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**PRO BONO BREAKTHROUGH: NARROWING THE JUSTICE GAP
THROUGH LEGAL EDUCATION AND ADVOCACY**

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ABSTRACT

“Providing free legal assistance is the state’s responsibility and not the government’s charity”

- Justice Krishna Iyer

Justice should be accessible to anyone and everyone. But ensuring the same is a very chaotic job, especially in a nation like India where the population has hit more than 140 crores and more than half of the population is marginalized, economically backward, and cannot easily access justice. As a solution to this issue, there has been a concept called PRO BONO followed through ages to provide free and fair access to justice for people. This essay conveys what is pro bono, its evolution, and the legal backup to enhance pro bono in India. It also portrays the significant play of law schools and their students in the pro bono to increase access to free and fair justice. It emphasizes the current scenarios and calls for a cumulative effort from legal professionals, students, and law schools to establish increasing access to justice.

EVOLUTION OF PRO BONO

The word Pro Bono was derived from the Latin phrase "pro bono publico" which means "for the public good". As the meaning says pro bono cultivates the ideology of providing legal services freely with no fees or charges to those who cannot afford to access the expensive trials, under pro bono, legal services are provided voluntarily to those unaware of their rights. The foundation of pro bono services can be traced back to the 15th century in English law.

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The American Bar Association founded in the year 1878 created an ethical obligation for the lawyers to provide pro bono legal services. To date in America, lawyers must spend at least 50 hours per annum on pro bono cases. In the year 1770 John Adams the second US president took on the pro bono defence of British soldiers who were prosecuted for their involvement in the Boston Massacre, this showcases the historical importance of pro bono across the globe. There was rapid growth in the increased commitment to providing legal services to those in need and setting up of legal organizations in the 20th century progressive era.

The context of free legal aid and pro bono work is deeply enrooted in Indian history & culture. The ancient legal texts such as the dharmasastra and manusmriti encourage the concept of dharma and hold people with legal knowledge responsible for aiding those in need, which is viewed as the root of pro bono. The Indian freedom fighters and social reformers established pro bono services by giving free legal advocacy in the reformation movements of Dalits, women, and other marginalized groups. many Indian lawyers such as Gandhiji & BR Ambedkar provided free legal aid to those in need. In India, the Committee for Implementing Legal Aid Schemes (CILAS) was established in the year 1980 to oversee and supervise legal aid programs across the country and the Legal Services Authorities Act of 1987 gave a statutory foundation to legal aid programs. Also, the Legal Aid Committee was established to provide free legal services to marginalized and disadvantaged populations after independent India was established.

GLOBAL STANCE

The concept of pro bono has flourished evidently in the countries of Australia, the US, and Europe. The American Bar Association has become a torchbearer in the effort to enhance pro bono legal services to the marginalized sections of society in America. In South Africa, pro bono work was being carried out by legal practitioners on an informal basis till 2003 when the Cape Law Society made pro bono work mandatory for its members. In the UK though not necessary for barristers to provide free legal aid however, there are organizations upholding pro bono works. Like in the UK, the concept of legal aid is ingrained in the Indian legal system. The Supreme Court and the High Courts including the lower judiciary have wholeheartedly championed the cause of legal aid.

LEGAL REALM OF PRO BONO

Article 39A of the Indian constitution imposes an obligation on the State to provide free legal aid to ensure access to justice for all citizens. This article must be seen as part of a process of

reforming access to justice rather than an end in itself. It aims to afford equal justice and equal opportunity before the law to all without any discrimination on any grounds. The Bar Council of India regulates the legal aspects of India. Rule 6.1 of the Bar Council of India Rules of Professional Conduct, 2008, makes it mandatory for lawyers to render free legal aid for those who cannot afford it, and rule 6.1.1 specifically states that all lawyers have to devote a reasonable amount of time for pro bono work.

The right to free legal aid is considered a fundamental right in Article 21 of the Indian constitution². Furthermore, Article 22(1) gives rights to an accused to prefer a legal practitioner of his choice for representation. In the case of *State of Maharashtra v. Manu Bhai Pragaji Vashi and Ors.* (1995)³, the Supreme Court ruled that not providing an accused with free legal assistance, funded by the state, unless the accused voluntarily declines such help, would undermine the integrity of the entire trial. These repeated court pronouncements have highlighted the need for more pro bono cases and laws relating to the same are found in the Code of Criminal Procedure, 1973 and the Code of Civil Procedure, Order 33 of the Civil Procedure Code discharges a person from the liability of paying court fees if not having the required means to seek justice.

