too expensive , complex and leaden –footed to unravel the said disputes.

This report officially released along with another report published by Dasra which is a philanthropic organization which brought to our attention that how the need for improved access to formal and quality justice is still lacking in India especially keeping in mind the marginalized and disadvantaged population. The report <sup>6</sup> also highlighted how the justice system of India can broaden up its horizons of the judiciary to include and focus a bit more on legal empowerment , free legal aid through Pro Bono Legal Services<sup>7</sup> being introduced in India and the rigorous punishment system. This study focused more on the role of judicial systems in protecting the interests of the most marginalized people and how the variety of stakeholders can play an important role in providing access to justice. The report further focused on streamlining the case management process in courts as one of the ways as to how there can be a help being provided in getting access to justice. It stated how the delivery of justice can be swift , efficient and cost-effective as it is high time now for the involvement of technology or external expertise that can help in mitigating the pendency. Dasra's study also reveals that how certain non-profit organizations (NGOs) are taking a step further ahead to take the responsibility to develop innovative yet strategic ways to make law actually work for people which is helping in a way in advancing universal access to justice.

## **INITIATIVES TAKEN BY INDIA TO ENHANCE THE JUSTICE SYSTEM THROUGH INFORMATION TECHNOLOGY**

One of the most primary need of any nation is providing free legal aid services to those who

---

<sup>5</sup> *Access to Justice ,2017.*

<sup>6</sup> Dasra , *Tipping the Scales : Strengthening Systems for Access to Justice in India.*

<sup>7</sup> **legal services** performed without cost or at reduced rates for the public good. It is a system wherein lawyers offer their poor and underprivileged clients with valuable **legal** advice and support without any **professional** fee.

are deprived of having legal counseling. Hence, **Pro Bono Legal Services**<sup>8</sup> is a concept which do remain as an ad hoc, individualized practice which still struggles to remain an institutional structure which did not gain much momentum in the country at present. The word Pro Bono Legal Services is actually derived from a Latin expression called “pro bono publico” which means nothing but “for the good of the public”. This service provides valuable legal service without seeking any professional fee from the poor and underprivileged clients who cannot afford expensive ways to seek justice. Though this applaudable tradition of helping the public did not gain much recognition despite the mention of the provision to provide free legal aid to poor and weaker sections of the society, to promote justice on the basis of equal opportunities under Article 39A of the Constitution of India. Also further Article 14 & 22(2) ensures equality before law when it comes to seeking redressal and justice. Also the mention of GOAL 16 covered under United Nations Sustainable Development defines the obligation that the state has to ensure that access to justice is equal for all. Further The Department of Justice also known as DoJ, intends to create a database of lawyers who are willing and able to provide their valuable services and aid to the litigants who are identified under Section 12 of The Legal Service Authority Act of 1987 keeping in mind that this program is initiated to encourage pro bono legal services<sup>9</sup>. This selfless service also ensures that the ones who plugged in their time and energy for creating an organized database for such lawyers who are willing to devote their knowledge into this noble profession do get rewards for providing such service priority in appointments to judicial roles.

As we all know that access to justice in India is one of the major challenge specifically for the people who are marginalized in many aspects. India being a huge nation also poses various challenges for the citizens to seek justice as it does involve the movement of the said to litigation and witnesses from one place to another which eventually results in delay of hearings and adjournments of cases from time to time. Keeping in mind all these challenges, Information and Communication technology<sup>10</sup> i.e. ICT can help in numerous aspects to tackle and further eradicate these types of issues without making it expensive and tedious. For instance, video conferencing can be used to save time, money and energy in transferring certain cases which are civil and criminal in nature. Recently a proposal was also made by the

---

<sup>8</sup> Pro Bono Work : A case for its integration into Legal Services in India, *available at* : <https://blog.scconline.com/post/2018/08/04/pro-bono-work-a-case-for-its-integration-into-legal-services-in-india/>

<sup>9</sup> <http://vikaspedia.in/e-governance/online-legal-services/pro-bono-legal-service>

<sup>10</sup> Gargi Banerjee, “ICT Development in India : Current Scenario” Vol 06 *IJOER* 4686 (2014).

Hon'ble Prime Minister Of India Shri Narendra Modi<sup>11</sup> who urged the court and the people in the start-up sector to innovate an aspects where technology can help the judiciary and further suggested the idea of using video conferencing instead of summons to save time. Hence keeping in mind all these issues evolving with a rapid pace , another concept of **Perry4 Law Techno Legal Base**<sup>12</sup> has been functioning since 2014 and is further emerging which implements all the techno legal issues in the country in a holistic and comprehensive manner. They have also opened many online platforms where the stakeholders , be it National or International might share their issues despite living in any corner of the world. Also through Online Dispute Resolution (ODR) and E-Court projects and portals , the Government is helping the people to fight against cyber crime , online harassment and civil disputes settlement. One of the major initiative is of helping the stakeholders to resolve their disputes without litigation but through their platform called – “ Resolve Without Litigation (RWL) “. The introduction of Interoperable Criminal Justice System i.e. ICJS will enable live exchange of various confidential and other data between courts and police which indeed is very much similar to that of the PTLB model that came into implementation after a decade of hard work or so.

