

CONNECTING ACCESS TO ADVOCACY: A ROLE FOR TECHNOLOGY IN LEGAL EMPOWERMENT

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I. INTRODUCTION

To date, civil justice tech innovations in the United States have primarily focused on addressing two essential needs for access to justice: (1) expanding access to legal information, services and court systems for individuals seeking help, often without an attorney, and (2) facilitating discrete legal transactions like completing a legal form, filing a document in court, or participating in a remote consultation with a volunteer attorney.¹ In this piece,

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¹ See generally Legal Servs. Corp., *Report of the Summit on the Use of Technology to Expand Access to Justice*, SELF-REPRESENTED LITIG. NETWORK (2013), <https://www.srln.org/node/380/report-report-summit-use-technology-expand-access-justice-lsc-2013> (providing an overview of the access to justice tech landscape) [<https://perma.cc/P7RT-TUGF>].

we argue that legal empowerment offers a distinct, innovative, and complementary framework to current access to justice efforts in the US. We also suggest that technology can be an important enabler for legal empowerment efforts that require a distinct set of practices, capabilities, and values.

Technology has been a key driver and enabler of access to justice efforts in the civil justice sector in US for nearly two decades. For example, statewide legal information websites and user-friendly online forms, have played a foundational role in helping millions of people learn about their rights, connect to trusted legal services, and learn how to navigate court processes without a lawyer.² While these efforts may seem commonplace today, their introduction 20 years ago helped fuel a dramatic expansion in access to justice that continues to serve as the foundation for many other legal aid and court-based service delivery innovations.

Outside of the US, legal empowerment encompasses a diverse range of grassroots justice strategies that seek not only to advance access to justice, but also to build individual and community capacity to identify and address the root causes of injustice and inequality.³ Vivek Maru, founder of Namati, the world's largest network of legal empowerment practitioners, champions legal empowerment as a concept centered on "all people[being] able to know law, use law, and shape law,"⁴ and suggests that "advancing justice requires not just expanding access to the rules we have now but changing those rules to make them more fair." On the individual level, legal empowerment seeks to shift agency and power into the hands of everyday people impacted by injustices. US legal empowerment pioneer Jhody Polk, founder of the Legal Empowerment Advocacy Hub, observes that "when people become legally empowered, they can become leaders and they can be their own change makers, no matter where they are."⁵ Legal empowerment recognizes that justice is a fundamental human value for people to know and exercise their rights, and

² See, e.g., Claudia Johnson, *Document Assembly: An Essential Building Block for the Access to Justice Ecosystem*, SELF-REPRESENTED LITIG. NETWORK (2016), <https://www.srln.org/node/848/resource-document-assembly-essential-building-block-access-justice-ecosystem-lhi-2016> [<https://perma.cc/SW7P-385G>].

³ See generally Stephen Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative* (Carnegie Endowment for Int'l Peace, Working Paper No. 41, 2003), <https://carnegieendowment.org/files/wp41.pdf> [<https://perma.cc/6FYV-S9CM>].

⁴ Vivek Maru, *Give the People the Law*, DEMOCRACY: J. IDEAS (Sept. 4, 2020, 1:49 PM), <https://democracyjournal.org/arguments/give-the-people-the-law> [<https://perma.cc/AS27-NXZ9>].

⁵ N.Y.U. Ctr. on Int'l Cooperation, *The Advocate Fighting for Legal Empowerment in U.S. Prisons*, MEDIUM (Nov. 26, 2019), <https://medium.com/sdg16plus/the-advocate-fighting-for-legal-empowerment-in-u-s-prisons-724461cd1d08> [<https://perma.cc/S5HY-5AQV>].

also to use that knowledge that challenge broader inequities and power imbalances.

Beyond connecting individual casework with strategies to bring about positive policy and systemic changes, legal empowerment offers a wider framework for civil justice sector actors in the US to understand and address the justice gap. It bridges the gulf between the lived experience of individual justice problems and the workings of traditional justice institutions such as courts, private attorneys, and nonprofit legal services providers. Access to justice research has established that many people seek to resolve civil legal problems without ever interacting with a lawyer or the formal justice system. Instead, they turn to social networks, trusted community leaders, or non-legal organizations for assistance.⁶ In addition, many people never seek help with a legal problem because an experience of discrimination or disenfranchisement influences whether they decide to seek help or feel that a positive or fair resolution is possible.