The Legal Services Authority Act 1987, is another act which was made to constitute legal service authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen because of economic or other disabilities. The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to provide free Legal Services to the weaker sections of the society and to organize Lok Adalat for amicable settlement of disputes. NALSA constituted in 1995, serves as the apex body for formulating policies and principles for legal services under the Act. It provides funds to State Legal Services Authorities and NGOs to implement legal aid schemes. The legal aid program is controlled by the center but has special divisions to increase access to justice at the root levels. The NALSA controls from the center and every state has its individual State Legal Services Authority which is headed by the chief justice of the high court and the District Legal Services has the District Judge as the ex-officio chairman. The Taluk Legal Services Committees are formed at the Taluk or Mandal level to coordinate legal services.

ROLE OF LEGAL EDUCATION

²Hussainara Khatoun v. Home Secretary, State of Bihar 1979 AIR 1369

³ 1996 AIR 1 1995

In India, "Pro Bono Legal Service" as a concept has not gained much momentum though significantly prevails by many lawyers reaching out to the poor and needy and offering free legal advice and help, it has only been an individualistic work in the past, and less institutionalized. Pro Bono Club Scheme, has been conceptualized to strengthen the existing pro bono program, by integrating law schools and students within its fold. The scheme aims to improve the efficiency and quality of pro bono legal services by aiding pro bono advocates through competent law students. Here, selected law students are part of Pro Bono clubs attached to law schools and helmed by a dedicated faculty in charge. It aims to spread awareness about how legal professionals are legally and ethically obliged to indulge in pro bono work and its social importance. By collaborating with Nyaya Bandhu, law schools and their students can help amplify the impact of these local legal advocates. "Nyaya Bandhu denotes individuals or volunteers who assist in providing legal aid and support to people, especially marginalized and rural communities. These people don't need to be trained lawyers, even basic knowledge of legal aspects and principles will suffice for them to act as mediators and navigate through the judicial system. Nyaya Bandhu can reach out to law schools and its students for help in legal documentation, research, case analysis, and other technical works. Conducting awareness to rural people and training the Nyaya Bandhu for better legal aid. The collaboration of law students with Nyaya Bandhu not only enhances the effectiveness of Nyaya Bandhu but also expands the reach of pro bono efforts into rural and marginalized communities at the ultimatum fulfilling the needs of socially depressed and needful. It also provides future lawyers with practical, real-world experience of their theoretical knowledge inculcates the skills essential for a lawyer, and modifies the behavioral traits and characters.

It becomes essential for law schools to mandate pro bono clinics under practicing attorneys or experienced faculty and fulfill its requirements, some law schools have requirements of pro bono hours as in GNLU the students are required to complete at least 20 hours of Pro Bono work each academic year, thereby culminating into 100 hours of Pro Bono work in five years of their undergraduate law program, which encourages a culture of social help and giving back. Setting up mobile pro bono clinics to reach out to the underserved and projecting partnerships with NGOs and other organizations to involve law students in the service of justice to the needy. Giving out pro bono scholarships by funding the students financially will motivate them to be involved at full capacity at least during breaks and internships. The law students may even contribute through research and performance of pro bono projects to

develop the current condition and shape legal policies and legislation that promote access to justice since it's not just limited to direct client representation. Involving law schools and students in pro bono works helps cultivate a culture of social responsibility among future lawyers and reinforces the importance of providing legal assistance to those in need. Monitoring and having control over the performance of law students in such activities can have a major effect in the field of serving justice.

LEGAL HURDLES

India is a secular democratic republic though there have been several initiatives and reforms from the legislative and jurisprudence side, pro bono works are still battling amidst an increase in corruption, commercial lawyers, economic aspect of law professionals, abysmal case disposal record, vacancies in courts, a largely impoverished population and complex legal framework. Most lawyers and judges are unaware of the need and benefits of pro bono cases, especially the law students who will be equipped with the best experience and best public opinion. Also, the limitations like restrictions on practicing law outside their licensed jurisdiction lack of recognition for pro bono works and not being able to properly analyze and understand the legality by students due to lack of educational knowledge on pro bono raises a concern. Well-established lawyers also are in a trap due to financial restraints and competitive fields.

