

PAPER FIVE  
**SINGLE SOURCE FOR LAWS**

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## **SINGLE SOURCE FOR LAWS**

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## EXECUTIVE SUMMARY

Franz Kafka's seminal work 'The Trial' talks about the complexities of laws and a system that is inaccessible to the lay person. This debate has now reached a point where nuances of access are widening to not just process but understanding the laws themselves and consequently to debates on what is an ideal legal system design that allows for easy access and understanding of laws. Access to laws is a significant component of access to justice. Accessing and disseminating laws in India will involve collating all the existing primary and subordinate legislations, ranging from municipal laws to central legislations. It is important to think about the mechanisms involved in making laws available to all citizens. The idea of a single source for laws is to consolidate the various legislations across India. In the Indian context, aggregating all laws in one place will go a long way in improving clarity and access.

This paper charts out the prevailing conditions pertaining to access to laws, discusses the relevant factors impacting access and recommends building a single source platform for laws. A brief insight into the various case laws associated with accessing laws is provided, followed by an analysis of the components, both legal and socio-legal, that are linked to the fundamental issue of accessing laws. The paper engages with institutional and administrative challenges that need to be

overcome to build a reliable and authentic single source for laws. The discussion on access to laws will take into consideration the technology and the tools available at our disposal. In this vein, this paper draws from various international jurisdictions and their attempts to use technology to improve accessibility to laws.

While this paper makes the case for access to laws in the digital medium, it is understood that there is a sizeable portion of the Indian diaspora without digital access. The paper will signpost the nuances of building ideal accessibility, in terms of holistic access to all citizens, irrespective of the barriers they face. The need for a dedicated discussion about improving accessibility to laws to the citizens emanates from the fact that increasing access to laws is a rule of law issue that needs our undivided attention. This paper hopes to be a stepping stone for such a dialogue.

## CONTENT

<b>1</b>	<b>INTRODUCTION</b>	<b>8</b>			
<b>2</b>	<b>SINGLE SOURCE FOR LAWS TO PROMOTE RULE OF LAW</b>	<b>11</b>			
2.1	Assisting in the publication of laws in the information age	12			
2.2	Enhancing the right to know	13			
2.3	Need to promote access, clarity, availability, and certainty of all laws	14			
<b>3</b>	<b>TACKLING THE ADMINISTRATIVE ISSUES IN DISSEMINATING LAWS</b>	<b>15</b>			
3.1	Law-making, redundant laws, and dissemination	16			
3.2	Dissemination of subordinate and state legislations	17			
3.3	Electronic gazettes and dissemination	18			
3.4	Analysing the administrative challenges	21			
3.5	Using Akoma Ntoso	23			
<b>4</b>	<b>INDIA CODE PORTAL AND DISCLAIMER CLAUSES</b>	<b>24</b>			
4.1	India Code Portal	25			
4.2	Disclaimer clauses	26			
4.3	Disclaimers in Indian government portals: Inconsistencies and other problems	28			
4.4	Removing the disclaimer clauses in the India Code Portal	29			
<b>5</b>	<b>OTHER FACTORS IMPACTING ACCESS TO LAWS</b>	<b>30</b>			
5.1	Social and Cultural Barriers	31			
5.2	Civil society and dissemination of laws	31			
5.3	Judicial precedents and dissemination	32			
<b>6</b>	<b>INTERNATIONAL PERSPECTIVE</b>	<b>34</b>			
6.1	Improving accessibility of legal information	35			
6.2	Other facets to accessibility	36			
6.3	Lessons for India	38			
<b>7</b>	<b>TECHNOLOGY AND ACCESS TO LAWS – THE FUTURE</b>	<b>39</b>			
7.1	Tools that can be added	40			
7.2	Tools for tomorrow	42			
<b>8</b>	<b>CONCLUSION AND RECOMMENDATIONS</b>	<b>43</b>			
8.1	Platform approach – integrating the single source for laws	44			
8.2	Transforming the India Code Portal to a single source for laws	45			
8.3	A policy for publication of laws and subordinate legislation	46			
8.4	Creating an incentive	48			
8.5	State capacity and dissemination – Role of the government	49			
8.6	Guidance for Recommendation	50			

# INTRODUCTION

Laws govern our day-to-day life directly and indirectly. Rights and obligations are created and enforced through laws. Every citizen encounters a legislation's impact at one point or another. A citizen's life is deeply tethered to laws, hence the importance of disseminating laws cannot be understated. Information is empowerment and citizens have the right to know the contents of legislations that govern their everyday lives. Effective dissemination of laws will provide clarity to all citizens on their personal and economic freedoms. Access to justice involves multiple dimensions, one of which is access to laws. Only when there is awareness about the laws, can citizens use the law to enforce their rights.

In India, there are various sources of law. Primary legislations, judgments, and delegated legislation are all sources of law. The myriad range of subordinate legislation presents a challenge. Accessing and disseminating laws in India will involve collating all the existing primary and subordinate legislations, ranging from municipal laws to central legislations. The first step in making laws available to all citizens is to ensure that there is free and reliable access to laws.

In this paper, we look at access to laws from different viewpoints and reiterate why a single source for laws is important.

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Section 2      we make a case for the need for a single source for laws to enhance the rule of law.

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Section 3      we highlight the challenges faced by administrative departments that hinder effective dissemination of laws. Building a single source for laws involves cohesion between different wings of the government. When we refer to the term 'single source' we mean a single point of access that provides authentic, consolidated, up-to-date versions of laws, rules, and regulations (central, state and municipal), applicable in India.

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Section 4      Governments should ensure that any approach for dissemination of laws is inclusive and citizen centric. Government websites use disclaimer clauses, negating the purpose of meaningful dissemination of laws. Section 4 engages with the motive behind such disclaimer clauses and underlines why these clauses should be sparsely used. Section 4 will also discuss the India Code Portal and the journey it took to improve dissemination of laws. We also discuss improvements to the existing India Code Portal and provide suggestions on how to transform it to the single source for laws in India (Section 4 and 8).

Section 5 Linguistic differences and lack of digital literacy act as barriers to access information and understand it. Section 5 discusses these obstacles and emphasises why they should be acknowledged. The work done by civil society organisations in overcoming some of these hurdles will be highlighted in Section 5.

Section 6 provides a landscape of international best practices, and

Section 7 briefly surveys the future of dissemination of laws using technology.

*The core recommendation of this paper is the creation of a single authenticated source for all Indian laws.*

The core recommendation of this paper is the creation of a single authenticated source for all Indian laws. This was also recommended in the NITI Action Plan for India, under improving rule of law.<sup>1</sup> One of the basic elements of rule of law is making laws available widely and ensuring that they are clear and certain.<sup>2</sup> The aspects of availability, clarity and certainty are important as the same is required to balance the responsibility placed on citizens to remain informed.

As transactions in the justice system are increasingly carried out digitally, including submitting forms to authorities and courts, electronic filing of petitions, etc. there is a need for a trusted online source for laws.

While there is emphasis on ensuring all legislations are available, the focus should also be on how this information is designed for consumption. It will not benefit citizens if the government merely updates their respective websites with legislations. Legal design that is focused on the digital accessibility of laws is important. Legal design is critical in engaging with legal comprehension.<sup>3</sup> Thus, jurisdictions across the world have developed an awareness towards enhancing legal design, enabling them to re-calibrate the justice system as a citizen centric one. Our recommendations on improving the legal design for digital publication and dissemination of Indian laws is also provided in this paper (Section 3,6 and 8).

**SINGLE SOURCE  
FOR LAWS  
TO PROMOTE  
RULE OF LAW**

1 NITI Aayog. 2017. *India Three Year Action Agenda 2017-18 to 2019-20*. New Delhi: Government of India, p. 129-130. Available online at [https://niti.gov.in/sites/default/files/2018-12/India\\_ActionAgenda.pdf](https://niti.gov.in/sites/default/files/2018-12/India_ActionAgenda.pdf) (accessed on 1 October 2020).

2 Harish Narasappa. 2018. *Rule of Law in India: A Quest for Reason*. New Delhi: Oxford University Press, p. 138.

3 Michael Doherty. 2020. 'Comprehensibility as a Rule of Law Requirement: the role of legal design in delivering access to law', *Journal of Open Access to Law*, 22 February, available online at <https://ojs.law.cornell.edu/index.php/joal/article/view/100> (accessed on 1 October 2020).

Theoretical foundations classify approaches to rule of law as thin and thick theories of rule of law. While the thick theories broach the topic of substantive provisions associated with laws, the thin theories are focused on procedural aspects.<sup>4</sup> This includes the following:

- (a) all laws must be generally applicable;
- (b) laws must be clear, stable and prospective;
- (c) the laws must be enforced and fairly applied;
- (d) the process of making and enforcing laws should be clear;
- (e) the laws must be reasonably acceptable to a majority of the populace; and
- (f) the institutions making and enforcing laws should also be governed by the laws.<sup>5</sup>

It is clear certain aspects of rule of law ensures laws must be certain, stable, declared clearly and in advance. These elements are important as it lends credibility to the laws in force and allows for clarity regarding rights. While laws ought to be certain and declared in advance, their mode of dissemination will be crucial as this is the central mechanism to bring awareness about the laws to its citizens. Thus, building the single source for laws would function as an authenticated source for laws. Further, it can assist in improving rule of law in the following ways as noted below.

## 2.1 ASSISTING IN THE PUBLICATION OF LAWS IN THE INFORMATION AGE

An important aspect of the single source is leveraging information technology for effective dissemination of laws. Dissemination of laws is recognised as a natural justice principle. The Supreme Court of India in *Harla v. The State of Rajasthan*<sup>6</sup> stressed the importance of promulgating or publishing the law. The Supreme Court held:



'Natural justice requires that before a law can become operative it must be promulgated or published.'

The Supreme Court further noted:

'The thought that a decision reached in the secret recesses of a chamber to which the public have no access and to which even their accredited representatives have no access and of which they can normally know nothing, can nevertheless affect their lives, liberty and property by the mere passing of a Resolution without anything more is abhorrent to civilised man.'

*There is an explosion of information online. . . A single authentic consolidated digital source of laws would remove this uncertainty.*

there is some provision made for the dispensation of official gazette notification, none of the rules in the Ministry of Corporate Affairs PDF document that are not yet gazetted can be said to be in force.'

In another judgment, the Bombay High Court, while discussing the statement of notification of rules under the Companies Act, 2013, which were issued without being published in the gazette,<sup>7</sup> observed the following:

'That publication is not an idle formality. It has a well-established legal purpose. That purpose is not and cannot be achieved in this ad-hoc manner. Therefore, till such time as these rules are gazetted, or

there is some provision made for the dispensation of official gazette notification, none of the rules in the Ministry of Corporate Affairs PDF document that are not yet gazetted can be said to be in force.'

These two judgments make it clear that only legislations that are gazetted and published are said to be in force. Further, these judgments reveal that there are issues impacting certainty of legislations and this has a ripple effect on implementation and clarity as to whether a legislation is in force.<sup>8</sup> The issue of what qualifies as publication of laws in the digital age is yet to be resolved. While it is clear legislations ought to be gazetted, given that there are multiple ministries and government department websites, there needs to be clarity about the digital publication of laws. There is an explosion of information online. As noted by the Bombay High Court, rules are uploaded without being gazetted, and practices such as these will add to the lack of clarity on publication of laws. A single authentic consolidated digital source of laws would remove this uncertainty.

## 2.2 ENHANCING THE RIGHT TO KNOW

The need for accessible legal information is vital because many legal jurisdictions follow the Latin maxim *ignorantia legis neminem excusat* (ignorance of the law is no excuse) to varying degrees.<sup>9</sup> The fundamental right to information and to know stems from the right to freedom of speech and expression under Article 19(1)(a). A statutory manifestation of the above right to know has come about in the form of the Right to Information Act, 2005 (RTI). The introduction to the RTI sets out the need to secure access to information under the control of public authorities, to promote transparency and accountability in the working of every public authority. It also mentions that democracy requires an informed citizenry and transparency of information which is vital to its functioning.

4 Narasappa, *Rule of Law in India: A Quest for Reason*, p. 6.

5 Narasappa, *Rule of Law in India: A Quest for Reason*, p. 7.

6 *Harla v. State of Rajasthan*, AIR 1951 SC 467.

7 Judgment dated 8 May 2014 in 'Company Summons for Direction No.256 of 2014' as cited in Harish Narasappa. 2018. *Rule of Law in India: A Quest for Reason*.