Legal empowerment efforts offer one way to help bridge the justice gap by promoting expansive roles for community workers and non-legal organizations as justice actors and allies. By distributing legal knowledge through trusted community networks, these efforts could reach a far greater number of people than lawyer-driven services alone. For example, Alaska Legal Services Corporation (ALSC)—an LSC-funded legal aid program and innovator in community-centered justice—is partnering with Alaska’s tribally owned and operated healthcare system to train community health aides in remote villages to conduct basic legal education and issue spotting. This approach seeks to embed frontline legal support in a community-based and culturally appropriate network of care. In addition to helping overcome the geographic challenges that ALSC faces in serving the entire state and meet community members where they are, this approach reflects ALSC’s willingness to build the capacity of its healthcare partners to help address legal needs such as food insecurity, unstable income, or domestic violence that can be social determinants of health.⁷ Justice Power—a network convened by NYU School of Law’s Bernstein Institute for Human Rights and Global Justice Clinic—has documented a range of legal empowerment programs to

⁶ Rebecca L. Sandefur, *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study*, AM. B. FOUND. (Aug. 8, 2014), http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporar_y_usa_aug_2014.pdf [<https://perma.cc/PLY6-GNVT>].

⁷ N.Y.U. Ctr. on Int’l Cooperation, *The Native Health Partners Ensuring Justice for People in Alaska*, MEDIUM (Oct. 2, 2020), <https://medium.com/sdg16plus/how-native-health-partners-ensure-justice-for-people-in-alaska-48491c418535> [<https://perma.cc/854D-TU5K>].

advance immigrant justice in the US.⁸ These include programs that train volunteers to offer accompaniment to immigrants navigating immigration court and other proceedings. These initiatives also include community-driven litigation in which impacted individuals determine the litigation goals. Other models include technology-supported initiatives that help to build agency, legal knowledge, and community for immigrants navigating the justice system, including those physically separated from their families and communities.

II. THE ROLE OF TECH, DATA AND DESIGN IN ADVANCING LEGAL EMPOWERMENT

How can technology help to advance legal empowerment as a distinct and complementary strategy to access to justice? The evolution of our own organization—Pro Bono Net—reflects this shift. As our name suggests, when we were founded more than 20 years ago at the dawn of the Internet era, our work was centered on leveraging technology to better connect people in need with lawyers and more effectively coordinate pro bono efforts.⁹ Expanding access to legal representation and strengthening lawyer-driven advocacy to help people defend their rights on complex issues remains a core part of our mission. However, our work is increasingly about connecting people to the law itself through self-advocacy tools, programs that make legal processes more people-centered, and support for legal empowerment initiatives designed to build and share legal expertise and build community power.

Technology is not a panacea. However, when coupled with robust information justice¹⁰ and community engagement strategies, it can be a catalyst for bold initiatives that reduce barriers and make the law a more accessible and responsive tool for individuals and communities. For example, Ayuda Legal Puerto Rico—a nonprofit organization that provides free and accessible legal education and support to low and middle-income communities in Puerto Rico—leverages technology to promote broad-based legal education online, socialize knowledge of the law, and provide accompaniment to

⁸ JUSTICE POWER, <https://justicepower.org> (last visited Apr. 25, 2021) [<https://perma.cc/69E9-6Y3D>].

⁹ Jim Luce, *Delivering Social Good via Technology as Economy Collapses*, HUFFPOST (May 7, 2009, 5:12 AM), https://www.huffpost.com/entry/delivering-social-good-vi_b_183134 [<https://perma.cc/437N-PHBV>].

¹⁰ See JEFFREY ALAN JOHNSON, TOWARD INFORMATION JUSTICE: TECHNOLOGY, POLITICS, AND POLICY FOR DATA IN HIGHER EDUCATION ADMINISTRATION 2 (2018), <https://www.springer.com/gp/book/9783319708928> (“Information justice refers to the fundamental ethical judgment of social arrangements for the distribution of information and its effects on self-determination and human development. It is a subset of the broader notion of political justice, applied to questions of information and information technologies.”) [<https://perma.cc/32A7-AKLA>].

community members defending their rights.¹¹ This work connects the provision of online legal literacy resources with tools and campaigns that amplify the voice of local communities in decision-making about systemic legal issues related to eviction, foreclosure, and disaster recovery. Ayuda Legal Puerto Rico also demystifies legal knowledge and advances the view that legal knowledge is not just the realm of lawyers and policymakers. Technology can also help to support, expedite, and scale the valuable work of organizers working alongside community members and attorneys to address entrenched justice problems.