Justice Madan B. Lokur being the Interoperable Criminal Justice System (ICJS) and e-courts committee of Supreme Court Of India's Chairman , launched this project. There was also portrayal of a demo live exchange data between police and courts in which there was an electronic transfer of details pertaining to the First Information Report i.e. F.I.R and Chargesheet in real time and further there was the issuance of receipt with the mention of reference number online. Also there exists “The Case Information System 3.0” , a circular released by the e-committee of The Supreme Court Of India which acts as a very important and exhaustive document which can make the stakeholders aware about the exact use of e-courts and its various processes in India. Though the use of e-courts and ODR will require techno legal expertise to effectively use it for the benefit of both the projects. There are various initiatives in the field of e-courts and ODR brought in while the final shape of these projects are not yet decided but still there are some baby steps already been taken regarding this. An **Online Legal Case Management System** of Perry4Law has already been started which is acting as a prototype for the main project which will eventually be known as “ **E-Courts 4**

---

<sup>11</sup>Jitendra Sarin, “Use video conferencing instead of summons to save time, Modi urges court”, Hindustan Times , Apr. 03, 2017.

<sup>12</sup> E-courts in India and E-Judiciary in India:Electronic Delivery Of Justice in India and Legal Enablement of ICT Systems in India , available at : <http://www.electroniccourts.in/blog/>.

**Justice “ or EC4J.** There also exists Online Dispute Resolution Mechanism (ODRM) , a discussion forum which is also one of the initiative which started working recently. There are various tests taking place on open source tools and softwares for legal and judicial fields and will be in implementation through the launch which will happen soon.

Another initiative launched with a view to make legal aid and services accessible to the backward and marginalized communities and the people who belong to the rural and underdeveloped areas is **Tele Law** <sup>13</sup> which was launched by Ministry Of Electronics and Information Technology. This initiative will help the people at the panchayat level through common service centers. With the help of these common service centers people can seek valuable advice from the lawyers who are a part of this initiative through video conferencing on the “ Tele Law Portal “ which is a technology enabled platform. To further improve the access to justice and make this initiative reach levels of society , Non Governmental Organizations also popularly known as NGOs , hospitals, law schools, clinics , district legal service authorities and the service providers who might come up voluntarily to provide necessary assistance to the people who actually need it. Here the Para Legal Volunteer would act as a initial point of contact between the people and the legal system where he or she will establish a healthy contact to the people of the rural areas and will further understand the legal matters with suggestions coming parallel to the same. To make this initiative a success they also made it gender neutral i.e. female Para Legal Volunteer would also be available not to make the conversation uncomfortable for any women. Furthermore a panel of lawyers would be provided by National Legal Service Authority Of India or NALSA in every state’s capital city to make the process smoother. To avoid any sort of discrepancies in the system and to have a check on the quality of legal services being provided , there exists a sturdy monitoring and evaluation system which has been installed by the Government itself.

India is also reaching skies in the field of access to justice through Information Technology by the introduction of first legal technology incubator. Cyril Amarchand Mangaldas being a renowned name in the field of law when it comes to innovation and leadership and thus with his aim of always promoting innovative minds his firm is the first law firm in India to have its first legal incubator which is popularly known as “**Prarambh**”<sup>14</sup> “ which was actually creator with a view to support innovation the legal technology and to aid young entrepreneurs in the

---

<sup>13</sup> [www.tele-law.in](http://www.tele-law.in).

<sup>14</sup> The CAM Innovation Lab , *available at* : <https://www.cyrilshroff.com/innovation-lab>.

coming up generation with new technology based solution for the legal fraternity. This legal technology based incubator will cover areas such as dispute resolution, access to justice , law firm operations, legal research , compliance and managing vivid legal talents. It also ensures that the developer gets the right direction and expertise of the particular subject and also encourages the spirit of team work by co-sharing the workplace and also the tools. Prarambh pays special emphasis under the leadership of Mr. Komal Gupta , Head of AI and Innovation Practice , Cyril Amarchand Mangaldas on mentoring the entrepreneurs to make their startups a lucrative business too. CAM has initially selected three startups under this initiative through a rigorous process and they will even further set up the infrastructure in the national capital i.e. Delhi itself and then later on in other cities.