8 Narasappa, *Rule of Law in India: A Quest for Reason*, p. 132.

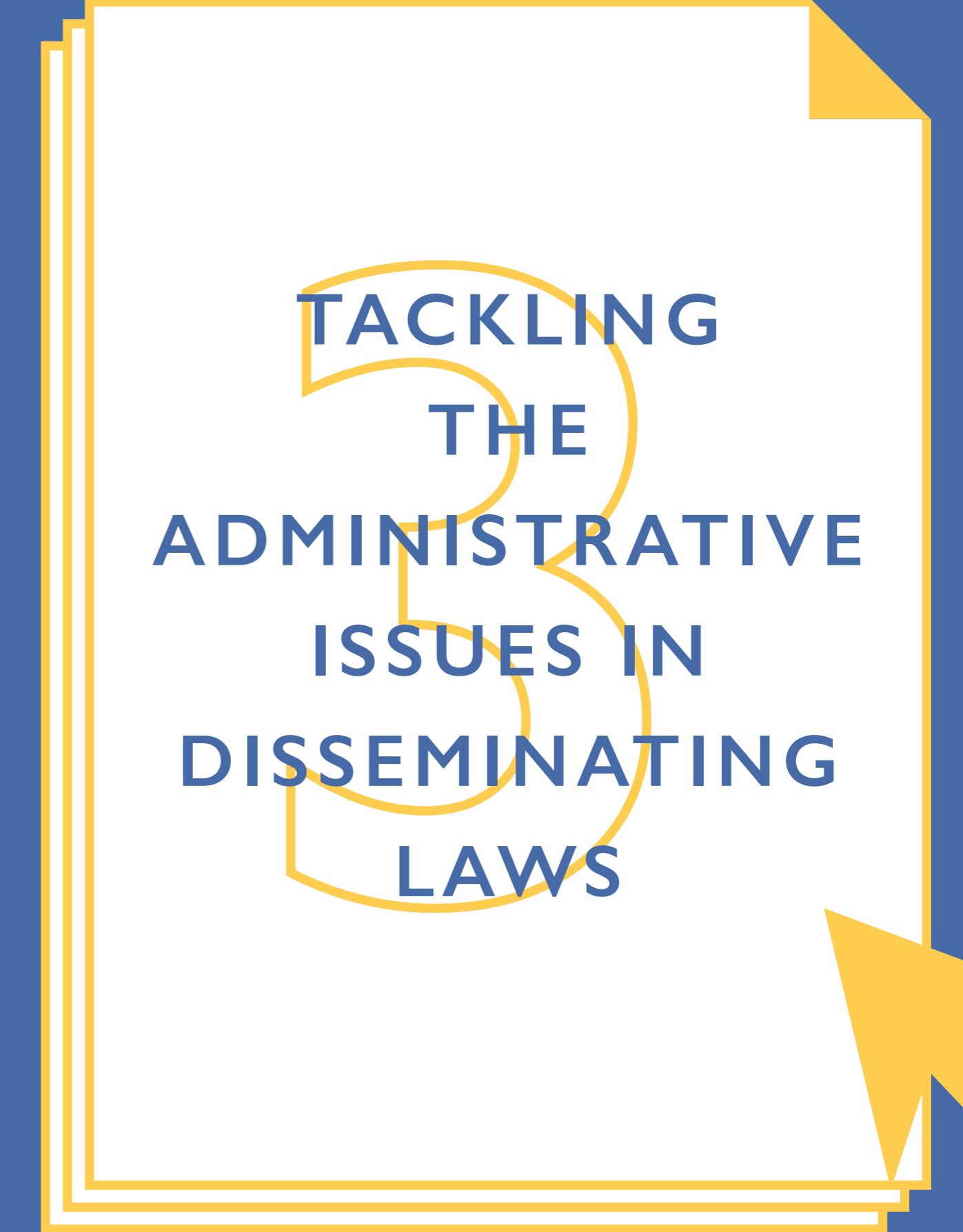
9 Justice Michael Moore, 'Free access to law and the development of the rule of law in Asia', at Sydney, Australia (25 February 2009).

In *Union of India v. Vansh Sharad Gupta*, the Delhi High Court heard the challenge to an order passed by the Central Information Commission (CIC). The CIC order insisted on availability and easy accessibility of laws to all citizens to ensure their right to know. The Delhi High Court upheld the CIC order and termed the same fair, reasonable and intending to promote the rule of law.<sup>10</sup> The Supreme Court in *Swapnil Tripathi v. Union of India*, also recognised the obligations on the state to spread awareness about the law.<sup>11</sup> Dissemination of laws is a state obligation and a well-settled principle, recognised within the ambit of right to know under Article 19 (1)(a) of the Constitution of India. The single source for laws will allow for an access mechanism to all the laws at one place, allowing for ease of dissemination and enhancing the citizen's right to know.

### 2.3 NEED TO PROMOTE ACCESS, CLARITY, AVAILABILITY, AND CERTAINTY OF ALL LAWS

There are illustrations that demonstrate the grave need for an authenticated single source for laws. For instance, there are various Supreme Court and High Court judgments which have been delivered based on pre-amended versions of laws and have later been noticed to be *per incuriam*.<sup>12</sup> This is because the consolidated, as-amended versions of those laws may not have been easily available to the parties, their counsel and the courts. Similarly, a Central Government notification mistakenly referred to a provision of an Act which was deleted by a prior amendment.<sup>13</sup> In *Mumbai Grahak Panchayat and Another v. State of Maharashtra and Others*,<sup>14</sup> it was identified that the lower judiciary in Maharashtra did not have adequate access to laws. This is a cause for concern, as judges who do not have access to an authenticated source for laws will have to rely on lawyer's copies and this may impact dispensation of justice and rule of law.

The above illustrations indicate that the issue at hand affects government administration (and in turn, citizens) as well. Thus, the single source for laws will benefit the rule of law framework in terms of improving accessibility, clarity and availability of all legislations. Further, the Government of India (Allocation of Business) Rules, 1961, framed under Article 77(3) of the Constitution of India, *inter alia* sets out that the Central Government (specifically the Legislative Department of the Ministry of Law and Justice) is responsible for compiling, publishing and translating Central Acts, Ordinances, Regulations, Orders, Rules, Bye-Laws and other similar publications.<sup>15</sup> Thus, it is the government's responsibility to compile and publish authoritative texts of the various primary and subordinate legislations.



# TACKLING THE ADMINISTRATIVE ISSUES IN DISSEMINATING LAWS

<sup>10</sup> Union of India v. Vansh Sharad Gupta, MANU/DE/1430/2016.

<sup>11</sup> Swapnil Tripathi v. Union of India, (2018) 10 SCC 639.

<sup>12</sup> Rohtas Bhankar v. Union of India, (2014) 3 SCC 122; and Narayanappa v. Assistant Commissioner, (2017) ILR Karnataka 485, all noting that earlier decisions did not take into consideration a relevant amendment.

<sup>13</sup> G.S.R. 538(E) dated 1st June, 2017, by the Ministry of Finance refers to Section 73(2)(h) of the Prevention of Money-Laundering Act, 2002, which clause was in fact deleted/omitted in 2013 by Act 2 of 2013 (S. 29). See <http://egazette.nic.in/WriteReadData/2017/176407.pdf> and [http://legislative.gov.in/sites/default/files/A2003-15\\_0.pdf](http://legislative.gov.in/sites/default/files/A2003-15_0.pdf).

<sup>14</sup> Mumbai Grahak Panchayat & Anr. v. State of Maharashtra & Ors., (2017) SCC OnLine Bom 726.

<sup>15</sup> See Government of India (Allocation of Business) Rules, 1961, available at [https://cabsec.gov.in/writereaddata/allocationbusinessrule/completeaobrules/english/1\\_Uload\\_1800.pdf](https://cabsec.gov.in/writereaddata/allocationbusinessrule/completeaobrules/english/1_Uload_1800.pdf) (accessed 1 October 2020).

### 3.1 LAW-MAKING, REDUNDANT LAWS, AND DISSEMINATION

Dissemination is closely related to law-making, especially when there are numerous laws made at the state and central level. The broader issue of law-making merits its own individual analysis, which is beyond the scope of this paper. This sub-section will provide a brief overview of how dissemination is impacted by some factors that are related to law-making. This includes redundant legislations, a large number of legislations, and lack of enforcement schedules within legislations. These factors cause confusion as to what legislation and what provisions are in force, at a given point of time.

The Indian system is permeated by statutory laws and administrative laws, for example, government orders, rules, and regulations.<sup>16</sup> The administrative laws can also be categorised as subordinate legislations. After the commencement of the Constitution of India ('Constitution'), around 3,701 central laws have been enacted.<sup>17</sup> Some sources state that there are more than 1,000 central legislations and 15,000 state legislations in India.<sup>18</sup> This sheer volume would leave even judges and lawyers out of depth. The importance of making these legislations available at one authenticated source gains more purpose, if one realizes that India is over-legislated.

In addition to the growing number of new legislations, not repealing redundant/obsolete legislations will result in lack of clarity as to what laws are in force. India does not follow the legal principle called 'desuetude', which allows for ruling that a statute has no legal effect, if not enforced for a long time.<sup>19</sup> Thus, in India a statute will have to be specifically repealed.<sup>20</sup> There were 2,781 central legislations in force as on 2014, out of which 1,741 central legislations were recommended for partial or total repeal.<sup>21</sup> In some cases, certain specific sections within a statute which have fallen into disuse need to be repealed and this will require a considerable level of effort. The central government constituted a committee ('Central Government Committee') to deal with the problem of redundant laws. The committee stated that some provisions in a statute were drafted but never enforced, and there are no paperwork references to indicate whether those provisions are in force or not.<sup>22</sup> Thus, the report of the Central Government Committee reveals the complicated issues of administrative functioning in the dissemination process.

An example that elaborates the importance of streamlining the enforcement of legislations will be the Companies Act, 2013. When this Act was introduced, 98 sections were brought into force first without any clarity on when the entire new company legislation will come into force.<sup>23</sup> Consequently,



various provisions were brought into force with no particular order, causing confusion, and this culminated in the Ministry of Corporate Affairs issuing a number of clarifications.<sup>24</sup>

Effective dissemination and publication of laws is impacted by the following factors. Over-legislating increases the ambiguity of what is to be disseminated. This is linked to redundant laws and redundant provisions that are not repealed specifically. This problem is accentuated when there is no paperwork or transparent administrative mechanism that allow us to conclude which laws and which provisions are in force. When new legislations are made, dissemination should happen in tandem with the enforcement schedule that ought to be drawn up for such legislations.

### 3.2 DISSEMINATION OF SUBORDINATE AND STATE LEGISLATIONS

The situation with respect to state legislations is worse than that of the central government.<sup>25</sup>

*'So the monopoly of publishing statutes is vested with the government... The point is that, given its monopoly, the government makes a mess of the business of publishing statutes, except the major ones. Hence the state-level statutes are neither published nor available.'*<sup>26</sup>

There is no clear consensus on the number of state legislations.<sup>26</sup> In terms of the copyright vested in the government under the Copyright Act, 1957, it is the government's right to publish the statutes.

Bibek Debroy summarises

the government's efforts in disseminating state legislations as follows:

16 Bibek Debroy. 2001. 'Why we need law reform', available online at <https://www.india-seminar.com/2001/497/497%20bibek%20debroy.htm> (accessed 1 November 2020).

17 Prime Minister's Office. 2014. *Report of the Committee to identify the Central Acts which are not relevant or no longer needed or require repeal/re-enactment in the present Socio-Economic context*. New Delhi: Government of India, p. 6. Available online at <https://www.pmindia.gov.in/wp-content/uploads/2015/01/Extracts-of-the-Committee-of-the-Report-Vol-I.pdf?query%20> (accessed 1 October 2020).

18 Chakshu Roy. 2013. 'The law and short of it', PRS Legislative Research, 23 May. Available online at <https://www.prssindia.org/theprsblog/law-and-short-it> (accessed on 1 October 2020).

19 Debroy, 'Why we need law reform'.

20 Debroy, 'Why we need law reform'.

21 Prime Minister's Office, Report of the Committee to identify the Central Acts which are not relevant or no longer needed or require repeal/re-enactment in the present Socio-Economic context, p. 2.

22 Prime Minister's Office, Report of the Committee to identify the Central Acts which are not relevant or no longer needed or require repeal/re-enactment in the present Socio-Economic context, p. 609.