JustFix, a New York City-based nonprofit, develops digital tools to help tenants at risk of displacement understand and defend their rights. Through a user-friendly series of questions, JustFix helps renters whose landlords are neglecting essential habitability issues to sue their landlords for emergency repairs required by New York City renter protections. The app also connects tenants with organizers and attorneys who can provide additional legal assistance and equips housing justice advocates with data-driven tools to track where evictions are being carried out and who the associated landlords are. In turn, this data helps to fight displacement and amplify advocacy campaigns to strengthen anti-eviction laws and right to counsel efforts.

¡Reclamo!, a digital legal tool co-designed by Pro Bono Net's Immigration Advocates Network and advocates and worker organizers affiliated with Make the Road New York, help workers and their advocates file a wage theft claim. While all low-wage and hourly workers are vulnerable to wage theft, the consequences can be particularly acute for undocumented immigrant workers, who are especially at-risk of exploitation and retaliation because of their legal status. They also lack access to correct information on their rights and the labor laws in the US. Make the Road New York's Workplace Justice Program trains hundreds of workers every year on their rights and provides legal support when workers confront job violations. Through a series of participatory design activities with workers and advocates in Queens, NY, project partners identified an opportunity to focus the tool on the process of filing a wage theft claim, with an emphasis on the needs of Spanish-speaking construction workers.¹² In addition to helping worker organizers conduct wage theft intakes with individual workers, ¡Reclamo! will facilitate the collection of valuable data about wage theft in New York that can be analyzed to develop strategic advocacy and enforcement strategies.

¹¹ *¿Quiénes Somos?*, AYUDA LEGAL PUERTO RICO, <https://www.ayudalegalpuertorico.org/quienes-somos/> (last visited Apr. 25, 2021) [<https://perma.cc/K4U3-Q4BB>].

¹² Katie Lam, *¡Reclamo!: Accessing Workplace Justice Through Co-Design*, MEDIUM (Sept. 25, 2019), <https://medium.com/pro-bono-net/reclamo-accessing-workplace-justice-through-co-design-554974bac653> [<https://perma.cc/8WE4-LD3J>].

Upsolve, a nonprofit tool that helps people file for Chapter 7 bankruptcy for free, reaches thousands of people in financial distress each year through free education, support, and—for eligible individuals—a self-service tool that generates bankruptcy forms. While it was launched in 2016 as a direct services nonprofit, Upsolve has started to develop a policy platform calling for systemic reform in the legal and financial industry.¹³ This platform draws on the experiences of Upsolve’s users, including data captured through the platform, an active Facebook group with thousands of members, and user surveys about the types of debt its low-income user community is shouldering and the relationship between bankruptcy and race during the Covid-19 pandemic.¹⁴

What common themes and practices can we draw from these examples at the intersection of legal empowerment and technology? Several of these efforts embrace participatory research and community-led design practices that privilege the lived experiences of those most impacted by injustice, and seek to identify and begin to address historic power imbalances or systemic inequities.¹⁵ They also prioritize support for trained lay advocates, allied professionals, and organizers working alongside community members and lawyers, similar to many of the efforts outside of the US.¹⁶ Several seek to create new data collection and feedback loops that increase the accountability and responsiveness of administrative agencies, justice institutions, and policy-makers to community needs. Some also work to create spaces online or offline where individuals and families impacted by justice issues can build community, share experiences, and find mutual support to help counter the hardships they are facing. Ayuda Legal Puerto Rico and ¡Reclamo! have an emphasis on language justice—a framework that treats language access as a fundamental right¹⁷—and have taken strides to ensure their digital tools and online experiences are designed with and for the Spanish-dominant

¹³ *The Upsolve Policy Platform*, UPSOLVE, <https://upsolve.org/policy-platform/#whats-next> (last visited Apr. 25, 2021) [<https://perma.cc/52S3-D3SK>].

¹⁴ *A Year of COVID-19: Job Loss, Student Loans, & Medical Debt and their Effect on Low-Income Families Considering Bankruptcy*, UPSOLVE, <https://upsolve.org/upsolve-data-report/a-year-of-covid-19/> (last visited Apr. 25, 2021) [<https://perma.cc/UP7R-3UA3>].

¹⁵ Katie Lam, *Who Defines Change? Problem that Design Thinking and Legal Aid Share*, CONNECTING JUSTICE COMMUNITIES (Jan. 16, 2020), <https://www.connectingjustice.com/who-defines-change/2020/01> [<https://perma.cc/GUN9-W2B5>].

¹⁶ Tom Walker & Paola Verhaert, *Technology for Legal Empowerment: A Global Review*, THE ENGINE ROOM (2019), <https://www.theengineroom.org/wp-content/uploads/2019/01/Tech-for-Legal-Empowerment-The-Engine-Room.pdf> [<https://perma.cc/G84D-7ZXR>].