Another major technological change that recently took place in the Indian legal system for making access to justice more accessible was the introduction of Information based Kiosks or **NyayaPath**<sup>15</sup> which is benefitting thousands of people in tribal areas of India by providing extensive and much needed services on sundry social welfare laws , policies and schemes to marginalized sections of the society. NyayaPath being launched in 2013 for the marginalized population of Chattisgarh and Jharkhand. Under this programme initiated by the government of India these voice driven information will provide direction to the people about their major entitlements , welfare schemes and legal rights within twelve categories and in three key tribal languages i.e. Chhattisgarhi , Hindi and Santhali. As it is located at the district level at State Legal Services Authority offices in two states , it is successful in providing free legal aid to the less privileged sections of society such as women , Schedule Castes and Schedule Tribes who exist in minority and are unaware about the legal rights.

The communication strategies adopted by the these legal technology incubators are extremely simple and user friendly as they are voice based and can answer questions like “ I am a person with disabilities . Do I have any special rights ? “ or “ Do I have rights over m Husband’s property ?” or “ I am old and my children don’t want me to live with them . Where can I go?”. In one of the phases of this project , legal information laws and the welfare schemes relevant to that particular region was digitalized and then presented in an interesting , menu-driven audio- text video modules. These modules were further made available in a user friendly manner by providing them in a touch-based menu interface. Certain robust and scalable software apps were used to record the digital content which focused more on the central and

---

<sup>15</sup> NyayaPath, available at : <https://oneworld.net.in/medium/website/nyayapath>.



state laws, policies and schemes made available by the government through child rights , citizen's rights in a police station , women's rights, senior citizen's rights, disability rights , labour rights and many more. If one is in a need of legal assistance and require help in answering a query based on his/her own rights , all one has to do is to reach one of the Information Kiosks which consists of a touch screen computer and a printer which can be easily operated by those users who may not be familiar with computers. These touch screen text is also available with a voice support for the people who cannot read. Kiosks also offer radio programs on issues of Rights and Justice. For instance – The 6<sup>th</sup> Radio Program talks about the Forest Rights Act 2006. These types of programmes helps in making people more aware about their rights which are provided under the Indian Legal System.

### **COMPARATIVE STUDY ON ACCESS TO JUSTICE THROUGH I.T.: USA AND AUSTRALIA**

The legal service delivery system which exists throughout The United States Of America since 1964 has provided assistance to poor and under-privileged sections of the society with the help of a strong federal government and these services which are provided has been administered by the **Legal Services Corporation**<sup>16</sup> i.e. LSC which is operational since 1974 and are intent to increase the quantity and quality of the legal services available to the poor. The estimations provided by the LSC clearly indicates that not more than 20 percent of poor people with civil legal needs are able to get assistance but by the use of new technology one can enable the provisions in a better and extensive manner in providing legal assistance. Indeed technology has revolutionized the delivery of certain services throughout the public and private sectors of the nation and the world. In 1998 , the Legal Services Corporation conducted one of its first summit on the use of technology to improve the access to justice and the attendees of this summit were the representatives of the courts as well as legal services organizations. During this summit which continued for two days , the participants drew on a series of white papers which was prepared in advance of the summit in order to weave an ambitious plan that will help in the creation of LSC's **Technology Initiative Grant**<sup>17</sup> or TIG program which came up in the year 2000. By the end of 2012 , over \$40 million grants was provided to the courts , legal agencies and NGOs by TIG for the development and implementation of various technologies to enhance the access to justice in this country. Its funding has initiated a series of

---

<sup>16</sup> John Greasen , “ Using Technology to enhance Access to Justice” Volume 26, *HJLT* , 246-249, (2012) .

<sup>17</sup> Technology Initiative Grant Program , *available at* : <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig>.

developments of websites which could further provide information of the civil legal issues of the concerned states and has also helped in the preparation of vivid types of document for the clients as quick as possible.

Since LSC's 1998 summit, technology has changed the face of legal assistance by bringing in loads of developments be it web based business, use of smart phones or the rise of social media. With growing recognition, LSC further began the planning of another summit which was to be held in 2011 titled "**Use of Technology to Expand Access to Justice**<sup>18</sup>". In this summit an advisory committee was formed which consisted of the representatives of legal services organizations, courts, the organized bar and the governmental entities and further this advisory committee held the summit by dividing it into two sessions which focused on developing a vision for the use of technology to enhance the access to justice and on developing a strong plan on the vision mentioned above. Those courts which faced stagnancy are further creating self-help centers and websites to provide forms, videos and legal information. These courts also partnered with legal aid programs which are based on self-help websites such as **Illinois Legal Aid Online**<sup>19</sup> which works with the courts and libraries across and establishes tech based self-help legal centers which will help in assisting the lower-income group of citizens and residents who face issues in affording an attorney who can represent them and their arguments in the court of law. Due to this initiative, by the end of 2012 around 77 of the 102 counties in Illinois possessed centers in and around the local public libraries and courthouses with installed computer terminals that could be brought in use to access these online platforms. There are more such initiatives brought in by The United States Of America such as **New York Court Help**<sup>20</sup> and the **California Courts' Online Self-Help Center** which are helping many people in gaining the assistance through these online platforms.