23 Narasappa, *Rule of Law in India: A Quest for Reason*, p. 131.

24 Narasappa, *Rule of Law in India: A Quest for Reason*, p. 131.

25 Debroy, 'Why we need law reform'.

26 Debroy, 'Why we need law reform'.

27 Debroy, 'Why we need law reform'

*P.C. Jain Committee,  
appointed to take stock  
of administrative law  
reform, noted that they had  
no access to some of the  
subordinate legislations.*

There is also a marked difference in dissemination of primary legislation and subordinate legislation in India. In certain cases, excessive amendments of subordinate legislations make it very difficult to keep track of what is the existing status quo regarding a provision. For instance, from January 2000 to January 2012, the RBI is said to have amended the regulations issued under the Foreign Exchange Management Act, 1999 for a total of 290 times.<sup>28</sup> This culminated in RBI issuing a master circular every year for different regulations, although the same is not useful to track when each amendment was made to a regulation.<sup>29</sup>

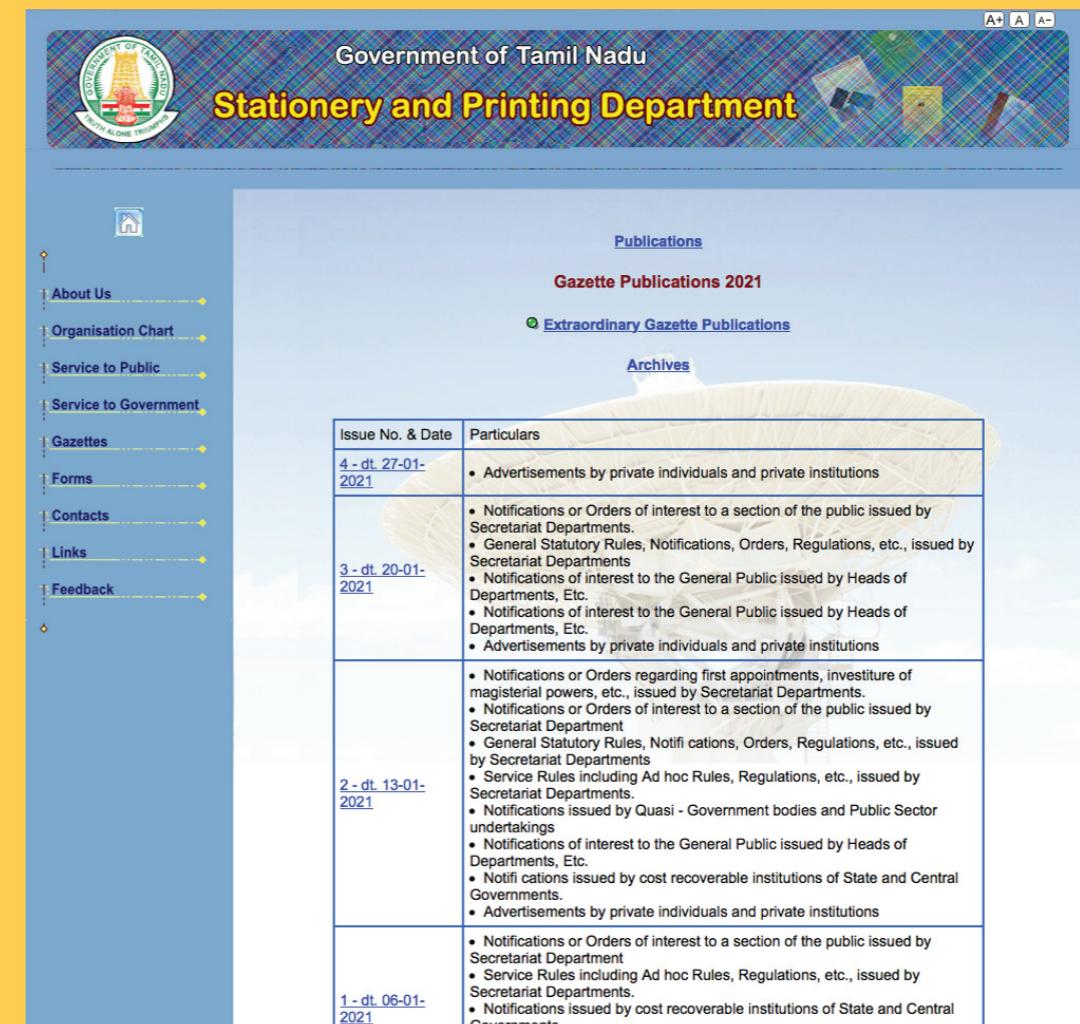
The subordinate legislations are not always disseminated widely. For example, the P.C. Jain Committee, appointed to take stock of administrative law reform, noted that they had no access to some of the subordinate legislations.<sup>30</sup> Further, the committee also observed that even the legislative department did not have access to all the rules, notifications and procedures issued.<sup>31</sup> If this is a problem encountered by a government committee, one can imagine the plight of the common citizens as regards effective access to subordinate legislations. Any plan to reimagine effective dissemination of laws in India, should encompass within its ambit state level laws, their subordinate legislations as well as municipal level notifications, circulars, etc.

### 3.3 ELECTRONIC GAZETTES AND DISSEMINATION

Gazette departments at the central and state level are in charge of publishing laws. The gazettes are now digital and the published laws are available online.<sup>32</sup> The central gazette department comes under the Department of Publication associated with the Ministry of Housing and Urban Affairs. While the central gazette website provides the links to state gazettes, there is a disclaimer clause stating contents on state gazette links are not the responsibility of the central gazette department. These disclaimer clauses are discussed in detail in Section 4 below.

The Central Secretariat Library made efforts to digitise the gazette for wider reach and easier access.<sup>33</sup> Digitisation of the gazette is a step in the right direction. One also needs to examine whether electronic gazette publication is citizen friendly. While electronic gazette is a welcome step in ensuring that a digital database of laws is maintained, the publication of laws is not categorized according to subject matter and is not available in a user-friendly manner. Therefore, in the larger context of increasing and improving effective access, electronic gazettes are not the solution. The

IMAGE I : TAMIL NADU GAZETTE PHOTO



28 Narasappa, *Rule of Law in India: A Quest for Reason*, p. 134.

29 Narasappa, *Rule of Law in India: A Quest for Reason*, p. 134.

30 Department of Administrative Reforms and Public Grievances. 1998. *Report of the Commission on Review of Administrative Laws*. New Delhi: Government of India, p.

4. Available online at [https://darpg.gov.in/sites/default/files/Review\\_Administrative\\_laws\\_Vol\\_1.pdf](https://darpg.gov.in/sites/default/files/Review_Administrative_laws_Vol_1.pdf) (accessed on 1 November 2020).

31 Department of Administrative Reforms and Public Grievances. Report of the Commission on Review of Administrative Laws.

32 Gazette of India. Available online at [egazette.nic.in](http://egazette.nic.in) (accessed on 6 August 2020).

33 'Gazette of India: Central Secretariat Library (CSL), Government of India', available online at <http://csl.nic.in/page/innerpage/gazette-of-india.php> (accessed on 6 August 2020).

**IMAGE 2:  
ANDAMAN  
GAZETTE  
PHOTO**

Andaman & Nicobar Gazette		Subject
Date	No.	
02/06/2009	83	Notification to sanction one post of Chief Judicial Magistrate in North & Middle Andaman District
24/08/2008	147	Appointment of Shri P.G.Dutta, Secy(Law) as Member Secretary of the Andaman & Nicobar State Legal Services Authority
21/07/2008	82	Creation of Group 'A', 'C' & 'D' posts under the plan scheme for a period upto 28.02.2009 in various grades for establishing Additional District & Sessions Court at Port Blair
26/12/2007	288	Partial modification of Administration's Notification No.189/2006/F/No.1-252/7/2005/TS/SM/RTI-2005 dt. 25/09/2006
19/04/2006	78	Corrigendum to Notification No.343/2005/F/No.8-3/2003-TW dt. 19/04/2005
09/03/2006	42	Effective date of Amendment Regulation
31/01/2006	26	Amendment Regulation 2005
18/10/2005	292	Reservation of 30% jobs in the services of the A & N Admin. for OBCs
16/12/2005	354	1. Form to obtain OBC Certificate 2. Format of OBC Certificate 3. Schedule 4. Office Memorandum dated 22/10/1993 5. Office Memorandum dated 09/03/2004
31/01/2005	17	Telecommunication as a Miscellaneous Trade
15/09/2004	165	Amendment to Notification No.274/60/150-5/60/G dated 05-12-1960
23/02/1994	14	Reserved areas in South & Middle Andaman
10/09/1991	108	A & N Commission for Other Backward Classes
		Amendments to the Notification No.ANPATR/3(1)/1 dated 2nd April,1957

problem with dissemination is deep-rooted due to the design of the website interface not being user-friendly. To emphasise why an electronic database of laws should be citizen friendly, we will have to bear in mind how many legislations have numerous associated amendments. For instance, for legislations like the Indian Penal Code, which have had several amendments over the years, it becomes difficult to read a law in its entirety, if the users will have to track all relevant amendments.

In addition to issues of user interface, a cursory look at the state gazette departments will tell us that dissemination of laws is not the sole focus of these departments. For instance, the Tamil Nadu department that undertakes printing of gazette publications also has other state documents and forms that are published alongside.<sup>34</sup> All the publications are often released together on the Tamil Nadu gazette website, along with executive rules and notifications which are connected to state legislations. The Andaman and Nicobar gazette website has not been updated in ten years.<sup>35</sup> Even updated state gazettes like Tamil Nadu and Andhra Pradesh fail to make the task of understanding the content a seamless process. The exact notification or rules often need to be trawled from the website archives. This is not a user-friendly design, especially when one considers that the objective is to disseminate laws to the common citizen.

### 3.4 ANALYSING THE ADMINISTRATIVE CHALLENGES

The administrative challenges for dissemination as outlined in this section are formidable. Though the single source for laws cannot remedy issues of over-legislation, it can enhance clarity of laws by publishing only laws that are in effect. The first step in the administrative realm to improve dissemination is a dedicated wing in the gazette (state and central) departments. This wing should be informed about the laws that are in force and then proceed to disseminate the same.

Current mechanisms for disseminating state legislations and subordinate legislations are not sufficient. For instance, the Central Government Committee emphasized that efforts to clarify which state legislations are in force and how to streamline the same will fall under the ambit of the respective state governments.<sup>36</sup> This calls for routine monitoring by the various state governments to clarify which state laws are in force. State governments need to monitor the laws in force and consequently coordinate with the relevant authority to make all the gazette legislations accessible from a single source.

<sup>34</sup> 'Stationery and Printing Department, Government of Tamil Nadu', available online at <http://www.stationeryprinting.tn.gov.in/aboutus.php> (accessed on 6 August 2020). (See Image 1).

<sup>35</sup> Andaman & Nicobar Gazette, available online at <http://www.and.nic.in/Administration/gaz/gazette.htm> (accessed 6 August 2020). (See Image 2).

<sup>36</sup> Prime Minister's Office. Report of the Committee to identify the Central Acts which are not relevant or no longer needed or require repeal/re-enactment in the present Socio-Economic context, p. 607,608.

## HOW IT IS CURRENTLY:

INDIA CODE PORTAL

YEAR	DESCRIPTION	FILES
12-09-2015	Commencement Notification Of Companies Act 2013	
20-09-2015	Companies (Removal of Difficulties) Order,2015	
27-02-2014	Notification relating to amendments of Schedule VII of Companies Act, 2013	
27-02-2014	Notification relating to effective date of provisions of section 155 and Schedule VII of Companies Act, 2013	
27-05-2014	Commencement Notification of the Companies Act, 2013	
31-03-2014	Corrigenda to Notification no. GSR 1956 dated 27.02.2014 regarding Schedule VII w.r.t CSR Activities	
31-03-2014	Notification for Amendment to Schedule II	

**DISCLAIMER:** Updating and uploading of all Central Acts available on this web page is the proprietary of the Legislative Department in the Ministry of Law and Justice.  
The updating and uploading of Rules, Regulations, Notifications, etc., and linking them with relevant sections of the respective Principal Act under which the said subordinate legislations have been made is the proprietary of the concerned Ministry/Departments in the Government of India administering subject matter of the Legislation.