¹⁷ Casey Payton, Joann Lee, Ana Paula et al., *Language Justice During COVID-19*, AMERICAN BAR ASSOCIATION (Jun. 3, 2020), https://www.americanbar.org/groups/young_lawyers/projects/disaster-legal-services/language-justice-during-covid-19/ [<https://perma.cc/3BDS-U93R>].

communities they serve. Ayuda Legal Puerto Rico has also developed a video law library in sign language to help ensure essential legal rights information is accessible to Puerto Rico's deaf community. JustFix has centered its work in housing justice and anti-eviction efforts in New York and Los Angeles, serving not just as a legal support tool for low-income tenants, but as a platform for organizing and advocacy. And Upsolve is expanding its bankruptcy assistance tool with a platform calling for policy and legal reforms.

III. LOOKING AHEAD

Community legal empowerment should be a core part of how civil justice communities in the US envision and invest in design, data, and technology interventions moving forward. These investments would complement efforts already underway to undertake regulatory reform, including loosening prohibitions on the unauthorized practice of law, and structural changes needed to fundamentally move the needle on access to justice.¹⁸ Access to justice and legal empowerment strategies both require a renewed and sustained investment in online legal rights content, plain language interactive forms and other resources that make the law widely accessible, understandable, and actionable to people experiencing justice issues and the diverse array of problem-solvers assisting them. However, legal empowerment approaches may demand different design and technology approaches than those widely used by current access to justice tech efforts, which heavily emphasize productizing tools and bringing products to scale to solve discrete and transactional legal problems. While legal empowerment efforts have many outcomes and impacts that overlap with other access to justice and self-help strategies, legal empowerment places a greater emphasis on community-grown innovation, legal knowledge and capability among those most proximate to the legal needs, and building capacity to pursue systemic solutions to persistent justice problems. These goals call for approaches that help people solve their immediate needs, while also building bridges to other interventions that address entrenched inequities rooted in poverty, economic precarity, and racial injustice, which are both the cause and consequence of the justice issues they face.

Efforts to evaluate and amplify the impact of legal empowerment programs outside of the US offer a helpful springboard for work here at

¹⁸ The National Center for Access to Justice's "Legal Empowerment" research captures examples of many of the regulatory reform efforts underway. Legal Empowerment, NAT'L CENT. FOR ACCESS TO JUST., <https://ncaj.org/tools-for-justice/legal-empowerment> (last visited Feb. 26, 2022) [<https://perma.cc/5QP2-AS29>].

home.¹⁹ Gatherings such as Decolonizing Justice, a week-long online gathering held in November 2020 that created a space for critical thinking and discussion about community-grown justice strategies, can also help to spark new learning and envisioning of legal empowerment possibilities in the US, and demonstrate the value of technology in furthering such efforts.²⁰

Ultimately, legal empowerment represents innovative thinking about the justice system itself, and how the law can be made more accessible and relevant to the needs and challenges faced by low income and marginalized communities—the “*know, use, and make the law*” themes that are central to the global legal empowerment agenda. Technology and data can be forces to democratize the law, as evidenced by the projects profiled above and emerging data about increased court appearance rates—and as a result, fewer default judgements—among litigants given the option to participate remotely during the Covid-19 pandemic.²¹ New investments in affordable and reliable broadband access and other digital inclusion efforts can help ensure technology is an equalizing force in civil justice efforts, not a tool that exacerbates power imbalances. Throughout 2020, we saw a lack of fairness in the United States justice system and the unjust application of law contribute to the outrage and action expressed in marches and demonstrations across the country. Against this backdrop and the myriad impacts of the Covid-19 pandemic on vulnerable communities, legal empowerment offers a pathway to advance not only *access* to justice, but the fulfilment of justice for and within impacted communities.

¹⁹ Laura Goodwin & Vivek Maru, *What Do We Know About Legal Empowerment? Mapping the Evidence*, 9 HAGUE J. ON RULE LAW 157-194 (2017), <https://link.springer.com/article/10.1007/s40803-016-0047-5> [<https://perma.cc/7N96-NBQV>].

²⁰ *Decolonizing Justice*, PRO BONO, <https://www.probono.net/decolonizingjustice> (last visited Apr. 25, 2021) [<https://perma.cc/2M6J-3NPT>].

²¹ See Arya Sundaram, *How Texas Courts Went Viral*, TEXAS OBSERVER (Feb. 10, 2021), <https://www.texasobserver.org/how-texas-courts-went-virtual/> [<https://perma.cc/8VAN-8VHB>].