The issues faced question the condition of the lawyers interested in pro bono cases and it is indeed doubtful if these practitioners are given proper recognition, while involving the law students and schools can bear some fruit. the overwhelming demand for pro bono legal services in India, determined and organized efforts by legal professionals are crucial to ensuring legal aid for those in need and promoting access to justice, as mandated by the Constitution. The legal aid movement in India has come a long way since its inception, and NALSA and state-level authorities are continuously working to improve access to justice for those in need. The emphasis is on legal literacy, quality legal services, and a focus on alternative dispute resolution methods such as Lok Adalat, which have improved the conditions to an extent in India.

GOVERNMENTAL INITIATIVES

The need and importance of pro bono work have been recognized and stimulated in the past few decades by the government. Under the Legal Services Authorities Act, of 1987, the

Central Government provides financial support to State Legal Services Authorities through the National Legal Services Authority.

The Government has also introduced three legal empowerment initiatives, which are the Tele-law, Pro Bono legal services, and Nyaya Mitra. The tele-law project was started in 1800 by Gram Panchayats in 11 states across the nation to provide free legal aid to marginalized communities. People can avail legal advice for just 30 rupees and Lawyers on the panel are available by video conferencing or telephone conversation at Common Service Centres. Over Five hundred and thirty-three attorneys have signed up to offer pro bono legal services under the scheme.

Another vibrant program has been enforced. The Nyaya Bandhu, a mobile app was launched in February 2019, to connect registered pro bono advocates with registered applicants. 10454 advocates have directly registered in this program from over 24 state bar councils, but the most evident point of the Nyaya Bandhu is that there are 89 law schools registered under the pro bono club scheme from 30 states/UT. This program is a huge success, but this is just a stepping stone to the development of pro bono in India. Having 22 high courts in India with pro bono panels under which 1341 advocates have enrolled motivates young minds to take up pro bono works.

Furthermore, the Indian legal system has been spreading awareness of free legal aid and mandated all law schools to be involved in this social activity. Also, a district judge-led Under Trial Review Committee has been established in each district to review the cases of all under-trial who have completed half of the maximum sentence allowed for the offenses they are charged with. Through these initiatives, we can guarantee that India is indeed marching towards a brighter future in terms of increased access to free legal services indulging law schools and its students, and assisting them to view their potential and know their value.

POWER OF PRO BONO

Pro bono is a way of exploring the enriched law field for both lawyers and law students. It gives a chance to work in different focus areas than their own and an opportunity for students to form a strong base and understand the law world, it would be a win-win situation for both society and the youth and help them use their youthful enthusiasm for the social concern. Law students gain a good amount of experience and exposure through pro bono work. prospective candidates to seek jobs in that particular law firm. Additionally, pro bono work attracts job placements in legal firms helping prospective candidates to seek jobs in that

particular law firm since pro bono increases the reputation and gives a sense of satisfaction and fulfilment. Hence, every lawyer should devote at least some part of their professional life towards such cases, after all, the right to justice is absolute and non-negotiable.

SCOPE FOR DEVELOPMENT

After the judgment of the Supreme Court in *Indira Jaisingh v. Supreme Court of India*⁴, pro bono work has become one of the qualifying parameters for designation as a Senior Advocate. This case clearly emphasizes the need for advocates to contribute pro bono. Public legal awareness is essential for pro bono lawyering. It is a way of fulfilling the 16th SDG globally i.e. to ensure peace, justice, and strong institutions. Making the pro bono works more organized and addressing and recognizing law schools and lawyers involved in these pro bono activities motivates young lawyers to engage in pro bono.

CONCLUSION

Pro bono is a social imperative and not just an ethical & legal obligation for legal professionals. Law schools and law students play a centric role in enhancing pro bono works. The pro bono concept is enrooted historically in India and also is in force all across the globe, but the efficiency is not yet completely reached and there is still a need to bridge the gaps for access to justice.

Law schools must mandate pro bono clinics and foster relationships with NGOs, helping its students be involved in practical knowledge and helping them build character and skills for a good future in the legal world. The students can perform research, and pro bono projects, and add stars to their practicing era.

The Indian government has also established schemes like Tele-law, Nyaya Bandhu, and Pro Bono legal services. These efforts, combined with the engagement of law schools and students, are crucial steps toward increasing access to free legal services and realizing the constitutional mandate of equal justice for all.

In a country like India where the diversity of population is very high and most remain in poverty marginalized Pro bono acts as a testament to the belief that justice should be accessible to all.

⁴*Indira Jaisingh v. Supreme Court of India through secretary general*, (2017) 9 SCC 766

“There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.”

- U.S. Supreme Court Justice Hugo Bla