## HOW IT COULD BE:

'AKOMA NTOSO' HAS BEEN IMPLEMENTED BY SOME JURISDICTIONS SUCH AS THE U.K

**CHANGES OVER TIME**

This feature enables to scroll through the amendments with ease and efficiency. You can see all the corresponding amendments in a text box below

**What Version**

- Latest available (Revised)
- Point in time
- Original (As enacted)

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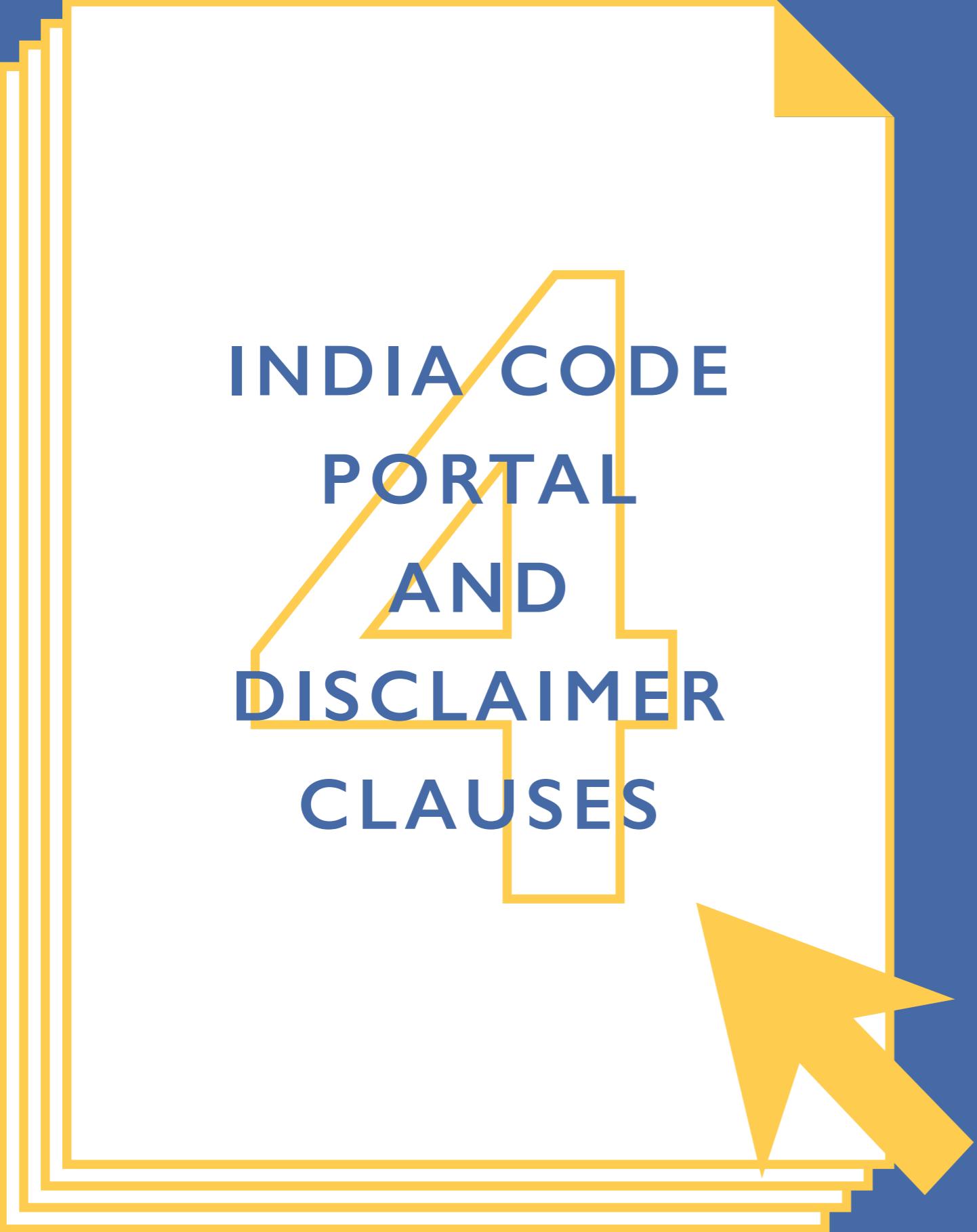
## 3.5 USING 'AKOMA NTOSO'

Legislations can be understood comprehensively only when all related legislations are consolidated in a cohesive manner. It is important to elevate legal design in the single source website to ensure citizen-centric accessibility. In terms of the goal to improve citizen-centric access, e-gazettes in their current form may not be the comprehensive solution. The U.N.-accepted standard like 'Akoma Ntoso' (an open source global standard) or any other comparable standard for Indian laws could be one option to improve effective accessibility of the laws.<sup>37</sup> Akoma Ntoso is a framework for enabling machine readable parliamentary, legislative, and judiciary documents such as legislation, judgments, etc. It allows for robust access to these documents by providing advanced functionalities like 'point-in-time' legislation. This will enable many advantages which come with technology standardisation, including ease of cross-referencing, interoperability, and viewing the version of a legislation in force as of a particular date.<sup>38</sup> The feature of viewing the legislation in force as of a particular date is of particular importance to practitioners since the cause of action may have occurred in the past, prior to amendments of the relevant law. A '360 degree' view of any Act or subordinate legislation is hence required, whereby the relevant Bill, originally enacted text, and any amendments are all available to view, and the text in force as of any particular date can easily be viewed. This has already been implemented by some jurisdictions such as the U.K and the U.S.A.<sup>39</sup>

<sup>37</sup> Akoma Ntoso, available at <http://www.akomantoso.org/> (accessed on 1 October 2020).

<sup>38</sup> Akoma Ntoso, available at [http://www.akomantoso.org/page\\_id=39](http://www.akomantoso.org/page_id=39) (accessed on 1 October 2020).

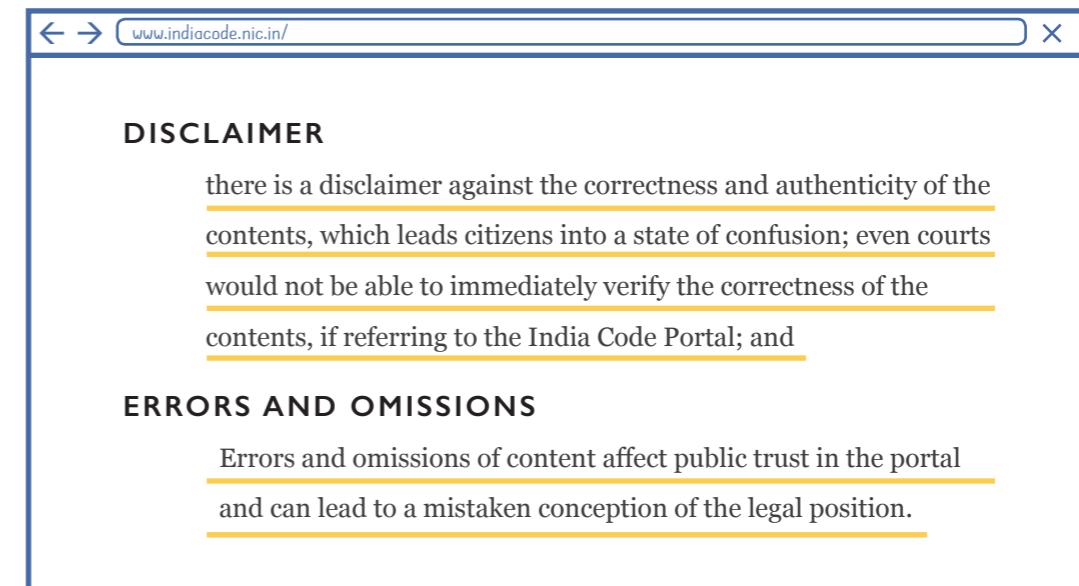
<sup>39</sup> UK Legislation Portal, available at <https://www.legislation.gov.uk/ukpga/2006/46/introduction/2018-01-01>, <https://ecfr.federalregister.gov/reader-aids/using-ecfr> (accessed on 1 October 2020).



# INDIA CODE PORTAL AND DISCLAIMER CLAUSES

## 4.1 INDIA CODE PORTAL

India Code Portal is a catalogue of all the central and state enactments and other subordinate laws in force.<sup>40</sup> The India Code Portal aims to bring within its ambit all the existing Indian laws to allow for easy dissemination. In a way, the portal is an attempt to bring about a single source for laws and this section will discuss the improvements that can be made to the portal. Despite the steps taken by the Government of India, the India Code Portal has two important shortcomings which require to be addressed:



Disclaimer clauses in the India Code Portal and other gazette websites are dealt with exhaustively in Section 4.2. Here we will briefly look at the errors and omissions that are identified in the portal. In the India Code Portal, certain laws such as the Indian Telegraph Rules, 1951, and several rules, regulations, notifications and circulars (and amendments to the same) under the Consumer Protection Act, 2019, Drugs and Cosmetics Act, 1940, Foreign Exchange Management Act, 1999, Food Safety and Standards Act, 2006, Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933, and Legal Metrology Act, 2009, among other laws, are not available.<sup>41</sup> Further, the numerous COVID-19-related guidelines, orders, other subordinate legislation and frequent amendments to the same, which are essential to daily life in India today, under the Disaster Management Act, 2005, have not been uploaded on the portal.<sup>42</sup>

40 India Code Portal, available at <https://www.indiacode.nic.in/> (accessed 1 October 2020).

41 As on September 2020.

42 As on September 2020.

Importantly, as regards subordinate legislation, the primary rules/regulations are being published separately from the amendments (which may run into hundreds), leaving the reader the mammoth task of having to manually consolidate the same to arrive at the latest legal position. Further, many of these materials have been uploaded in scanned form and are not clearly legible.<sup>43</sup> Since subordinate legislations often contain the practical do's and don'ts of legal compliance, it is imperative that all such subordinate legislations be available on the India Code Portal. Further, it is an unreasonable burden cast upon the citizen to manually piece together all the amendments, particularly since some of the regulations are frequently amended or highly sector-specific.

## 4.2 DISCLAIMER CLAUSES

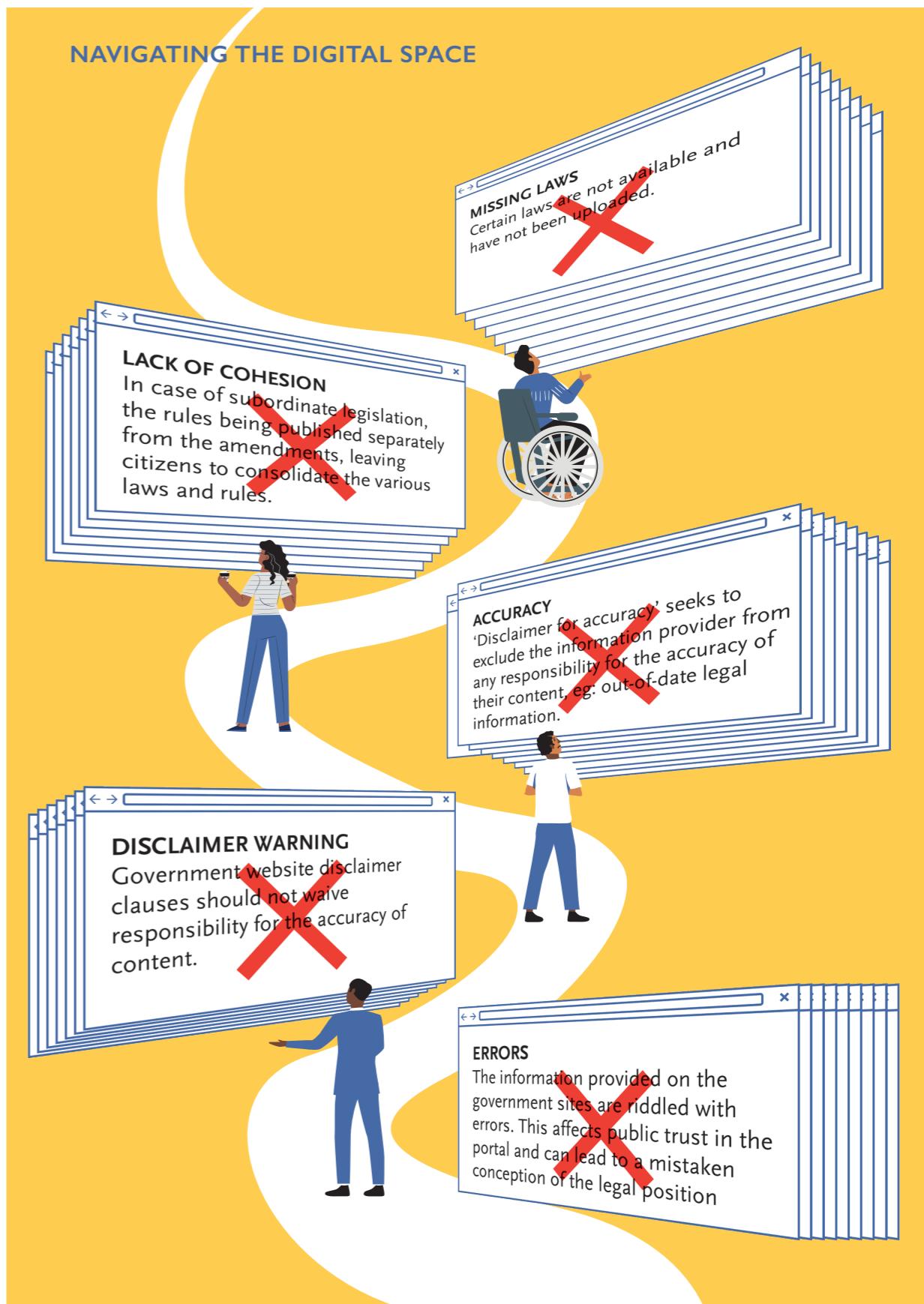
Disclaimer clauses on legal information sites come in two major forms:

- (i) Disclaimer for accuracy, and (ii) Disclaimer for legal advice.

The 'disclaimer for accuracy' seeks to exclude the information provider from any responsibility for the accuracy of their content. For example, the India Code Portal disclaims responsibility as to the '...accuracy, completeness or adequacy of any such Material or the same being up-to-date.'<sup>44</sup> Primarily, this type of disclaimer is a consequence of both the vast amounts of legislation that are promulgated and discrepancies, if any, within the contents of the legislation. Particularly when different parts of the legislative scheme are partly consonant and dissonant with one another, it is difficult to know whether and to what extent the doctrine of implied repeal applies.