Even Smart legal forms<sup>21</sup> are gaining recognition and are becoming commonplace as they too provide legal assistance in an interactive manner by providing data validation, calculations and checks for completeness. These forms are created with Adobe Live Cycle which is nothing but XML-based so that the data listed in the forms is tagged which will enable the integration of information with other court systems too. These forms basically provide better accuracy as it is designed in such a manner where the data which is entered is validated properly and this

---

<sup>18</sup> Report of The Summit of the use of Technology to Expand Access to Justice, available at : <https://www.lsc.gov/media-center/publications/report-summit-use-technology-expand-access-justice>.

<sup>19</sup> Illinois Legal Aid Online, available at : <https://www.illinoislegalaid.org/>.

<sup>20</sup> New York CourtHelp, available at : <https://www.nycourts.gov/courthelp/>.

<sup>21</sup> John Greasen, "Using Technology to enhance Access to Justice" Volume 26, *HJLT*, 246-249, (2012).

further reduces the burden on the courts as it can be e-filled and thus eliminates the work of a clerk and is automatically integrated with the cases concerned and with the document management system too.

Access to Justice is a major problem in many developed countries. To overcome with the problem of accessible Justice, the use of Information Technology has come in. New Innovations in the form of legal apps and voice based machines. One such example is **RMIT University, Australia**<sup>22</sup> which started an initiative “*Access to Justice Through Technology*” program from 2015-17. This project was completed in partnership of RMIT University Centre for Innovative Justice and Victoria Legal Aid and the Community Legal Sector. Through this project students were given the opportunity to develop web-based tools which would make access to justice easy. The university selected and funded two projects: **Fine Fixer** and **Streamline Fines** which are now in the use.

Australia has also adopted the AVL Technology like videoconferencing to provide justice to the prisoners and detainees. Though this initiative brought in lot of recognition but also faced some criticism. Giving access to justice through technology can be futile for the prisoners as many prisoners are older and serving the punishment since a long time and may not be able to comprehend the information well and may be technologically backward. Moreover the limited no of computers and other technological infrastructure in prison can be a barrier in providing access to justice to the prisoners. As said by **Dr. Carolyn Mokay**, “*For prisoners is addition to the ability to obtain legal advice and representation , access to justice also includes the ability to participate in and comprehend legal proceedings.*” Hence this leaves us in a dilemma that whether they are really getting access to justice or they are getting only access to services?

## CONCLUSION

As we all have witnessed that legal aid organizations and courts have made great strides in the development and usage of various web-based delivery models which includes website and other interactive resources , web services , social media and other online learning sources for providing legal help to the low-income group people which also includes certain marginalized sections of the society. Though these initiatives have been taken but the effect of these initiatives is not yet universal across all states. As mentioned that the information is available

---

<sup>22</sup> Access to Justice Through Technology , available at : <https://www.rmit.edu.au/about/schools-colleges/graduate-school-of-business-and-law/research/centre-for-innovative-justice/what-we-do/current-research/access-to-justice-through-technology>.

on the online learning platforms, it is usually difficult for the so-called targeted section of society to find these information and understand it. Hence keeping this problem in mind the usability of the website should be improved and complicated legal information mentioned should be translated into plain and simple language which is easily understandable and comprehensible by the common set of people. Therefore adequate attention and resources should also be allocated for the improvement of accessibility and usability while replicating the successful delivery models and encouraging the innovations continuously.

Article 39A of the Indian Constitution provides free legal aid for ensuring justice is delivered to each and every citizen who is in need of that. However the reality is something different. The access to justice for the marginalized section in India is still a major problem faced in India. Though we are developing a lot in of web-based tools for making the access more convenient but are we really making them keeping in mind the marginalized section of our country? Are we really making them technologically user-friendly? Are we really making them aware about the new technology emerging in the field of law? Developing new technology and bringing them into use would alone not help. Firstly we have to make the marginalized section technologically educated. Conducting workshops in rural areas, prisons and areas where there is no access to justice by different legal aid center could be one of the solution to this problem. Secondly, technology needs proper and uninterrupted network and there are many areas in India where proper network connections are still not available. Setting up of towers of the same so that the people there can access the mobile networks and laptops to keep themselves aware about emerging trends in justice system in India. Another way of educating the marginalized people about their rights and ways through which they can adopt justice is by taking the help of law students by introducing projects related to law fieldwork in the nearby villages and slums can act to be fruitful. But this doesn't mean that technology is not at all helping the people. It is through technology itself that we can find out how many people are actually not getting the access so as to make the present tools more user friendly.