

## ENFORCING LABOR, BUSINESS AND PROPERTY RIGHTS

- A system of property rights ensures functionality and security. Formal recognition of assets by the legal system enhances economic productivity, allowing for a capitalisation of assets. This must function without discrimination to be a means for people to grow. This also encompasses recognition of the individual and communal property rights needed for indigenous production and livelihood creation.
- Labour being the greatest asset of people living in poverty, basic labour rights need to be recognised to foster human capital. This includes ensuring a minimum package of labour rights for workers (in formal and informal economies), improving the quality of institutions and regulations, promoting freedom of association, expanding social protection and increasing equal access to opportunities.
- Nyayika aims to demonstrate that enterprises which prioritise social profit, when managed responsibly, impact change and development more than any other kind of market identity. Our focus is the humanitarian benefit gained from investing in the rights of everyone.

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# WE, THE VEHICLES NYAYIKA AND ACCESS TO JUSTICE



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A lack of financial, social, and political, agency makes marginalized communities vulnerable to crime, abuse and exploitation. This is a consequence of an unpleasant reality: people from such communities often face barriers in benefitting from growth and escaping poverty. This is in addition to facing discrimination due to age, caste, education, gender, religion, geo-cultural background and sexual orientation.

Clearly defined property and benefit rights, and confidence that these rights can be fairly and efficiently defended against encroachment if needed, are critical to induce hundreds of thousands of individuals and groups to make investment decisions that contribute to economic growth and poverty reduction.

But vulnerability does not only mean an insufficient income. It also includes high exposure to a host of other risks, dearth of opportunities to participate in political and economic life, a lack of respect for a person's dignity and rights, deficient access to resources and negligible legal empowerment.

As Amartya Sen wrote in *Development as Freedom*, "Development consists of the removal of various types of unfreedoms that leave people with little choice and little opportunity of exercising their reasoned agency." Economic independence is inextricably bound to these realities, the parallel identities of a plural society.

To us, the conversation around development cannot shy away from the desperate need for an inclusive understanding of social justice. An effective justice system can be a tool to overcome deprivation, like developing progressive jurisprudence on economic and social rights enforcing human, property and labour rights. Through this Nyayika aspires to demonstrate that improving access to justice can lead to systemic change and unlock the economic potential of the marginalized communities.

This is why the postulate that development cannot sustain without access justice is at the heart of Nyayika's philosophy. We are on a mission to make professional legal services accessible to deprived communities and people at-large through a professional, value-driven, accountable and transparent system. How we choose to approach social justice: punitively or through systemic reforms is determined by the extent of access we give those who have it the least. Making it available, understandable, negligibly priced and inclusive is the most important way to achieve it.

However, humans are not just economic beings. At its very core, Nyayika aims to question the idea that justice is inherently post-facto: it exists only to address something that has already occurred. When the idea of fairness is inculcated in a polity and its democratic institutions, everything connected to it functions better. It becomes easy for the citizenry to join in questioning and engaging with the state to shape their own, and their nations destiny.

Courts, and the judiciary at large, are the voice of the people and the conscience of a nation. It is where the weakest, the most marginalized go when they feel unheard. The judiciary's working has far reaching implications for everyone: consider the Delhi High Court's verdict in 2009 that gave equal rights to LGBT Indians by taking exception to an archaic law and, upholding the right to live with dignity above everything else. It also set precedence for what the judiciary sees fit to adjudicate: privacy and discrimination due to a person's sexual orientation escaped the clutches of discrimination, however temporary.

This is why its crucial to understand and accept that if the system is not pushed to work, then it will devalue the rule of law for all. The surest way for a democratic system to undermine itself is to remain wrapped up in a vocabulary that is available to only a handful. Nyayika hopes to subvert this exclusivity, because, ultimately, access is key and the key is access.

Realizing our goals needs a bottoms-up approach coupled with state level reforms. Nyayika hopes to do this by targeting both – right holders and the duty bearers – simultaneously. The idea of such a two pronged approach comes from Centre for Social Justice (CSJ), Nyayika's parent organization, that has extensive experience in dealing with vulnerable communities. The Four main components of Nyayikas approach to access to justice:

- 1. Enhancing rights** (ensuring laws exist and vulnerable communities have rights).
- 2. Increasing awareness** (Assist the vulnerable to know their rights).
- 3. Enablement** (make sure they are empowered to claim their rights and entitlements).
- 4. Enforcement** (accountability of duty-bearers towards the vulnerable and redressal in case violations).

The enhancement, awareness, enablement and enforcement of rights must also go beyond the social service sector and be integrated into other areas as well. Here is an example of Nyayika in action:

- **Mr Joshi was an employee of ABC Infosoft Solutions Pvt. Ltd. for nearly six months when his employment was terminated. Despite the contract mandating a month's notice, none was issued before the communiqué and his salary for a month was not paid.**
- **Mr Joshi brought up the issue with ABC, who claimed that he had been fired for deleting data from the employer's personal computer.**
- **Shortly after this, Mr Joshi approached Nyayika. Within four days, Nyayika ensured a legal notice had been sent to ABC, demanding payment of dues amounting Rs. 40,000. Refusing to honour the contract, ABC filed a police complaint claiming his company had suffered a loss after data went missing.**
- **However, Nyayika's initial notice worked: within a week ABC agreed to resolve the dispute through conciliation. The first conciliation meeting was held at the police station, where our lawyer represented Mr Joshi. Eventually, the employer agreed to rescind the police complaint and agreed to pay part of the salary due to Mr Joshi. After much negotiation, the Employer agreed to pay a sum of Rs. 25,000 to settle.**
- **For managing the matter from start to end, Nyayika charged Mt Joshi Rs 1500 only.**

Another example of where Nyayika provides assistance is legal registration of new businesses. The right to create a business includes access to financial services, protection, and equal opportunities in economic activities. Often, legislation and customary laws create barriers for women in setting up businesses. The simplification of regulations (like reducing costs, making registration simpler) makes it easy to set up a business and access to markets.