Two important points arise from the disclaimer for accuracy. Such a clause protects the information provider from liability for out-of-date legal information. For instance, if a repealed legislation is still available, the disclaimer can be useful to avoid any liability. Unless there is significant investment in ensuring that there is no delay between the effective date on which a law is brought to force or repealed and the same is updated on the dissemination portal, this problem is unlikely to be solved. Further, the responsibility to ensure accurate information is uploaded should also be affixed on the requisite government representatives/departments. Secondly, the accuracy disclaimer clause may also reflect legal interpretation issues. This can arise when courts also have the power to amend a legal provision and the website may want to use a disclaimer to denote that precedents will also impact the definitive interpretation of the legislative scheme.

The second type of disclaimer clause highlights to the users that the information on the site is



<sup>43</sup> E.g., notifications under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, available at [https://upload.indiacode.nic.in/showfile?actid=AC\\_CEN\\_10\\_10\\_00002\\_197680\\_1517807318455&type=notification&filename=Description%20of%20the%20area%20of%20sea%20limits%20historic%20waters%20of%20India%20Jan%2015%201977.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_10_10_00002_197680_1517807318455&type=notification&filename=Description%20of%20the%20area%20of%20sea%20limits%20historic%20waters%20of%20India%20Jan%2015%201977.pdf) and [https://upload.indiacode.nic.in/showfile?actid=AC\\_CEN\\_10\\_10\\_00002\\_197680\\_1517807318455&type=notification&filename=Notification%20regarding%20Maritime%20Boundary%20Agreement%20between%20India%20and%20other%20States.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_10_10_00002_197680_1517807318455&type=notification&filename=Notification%20regarding%20Maritime%20Boundary%20Agreement%20between%20India%20and%20other%20States.pdf); see also the notification of the Credit Information Companies Rules, 2006 (see page 36), available at [https://upload.indiacode.nic.in/showfile?actid=AC\\_CEN\\_2\\_11\\_00003\\_200530\\_1517807317795&type=notification&filename=credit\\_information\\_companies\\_act\\_rules\\_and\\_regulation\\_notification\\_dated\\_14.12.2006\\_.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_2_11_00003_200530_1517807317795&type=notification&filename=credit_information_companies_act_rules_and_regulation_notification_dated_14.12.2006_.pdf). (As on September 2020).

<sup>44</sup> India Code Portal. Available at <https://www.indiacode.nic.in/disclaimer.jsp> (accessed 1 August 2020).

generic legal information as opposed to specific legal advice. In some jurisdictions, the disclaimer clauses are structured in a way to ensure that users understand that the content on the website is not legal advice and is only information.<sup>45</sup> The disclaimers are also used to waive any liability as regards third party website links provided within the websites. In some jurisdictions, disclaimer clauses are used to waive all responsibilities, including accuracy.<sup>46</sup> Some international law portals like Cornell Legal Information Institute, for example, specify their role by including sentences such as: 'While we do not offer legal advice, we try to develop systems that allows users from outside the legal profession to more easily access and understand the laws that govern them'.<sup>47</sup>

In jurisdictions around the world, the standard of legal advice is protected by specific rules applicable to qualified professionals. The problem is that the line between 'advice' and 'information' can be unclear. In India, the Legal Services Authorities Act 1987<sup>48</sup> include 'legal advice' in their definitions of legal services, but there is no further explanation provided. Given the level of uncertainty, it is not surprising that information providers are keen to avoid giving users even the slightest impression that they are offering legal advice. One solution to this problem may be to define the terms in the legislation and then overcome problems of circularity by providing detailed explanatory notes in official guidance.<sup>49</sup> For example, the Centre for Public Legal Education Alberta has produced a short pamphlet breaking down the difference between advice and information through a few effective examples. The pamphlet explains the distinction by examining common themes and exploring differences. So, for instance, with regards to 'research', showing people where to find cases and statutes is an example of providing 'information', but researching a point of law in cases similar to theirs can amount to giving 'advice'.<sup>50</sup>

#### 4.3 DISCLAIMERS IN INDIAN GOVERNMENT PORTALS: INCONSISTENCIES AND OTHER PROBLEMS

Disclaimers in Indian government websites vary in their exact phraseology, though they mostly follow the general pattern described above in terms of excluding liability for accuracy and stressing that they are not providing legal advice. The Gazette of India, where all Indian laws are supposed to be published, does not include a point about legal advice in its disclaimer. However, it insists that users rely on its material at their own risk.<sup>51</sup> There are differences in disclaimer clauses in various states' gazettes. For example, the Maharashtra gazette's section on 'Disclaimers and Policies' is highly detailed: it includes information about the platform's privacy policies, copyright information, and contains a denial of responsibility for the content hosted on the site. It also provides for a point of contact for the users in case they identify errors or discrepancies. However, as on date,<sup>52</sup>

*The single source for laws that is accurate and authentic as we envision in this paper, should use only disclaimer clauses that are limited in scope. The disclaimer clause should not waive responsibility for the accuracy of content, but rather be used for explaining why the portal is not providing legal advice.*

many of the links on the page are broken and produced error messages when clicked.<sup>53</sup> On the other hand, the disclaimer notices in Kerala's gazette are not as detailed, offering only a small footnote which disclaims

responsibility and holds that the information presented is not to be construed as '...authentic for [the purposes of] a legal scrutiny'.<sup>54</sup>

Another issue is that disclaimer notices are not conspicuously displayed on many of these websites. In the gazettes, website links to the disclaimer clauses are usually presented in small fonts at the bottom of the screen. If citizens are not able to rely on the laws, as they are presented to them, then this should be communicated clearly. Improving the visibility of disclaimers would ensure that citizens make informed choices to seek out other sources to verify the gazette's information. Clear standards should be developed to encourage consistency in disclaimers between state gazettes as well as the central gazette.

#### 4.4 REMOVING THE DISCLAIMER CLAUSE IN THE INDIA CODE PORTAL

The removal of disclaimers and correction of errors and omissions on the India Code Portal would increase public awareness of the laws, reduce errors in the administration of justice, and save excessive time and energy currently spent in ascertaining the latest version of a law. There must also be a protocol for time-bound uploading of full text of statutes on India Code Portal, as and when introduced or amended. The disclaimers on the India Code Portal must be removed so that the portal becomes a reliable and authentic source of information. The errors and omissions on the India Code Portal should be corrected, and all laws (including subordinate legislations) on the portal must be published in their as-amended versions. A communication should be sent to all Central and State government departments to provide updated material to the portal on a real-time basis and ensure that the information is always up-to-date.

45 Australia Legislation Portal. Available at <https://www.legislation.gov.au/Content/Disclaimer> (accessed 2 October 2020); Federal Ministry for Digital and Economic Advice, Austria. Available at <https://www.ris.bka.gv.at/Ui/ErvImpressumErv.aspx> (accessed 2 October 2020).

46 Singapore Government Portal. Available at <https://sso.agc.gov.sg/Terms-of-Use> (accessed 2 October 2020).

47 Cornell Law School. Available online at [https://www.law.cornell.edu/llii/about/what\\_we\\_do](https://www.law.cornell.edu/llii/about/what_we_do) (accessed on 1 August 2020).

48 Section 2, The Legal Services Authorities Act, 1987.

49 M. Perlmuter: 2017. 'Legal Advice vs. Legal Information: Clearing Up the Murky Water', Slaw, 26 September, available online at <http://www.slaw.ca/2017/09/26/legal-advice-vs-legal-information-clearing-up-the-murky-water/> (accessed 1 August 2020).

50 Centre for Public Legal Education Alberta. Available online at <http://www.cplea.ca/wp-content/uploads/LegalInfovsLegalAdvice.pdf> (accessed 1 August 2020).

51 The Gazette of India. (2020). Available online at [http://egazette.nic.in/\(S\(pg4axgya3kc32knxpmgsd4s\)/Disclaimer.aspx](http://egazette.nic.in/(S(pg4axgya3kc32knxpmgsd4s)/Disclaimer.aspx) (accessed 1 August 2020).

52 Accessed 1 August 2020.

53 Government of Maharashtra. (2020). Policies and Disclaimers. Available online at <https://dgps.maharashtra.gov.in/I051/%E0%A4%A7%E0%A5%8B%E0%A4%B0%E0%A4%A3%E0%A5%87-%E0%A4%86%E0%A4%A3%E0%A4%BF-%E0%A4%85%E0%A4%B8%E0%A5%8D%E0%A4%80%E0%A4%95%E0%A4%BE%E0%A4%80> (accessed 1 August 2020).

54 Government of Kerala. (2020). Kerala Gazette. Available online at <http://www.e-gazette.kerala.gov.in/> (accessed 1 August 2020).



## OTHER FACTORS IMPACTING ACCESS TO LAWS

### 5.1 SOCIAL AND CULTURAL BARRIERS<sup>55</sup>

Social and cultural barriers to access can involve linguistic and digital challenges in accessing laws. These factors add to litigants' fatigue and hence will need to be addressed while making any policy on accessing laws. One must bear in mind the considerable accessibility gaps as regards technology in the Indian landscape. The digital divide is impacted by factors including gender, age, and the urban-rural divide.<sup>56</sup> Thus, while we increase the dissemination of laws only through the digital medium, it is important to consider the barriers in accessing laws to those who are outside the digital realm.

*One must bear in mind the considerable accessibility gaps as regards technology in the Indian landscape. The digital divide is impacted by factors including gender, age, and the urban-rural divide.*

Linguistic challenges within dissemination of the laws should be recognised as a formidable problem. The barriers to accessing laws can be accentuated if the laws are only available in a language that is not understandable. Recently, the Delhi High Court in *Vikrant Tongad v. Union of India*, reiterated the need for making drafts of proposed laws available in regional languages so there can be effective stakeholder engagement on these proposed laws.<sup>57</sup> The Official Languages Act, 1963 allows for Hindi and English to be used and does not specify any instructions as regards regional translations. Further, there is an Official Languages Wing that works to translate central legislations in recognised official languages.<sup>59</sup> There is also a law which creates a legal mechanism to recognize authoritative translations of central laws in all the recognised official languages. Leveraging the obligations already provided in these statutes and ensuring translations are available in all official languages will go a long way in tackling linguistic challenges. This will also bode well for the natural justice principle of accessing laws, espoused in *Harla v. State of Rajasthan*, whereby all citizens are guaranteed purposeful access to the laws that govern them.

### 5.2 CIVIL SOCIETY AND DISSEMINATION OF LAWS

In India, assisting with legal literacy and providing access to laws are to some extent fulfilled by civil society organisations. There are dedicated projects that help lawmakers and stakeholders understand impediments to accessing laws. PRS Legislative Research (PRS) maintains a repository of state and central laws that are freely accessible.<sup>60</sup> PRS also tracks bills and their progress. The standing committee reports, debates, time taken to pass a bill are documented by PRS. There are also summaries provided for easy understanding of the bills and the laws. Nyaaya is another initiative where laws are explained to common citizens and legal complexities are simplified to

55 Bingham Centre for the Rule of Law. 2014. 'International Access to Justice: Barriers and Solutions.' Available online at [https://www.biicl.org/documents/485\\_ibar-report\\_060215.pdf?showdocument=1](https://www.biicl.org/documents/485_ibar-report_060215.pdf?showdocument=1). (accessed 1 August 2020).

56 Nikita Kwatra. 2019. 'India's digital divide is not just about accessibility', Livemint, 20 August, available online at <https://www.livemint.com/news/india/india-s-digital-divide-is-not-just-about-accessibility-1566287337995.html> (accessed on 31 July 2020).

57 *Vikrant Tongad v. Union of India*, available at <https://indiankanoon.org/doc/170177749/> (accessed 1 October 2020).

58 'Legislative Departments: Important Central Acts in Regional Languages', available online at <http://legislative.gov.in/regional-language> (accessed on 1 August 2020).

59 The Authoritative Texts (Central Laws) Acts, 1973. Also see Prashant Reddy T. 2020. 'Making the language of the law comprehensible', The Hindu, 23 September, available online at <https://www.thehindu.com/opinion/lead/making-the-language-of-the-law-comprehensible/article32672083.ece?homepage=true> (accessed on 1 October 2020).

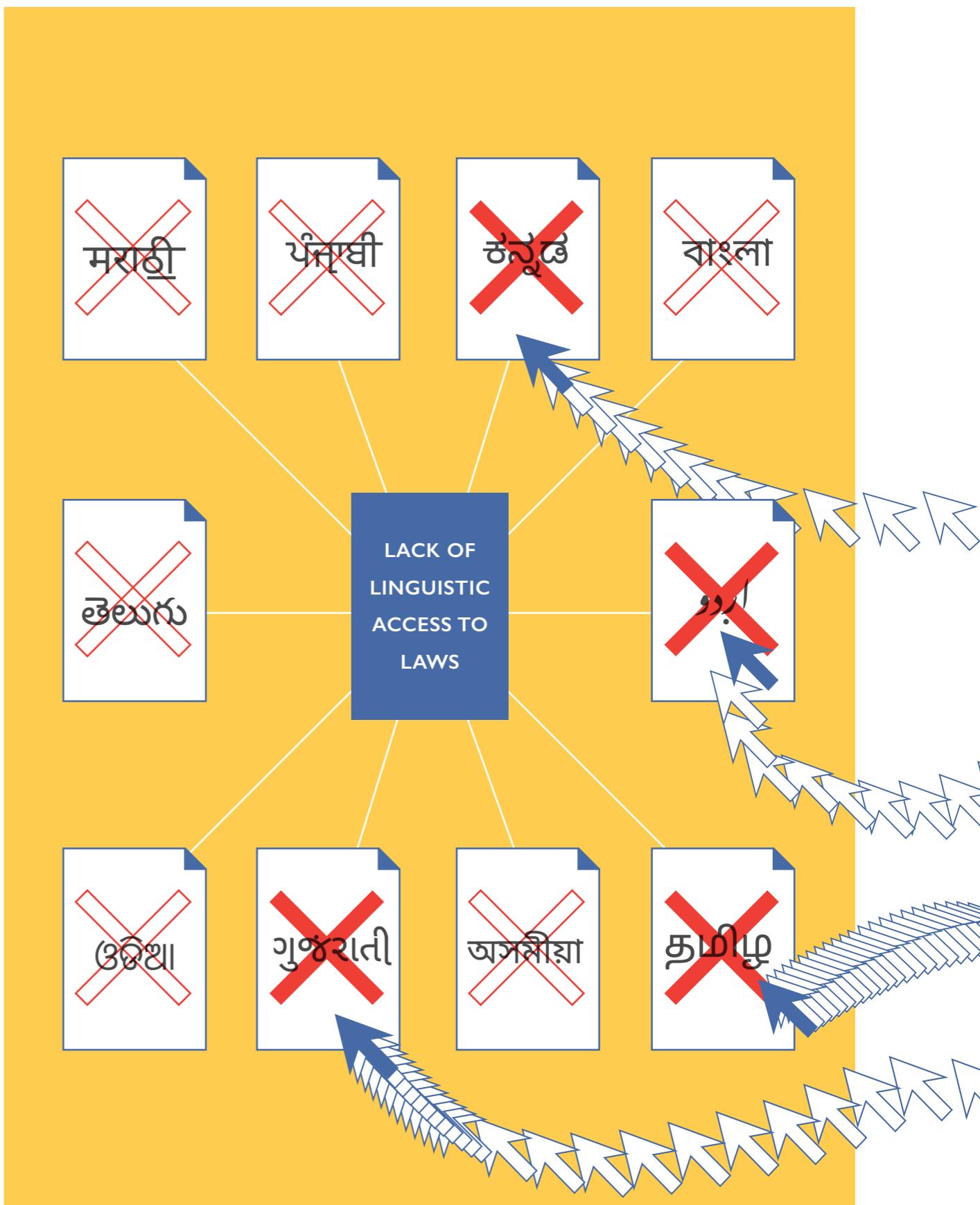
60 Available at <https://www.prsonline.org/> (accessed 1 October 2020).

ensure easy comprehension of the laws.<sup>61</sup> The website also has options of two regional languages, Hindi and Kannada. The efforts of Nyaaya go one step further, to allow for not just free access to laws, but understanding of the laws that govern citizens' rights. Nyaaya is also effective in using pop culture references and making content in multiple mediums to allow for understanding of rights.

The problem of redundant laws has been dealt with extensively by the Centre for Civil Society.<sup>62</sup> They have dedicated projects analysing dissemination from the perspective of redundant laws. They have published reports on redundant laws and made recommendations for better access to laws. The work done by them involves examining dissemination from a law-making perspective. In terms of ensuring better access to laws and dissemination, there are also grassroot organisations. Namati<sup>63</sup> and Centre for Policy Research in India work closely with vulnerable populations impacted by laws specifically channeled towards them. They educate such citizens by disseminating laws and ensuring that the laws are being understood. They also take other steps to work in tandem with the marginalized, but disseminating and simplifying laws is one of their core focus areas.

### 5.3 JUDICIAL PRECEDENTS AND DISSEMINATION

The issue of dissemination of laws in India must also include important judgments which lay down the law. For instance, for a long period of time, prevention of sexual harassment at the workplace was governed by *Vishaka v. State of Rajasthan*<sup>64</sup> and there were no specific legislations on this area of law. Thus, in scenarios where there is law made by the judiciary, the judgment must be disseminated if citizens were to be made aware of the same. In India, judicial rulings have a profound impact on what the law is. Hence, there is a need to clarify legislations' provisions as and when landmark rulings changing the disposition of a particular law are passed. It is important for the government to ensure that all laws and judgments are accessible for a citizen who wishes to seek that access. The context of building a website for judicial precedents is beyond the scope of this paper, but this paper would like to draw attention to building such an interface in the future.



61 Available at <https://nyaaya.org/> (accessed 1 October 2020).

62 Available at <https://ccs.in/briefs-and-reports/governance> (accessed on 1 August 2020).

63 'Seeking Environmental Justice in India', NAMATI, available online at <https://namati.org/ourwork/environment/> (accessed on 1 August 2020).

64 *Vishaka v. State of Rajasthan*, AIR 1997 Supreme Court 3011.



## INTERNATIONAL PERSPECTIVE

### 6.1 IMPROVING ACCESSIBILITY OF LEGAL INFORMATION

Many countries have a portal for allowing access to all laws. Australia,<sup>65</sup> United States of America,<sup>66</sup> and the United Kingdom<sup>67</sup> are some of the countries with a government portal dedicated to serve as a single unified source for legislations. The websites are also very clear as to which laws are in force and provide exhaustive subject matter classifications to identify relevant laws easily. The United Kingdom's website provides access to legislations for all its territories including England, Scotland, Wales, Northern Ireland, and European Union specific legislations, all in one dedicated website.<sup>68</sup> The websites also provide older and archived legislations. One can also trace the original legislation and all related amendments on the websites as they have been consolidated. The websites of United Kingdom and Australia explain the nature of legislations, bills and other government instruments and elaborate on how to access and use them. The Australian website also offers translation help. There is a glossary of the fundamental terms on the Australian website which allows users to understand the context of the legislations. For example, terms like amendment, coming into force, etc. are all explained in the glossary. The Australian website provides clarity on the structure of a legislation and how to read the same. The United States website provides detailed chronology as to the changes made to a legislation on different dates and the changes are annotated for easy perusal. Thus, all these countries have made significant changes to the user-interface to ensure that the contents are not merely available, but are also understandable.

To understand where India lies in terms of the accessibility of its' laws and what it needs to do going forward, it is helpful to adopt a comparative global perspective on its performance in this area. A key indicator in the World Justice Project's Rule of Law Index 2020 focusses on 'open government'.<sup>69</sup> This indicator includes a score of the effectiveness with which laws and government data are publicised, but it also includes other factors.<sup>70</sup> India ranks at number 32, below United Kingdom, Australia, United States of America, etc. in terms of 'open government'. Thus, India's efforts to ensure a single source access to laws will benefit from the lessons that can be imbibed from other international jurisdictions and can contribute to its performance in the Rule of Law Index.

<sup>65</sup> Available at <https://www.legislation.gov.au/> (accessed 1 October 2020).

<sup>66</sup> Available at <https://ecfr.federalregister.gov/> (accessed 1 October 2020).

<sup>67</sup> Available at <http://www.legislation.gov.uk/> (accessed 1 October 2020).

<sup>68</sup> Available at <http://www.legislation.gov.uk/> (accessed 1 October 2020).

<sup>69</sup> World Justice Project. (2020). World Justice Project Rule of Law Index 2020. Available at [https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf) (accessed 1 October 2020).

<sup>70</sup> The strength of the country's 'right to information' laws, the opportunities afforded to citizens for civic participation, and the quality of the State's complaint mechanisms are also included.

## 6.2 OTHER FACETS TO ACCESSIBILITY

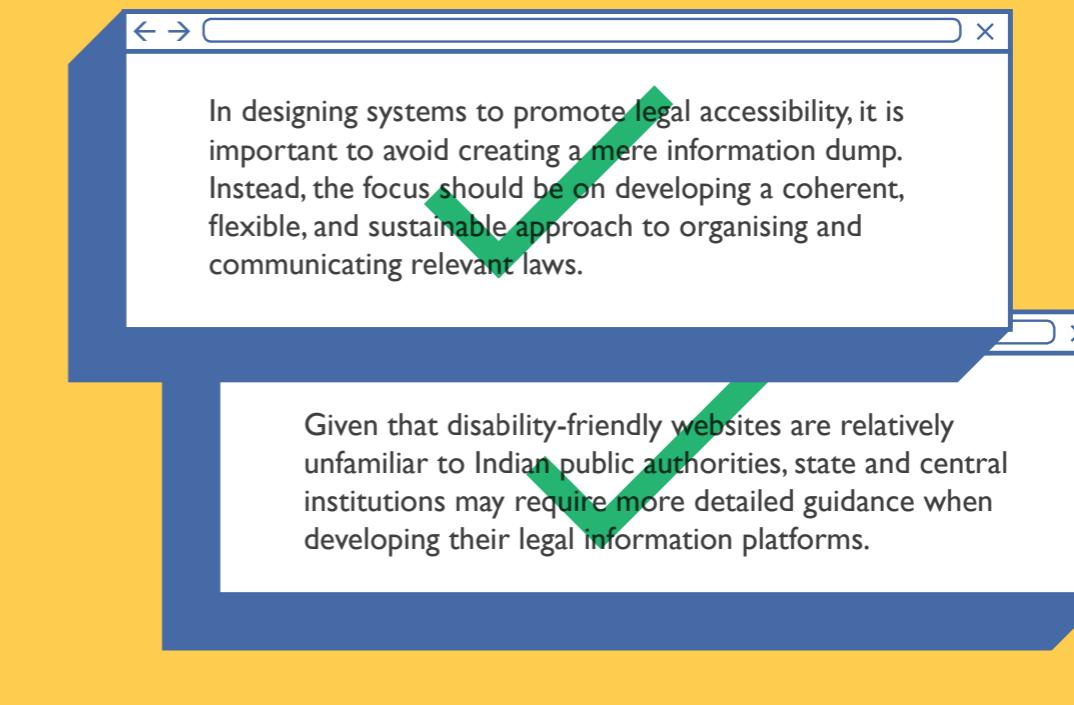
The free access to laws movement started with Cornell University Law School's Legal Information Institute ('Cornell LII'). This movement has mobilised an access to laws movement around the world. The international movements were started in a bid to show resistance to commercial dissemination of laws. In many jurisdictions, accessing laws was an expensive affair as there was an excessive reliance on commercial publishers. In the Indian context, we have a copyright framework that supports free dissemination as well as commercial dissemination through the doctrine of 'fair use'. Lessons from various international jurisdictions and movements championing the cause of access to laws can be useful. However, it is important to bear in mind that India's unique language requirements, budget needs and population size may require additional creativity. Some of the important facets of accessibility, derived from the global context, that can help drive the single source for laws in India are discussed below.

### (A) COHERENT LEGAL DESIGN:

#### DIGITAL STRATEGY IDEAS FOR LEGAL INFORMATION

As Charlotte Schneider observes of Internet-searchable law, 'Just because legal information may be more readily available online does not necessarily mean that it is easier to find.'<sup>71</sup> In designing systems to promote legal accessibility, it is important to avoid creating a mere information dump. Instead, the focus should be on developing a coherent, flexible, and sustainable approach to organising and communicating relevant laws. Cornell's LII project can provide insights into some of the guiding principles to be kept in mind. One way the LII has kept its collection organised is by developing a 'Parallel Table of Authorities,' which ensures that statutes are connected to the regulations made under them. These regulations can then be tracked back to the Code of Federal Regulations and to the U.S. Code Collection. By designing their information access flows in ways that are consonant with how people engage with U.S. legal texts, the LII made information truly accessible rather than merely *available*.<sup>72</sup>

### FACTORS TO CONSIDER WHILE DESIGNING THE SINGLE SOURCE PORTAL



### (B) ACCESSIBILITY REFORMS FOR THE DIFFERENTLY-ABLED

The internet offers governments a valuable means by which to disseminate legal information to the masses at a low cost. But efforts to do so will be stymied if the needs of differently-abled persons are not taken into account. In the United Kingdom, public authorities' websites must be compliant with the international Web Content Accessibility Guidelines 2.1, by September 2020. The guidelines are based on the principles of making content 'perceivable, operable, understandable, and robust.'<sup>73</sup> Thus, public service providers must think about how they adapt their content to the needs of those who might interact with their platforms. For example, authorities may need to produce audio recordings of their content. They may also have to design websites that respond to the special browser settings often used by visually impaired individuals. Given that disability-friendly websites are relatively unfamiliar to Indian public authorities, state and central institutions may require more detailed guidance when developing their legal information platforms. However, the internationally recognised standards in this area and the ongoing work in the United Kingdom show that there is scope for India to learn from international experience.

71 C.D. Schneider. 2017. 'Another Bridge Across the Access to Justice Gap: LII's Virtual Reference Desk'. *Legal Reference Services Quarterly*, 36(2): 85-102.  
72 Schneider, 'Another Bridge Across the Access to Justice Gap: LII's Virtual Reference Desk', p. 89.

73 World Wide Web Consortium. 2018. Web Content Accessibility Guidelines (WCAG) 2.1. Available at <https://www.w3.org/TR/WCAG21/> (accessed 1 August 2020).

## FACTORS TO CONSIDER WHILE DESIGNING THE SINGLE SOURCE PORTAL

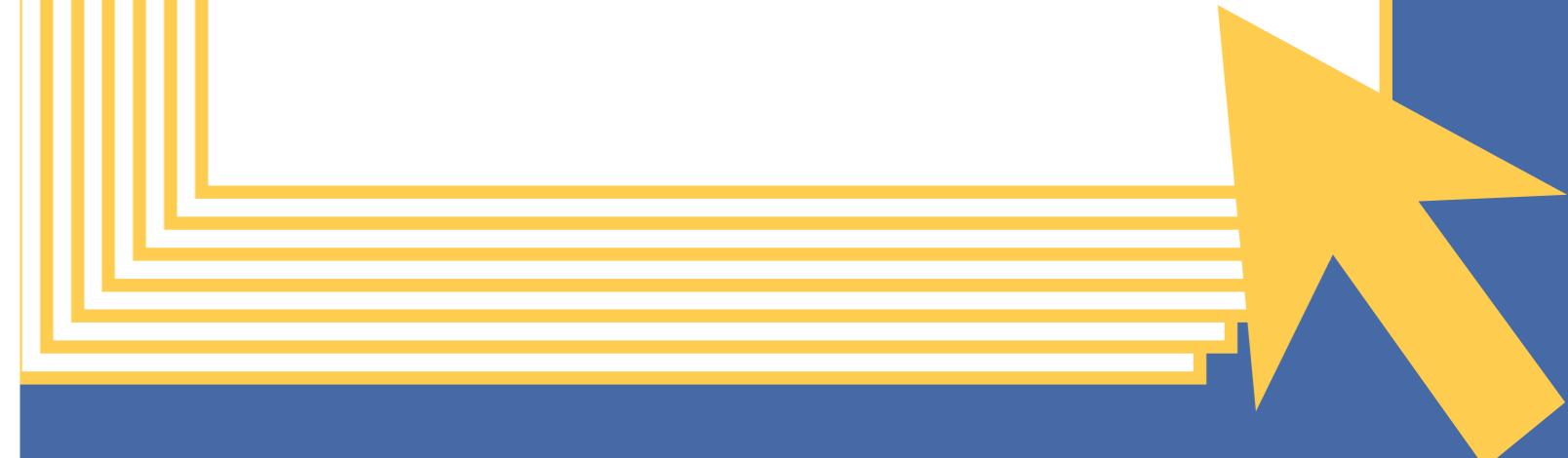


### 6.3 LESSONS FOR INDIA

In conclusion, there is significant variation amongst countries in terms of the approaches that they have adopted to improve the reach of legal information. Globally, there has been a particular focus on developing internet-based solutions. Their success however requires careful consideration of matters relating to organisation, effective linkages, and simplicity. It is also clear that legal information measures must be designed in a manner sensitive to the needs of individuals from marginalised communities. Indeed, failures to properly consider socio-economic, cultural, and political factors have often led to expensive e-Government failures in developing nations.<sup>74</sup> We also need to recognise that internet-enabled legal content is not enough. For information systems to succeed, the international experience demonstrates that strategic long term plans and co-ordinated efforts are necessary prerequisites.

<sup>74</sup> Rania Fakhoury. 2018. 'Digital government isn't working in the developing world. Here's why', The Conversation, 12 September, available at <https://theconversation.com/digital-government-isnt-working-in-the-developing-world-heres-why-94737> (accessed 1 august 2020).

# TECHNOLOGY AND ACCESS TO LAWS – THE FUTURE



*We need to transcend the limited understanding of access by using new technology prototypes and re-imagine access to laws for all stakeholders in the justice system.*

Access to laws cannot be reduced in simplistic terms to mean uploading of legislations. PDF formats while useful, are still unable to harness the potential of technology to improve accessibility and legal design. We need to transcend the limited understanding of access by using new technology prototypes and re-imagine access to laws for all stakeholders in the justice system.

## 7.1 TOOLS THAT CAN BE ADDED

The British Columbia's Civil Resolution Tribunal uses simple rule-engineering algorithms to explain and make available laws under various categories to users. Further, assistance is also available through telephone or email to those users who need help. There are language options to suit the languages in use in British Columbia. This model can be adapted to build the single source for laws as a platform that enhances effective dissemination of laws. Further, this will also help in expanding the single source for laws in the long term. It can be transformed as an interface that also explains fundamental aspects of a legislation, thus improving access in terms of understanding legal rights.

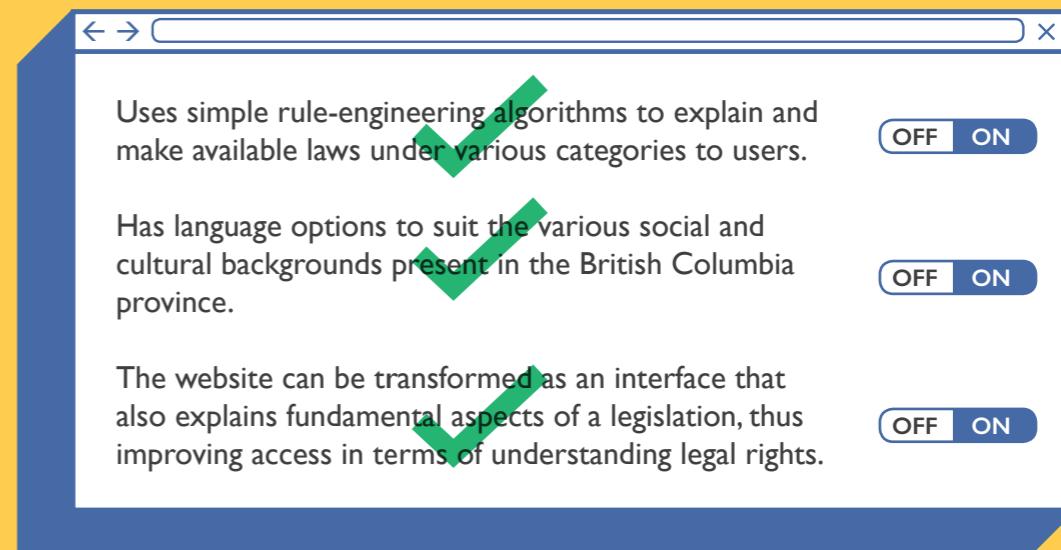
The concept of machine-readable laws is an important tool in the technological context to enhance access to laws. Machine-readable laws will mean that the computer recognises the content within a legislation and will be able to make a connection between a legislation and other related sources of legal information. In the long term, machine-readable formats of laws can ensure that the laws can be used for research purposes, to inform policy decisions, and to avail feedback on the laws.

The need for a technology-based legal information system is recognised in many jurisdictions. The Australian DataLex project studied the impact of technology tools on law. One of the crucial findings of the project is the untapped potential of legislations to become the best starting point for incorporating technology tools. The Australia Legal Information Institute is using the DataLex project to convert laws to a machine-readable format. An African project called Laws.Africa was initiated a year ago to consolidate all African laws (from various countries) and to make them available in a machine-readable format.<sup>75</sup> Countries like Denmark have put in place rules to ensure digitally compatible legislations.<sup>76</sup> Machine-readable formats are many in number. The District of Columbia in the United States of America makes its legislations available in XML format (one of

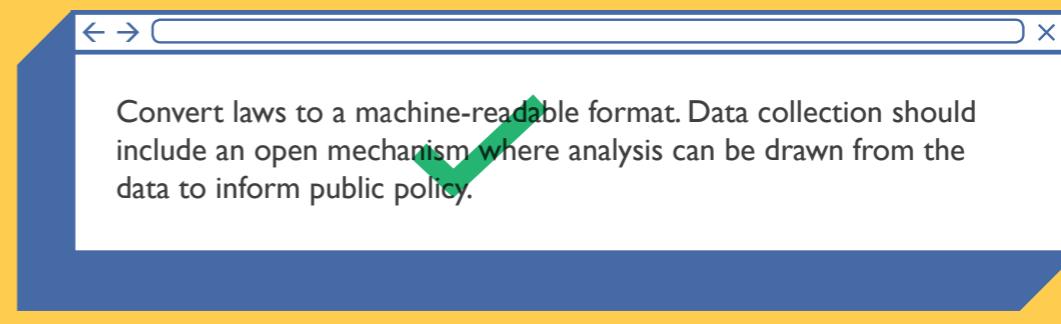
the many machine-readable formats) and the same is publicly available for software developers to use and comment on.<sup>77</sup> New Zealand is currently experimenting on how to transform legislations into a machine-readable format.<sup>78</sup>

Data collection should include an open mechanism where analysis can be drawn from the data to inform public policy. For instance, the United States has made it a statutory obligation to make data available in machine-readable form in the federal government's official open data collection portal.<sup>79</sup> In the long run, incorporating machine-readability of the laws will allow conversion of the portal's data into a mechanism to derive analysis from the data relating to the laws accessed, that would also benefit state governments and the central government.

### The British Columbia's Civil Resolution Tribunal



### The Australia Legal Information Institute and The Datalex Project



75 Mariya Badeva-Bright. 2020. 'African LIs and Laws.Africa are building the largest free and open access repository of African gazettes', Laws.Africa, 14 January, available online at <https://laws.africa/2020/01/14/african-lis-and-laws-dot-africa-are-building-the-largest-free-and-open-access-repository-of-african-gazettes.html> (accessed on 1 October 2020).

76 'Digital Ready Legislation', Agency for Digitisation, available online at <https://en.digst.dk/policy-and-strategy/digital-ready-legislation/> (accessed on 1 October 2020).

77 'Emerging Technology Guide: Rules as Code', New South Wales, 3 September, available online at <https://www.digital.nsw.gov.au/digital-transformation/policy-lab/rules-code> (accessed on 1 August 2020).

78 Anoush Darabi. 2018. 'New Zealand explores machine-readable laws to transform government', Apolitical, 11 May, available online at [https://apolitical.co/en/solution\\_article/new-zealand-explores-machine-readable-laws-to-transform-government](https://apolitical.co/en/solution_article/new-zealand-explores-machine-readable-laws-to-transform-government) (accessed on 1 October 2020).

79 The OPEN Government Data Act, 2019.

## 7.2 TOOLS FOR TOMORROW

Some governments are experimenting with drafting legislations as a software code. For instance, the Service Innovation Lab at New Zealand conducted a pilot project to test the compensation calculation related to accidents under a particular legislation.<sup>80</sup> This pilot was restricted to some of the provisions in the legislation pertaining to calculating the compensation. The rules applicable to the compensation legislation were written as code. In France, the legislation as code format is piloted to calculate government benefits. In Australia, in one pilot project run by the DataLex project, the rules were made machine-friendly in a way to ensure that an application can provide responses using a chat box for people to interact with. It is anticipated that the legislation as a code format will allow for an objectively better drafting of laws, but it is too early to make any concrete analysis as this is a new avenue for technology permeation within drafting.



<sup>80</sup> 'Exploring Machine Consumable Accident Compensation Legislation', available online at [https://serviceinnovationlab.github.io/assets/Exploring\\_Machine\\_Consumable\\_Code\\_With\\_ACC.pdf](https://serviceinnovationlab.github.io/assets/Exploring_Machine_Consumable_Code_With_ACC.pdf) (accessed on 1 August 2020).

## **8.1 PLATFORM APPROACH – INTEGRATING THE SINGLE SOURCE FOR LAWS**

The platform-based approach to justice is mooted as a solution in recent years to allow for re-configuration of the justice system as a digital ecosystem. In the future, government-as-a-platform will be the approach that will enable a seamless communication interface that allows citizens to interact with multiple stakeholders and the government.<sup>81</sup> The key idea behind government-as-a-platform is that citizens, institutions and government agencies can communicate with one another using ‘APIs’, which allows software and information systems to talk through each other. This essentially means that various government agencies (as well as private sector organisations) can share information seamlessly, in a usable format that is appropriate for the purposes they would need to use it for.

Government as a platform requires the establishment of a data repository and open access to this data; the creation of ‘digital infrastructure’ and ‘digital public goods’; and the setting of ‘open standards’. Digital infrastructure refers to the provision of a shared means of access to data for various purposes. The easiest way to build such a single source for laws platform would be to require everyone in the law-making and rule-making departments to draft, publish, and disseminate laws in a specified format. This would include, for example, an agreed specification for document structure and contents, but also specifications for the features that make a document machine-readable to allow its integration within the database.

Specifications will need to be agreed upon for classifiers of laws so that whenever a body publishes a law on a given topic, it can be accordingly grouped with other laws pertaining to the same topic for ease of online queries. These classifiers would need to include the individual parts of a document as well. Inter-state variations, within and between languages, would need to be harmonised. Metadata on laws, distinct from their content, will also need to be specified in codified standards, for example, to indicate whether a law is in force, where it is in force, whether it is read with other laws, and whether it is linked to or modified by other laws. With the capability to search for law based on groupings from metadata, such as region, jurisdiction, the time period it was in force, and the subject matter, a person can easily resolve a query by simultaneously accessing all laws, rules, regulations, judicial rulings, ordinances, and notifications that apply to a given area of law, irrespective of which government, court, or executive agency created it. The database can also be linked with other systems; for example, judges can save time in their research by easily cross-

referencing different laws and rulings to inform their judgment, in which the cited laws can easily be linked.

Platform architecture would, however, require a strong multi-disciplinary team to lead the standard setting process and coordination between central and state legislatures, courts, and executive agencies to facilitate a collaborative standard setting process. The team would also be responsible for creating and maintaining the database of law and would assume joint responsibility, with the law-making agencies relevant to a given context, for the fidelity of the law – removing the need for disclaimers. The body would also involve other agencies in the dialogue, particularly ones who may not generate law but who need to apply it frequently, such as legal aid authorities. The architecture and APIs must therefore be designed with attention to making offline access and awareness easier as well.

## **8.2 TRANSFORMING THE INDIA CODE PORTAL TO A SINGLE SOURCE FOR LAWS**

### **8.2.1 LEGAL DESIGN IMPROVEMENTS TO THE PORTAL**

The single source for laws envisioned in this paper can be made possible by transforming the India Code Portal. This improved portal should be updated in a phased manner. It should eventually publish all the Indian laws in force in a consolidated manner, and there should be a phase-wise delivery timeline for such publication. In the short term, consolidation of laws will require harmonisation of legislation and rules. In the long term, important judgments interpreting or impacting the legislation should also be assimilated under the specific legislations. The court in *Union of India v. Vansh Sharad Gupta* specified a machine-readable portal for such publication,<sup>82</sup> and the courts are already aware of the importance of such technology tools. Hence, the portal should allow for all publishing formats to allow for technology inclusion, including machine-readable formats.

Efforts should be made to ensure that the portal is differently-abled friendly. There is a need to clearly demarcate the responsibilities with respect to dissemination of laws on the portal. The roles and responsibilities of the various administrative departments at the state and central government level should be charted out. Further, there needs to be clarity on who will verify the authenticity of the laws published on the portal. To achieve the targets set as regards updating the portal, the capacity in the gazette department could be increased.

<sup>81</sup> DAKSH. 2019. ‘Whitepaper series on Next Generation Justice Platform, Paper I: The Vision’. Bengaluru: DAKSH, available online at [https://dakshindia.org/wp-content/uploads/2020/02/Paper-I\\_The-Vision.pdf](https://dakshindia.org/wp-content/uploads/2020/02/Paper-I_The-Vision.pdf) (accessed 1 October 2020).

<sup>82</sup> Union of India v. Vansh Sharad Gupta, MANU/DE/1430/2016.

## 8.2.2 LIMITING THE DISCLAIMER CLAUSE AND LINGUISTIC ACCESS

The removal of the disclaimer clause could be carried out in stages, for example, first the clause could be removed for all laws passed from a specific cut-off date. Consequently, the new cut-off dates can be put in place for other remaining laws and disclaimers can be removed in a phased manner. The portal should contain authenticated translations of laws in all official languages. This will go a long way in adding to inclusion and linguistic diversity. The government can set up an inter-departmental co-ordination committee at both the central and state levels for making changes to the portal and monitoring the progress of the portal. The committee should take the assistance of legal and technological experts.

## 8.2.3 IMPLEMENTING CHANGES TO THE PORTAL

The consolidation and harmonisations steps should be institutionalised as inter-departmental responsibilities after a specified period. The committee should further engage with the states and union territories to update their respective laws, so the same can be included in the portal. From a specific date, the amendments and draft bills should be presented in a consolidated form (including all related provisions and rules) for amendment or approval by the Parliament / Assembly / Committee. This will ensure that when laws are amended, the same will be included within a consolidated legislation format. This will ensure a streamlined approach in updating the laws in the portal.

## 8.3 A POLICY FOR PUBLICATION OF LAWS AND SUBORDINATE LEGISLATION

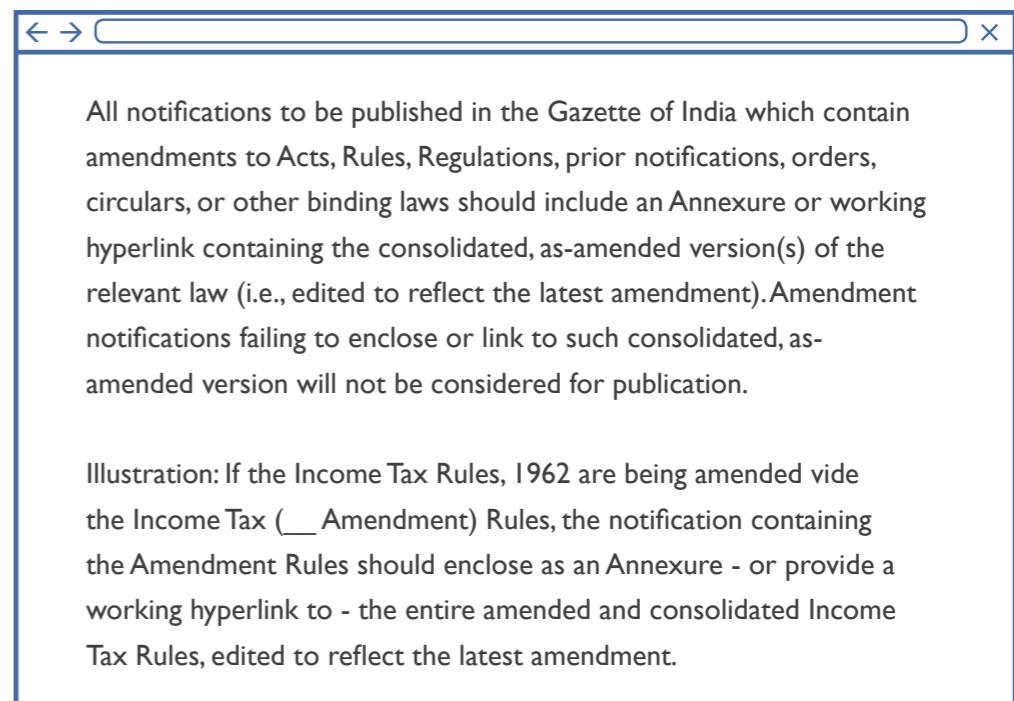
The central government should formulate a policy containing the following: (i) all legislation and legally binding subordinate legislation (including orders, circulars, etc.) must be published in the Official Gazette and not merely uploaded on the departmental website, so that the public is made adequately aware of all changes to law by referring to a single source; (ii) whenever any amendment is introduced, the consolidated, as-amended version of the law should be annexed to the amendment, and India Code Portal should be updated with the as-amended version in a timely manner, so that the public is made aware of the consolidated and updated law as of date; and (iii) as soon as a particular version of a law on a department's website becomes out of date, it should be taken down or appropriately dated so that the public is not misled.

As regards (ii) above, it may be communicated to the Department of Publication, Ministry of Housing and Urban Affairs, which is in charge of the publication of the Gazette of India (e-Gazette), that

a requirement can be introduced to the effect that all submissions of amendments by the various government departments to the Gazette of India ([egazette.nic.in/](http://egazette.nic.in/)) must contain, as an annexure or hyperlink, the consolidated version of the relevant legislation or subordinate legislation. Just as digital signatures are a requirement for submission on the e-Gazette website by the relevant government department, this requirement to enclose or link to the consolidated version can be included by the Department of Publication under the 'Procedure to be followed by Ministries/ Departments/Statutory Bodies etc.' mentioned in the relevant Office Memorandum,<sup>83</sup> as well as in the e-Gazette website instructions.

This ensures that the public is made aware of the complete and updated law as of date and does not have to refer individually to tens or hundreds of amendments.

The requirement can be stated as follows:



Through this requirement, the burden of providing consolidated laws is decentralized among all departments, and each amendment hence becomes a definitive resource as to a particular law / subordinate legislation. An advisory to the same effect may be issued to the State Governments' gazette publications (Departments of Printing).

<sup>83</sup> Since there is no Act governing Gazette publication, the rules for submission are contained in an Office Memorandum of the Ministry of Urban Development (as it then was) (e.g. No. O-17022/1/2015-PSP-I dated 30th September 2015 (<http://www.egazette.nic.in/ePublish-Notification.pdf>)) and instructions on the E-Gazette website ([http://egazette.nic.in/S\(tuxgp2zt10y2h4m4pd3khgru\)/VWriteReadData/SystemDocuments/Guide-SubmittingContent.pdf](http://egazette.nic.in/S(tuxgp2zt10y2h4m4pd3khgru)/VWriteReadData/SystemDocuments/Guide-SubmittingContent.pdf)).

## 8.4 CREATING AN INCENTIVE

A transformation of the India Code Portal to a single source for laws can also be accomplished by way of a policy (like the one specified in 8.3 above). The policy can place the responsibility on the government to reveal the information related to legislations in a timely manner. For instance, the proposed Transparency of Rules Act, (TORA)<sup>84</sup> recommends a legislation, comprising three core aspects:

- (1) Government departments will be required to place every ‘citizen-facing’ rule regulation, form and other requirement on their website, in English, Hindi, and regional languages. If a department is declared ‘TORA-compliant’, then any rule not set out explicitly on its website will be deemed not to apply and further, no rule, procedure or form can be imposed that is not explicitly displayed on the website;
- (2) The proposed TORA will require all laws, rules and regulations to be updated and unified at all times; and
- (3) The Government department websites should clearly state the date and time when each change is made, thereby ensuring accountability and transparency. Any mistake in the text should be attributed to the Government, and not to the citizen.

Drafting a policy on these lines will ensure the creation of an incentive framework for the single source for laws to work effectively in the long term.

## 8.5 STATE CAPACITY AND DISSEMINATION – ROLE OF THE GOVERNMENT

As we have seen, the current practice in India is that different departments and ministries of the government publish their laws as and when they are enacted. The information needs of consumers of the law (practitioners, other institutions to whom the laws may apply, and citizens) is met by the private legal publishing market. These publishers carry out the function of consolidating and publishing laws in a timely manner based on demands of the market. An argument against carrying out any intervention might state that the legal publishing market is working well and therefore there is no market failure to be addressed by the state.

The private legal publishing market should not be the most relied-on source for laws. Laws of the land are not private goods for which some version of a market can be justified. Providing information about the law is the one of the most sovereign functions of a state and its duty to its citizens. This is especially so in a democratic set up where it is the people who are giving these laws unto themselves. By putting in place mechanisms that in effect prevent citizens from being informed of what they have given to themselves is a contradiction in principle, but an unfortunate reality in practice. A ‘single source for laws’ would help move the information producers (publishers and practitioners) in the market up the value-chain rather than merely derive value from information arbitrage.

Requiring the state to build capacity and make investments for this purpose is also justified on two other economic arguments. One, the current structure imposes transaction costs on the consumers for accessing information. By putting in place a ‘single source for laws’ the state absorbs these one-time costs upfront and eliminates most of the recurring transaction costs to be incurred by consumers over time. Secondly, the state is obliged to provide legal aid to those who are eligible that will also involve providing information to the citizens about the law applicable to them. There are also many civil society initiatives that fulfil shortcomings of the state in this regard. These initiatives impose a cost on the society. A ‘single source for laws’ can significantly reduce the above-mentioned costs. These cost savings can be used to provide a higher level of assistance to those in need.

<sup>83</sup> Ministry of Finance, Government of India, ‘Economic Survey 2016-17 Volume 2’ ([https://www.indiabudget.gov.in/budget2017-2018/es2016-17/echapter\\_vol2.pdf](https://www.indiabudget.gov.in/budget2017-2018/es2016-17/echapter_vol2.pdf)) (published in August 2017) (accessed on 4 November, 2020).

## 8.6 GUIDANCE FOR RECOMMENDATION

S.NO	STEPS TO BE TAKEN	IMPLEMENTATION TIME PERIOD
1	Putting together a committee/independent body consisting of representatives from the law ministry, gazette departments (both central and state) and other required stake holders like civil society organisations, technology experts, etc.	Short - Term
2	Drafting a policy for ensuring the digital publication of laws using the single source for laws	Short - Term
3	Transforming the India Code Portal to the single source for laws	Short - Term
4	Integrating the single source for laws with the digital architecture features of the justice system, including the e-courts	Medium - Term
5	Implementing technology tools to improve the dissemination of laws using the single source for laws	Long - Term



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