

# Corona Unlocks

the Vulnerabilities of the Advocates



LAWYERS' FRATERNITY  
TAMIL NADU  
LAAS, MADURAI



INDIAN  
SOCIAL INSTITUTE  
BENGALURU

# Corona Unlocks the Vulnerabilities of the Advocates

## A Study on the Impacts of Lockdown

### Context

The impact of Corona pandemic has been unprecedented and unimaginable, and on many counts, it has been the biggest human tragedy in recent history. Everyone is affected. While the poor of the country are traumatized, the lower and middle classes are struggling to manage the financial needs of their families and safeguard their dignity. The microscopic Corona virus was a portal and exposed the glaring inequalities and vulnerabilities pictorially in the public domain.

The advocates were not an exemption to Corona phenomenon. It created vacuum among many advocates, especially the young. Several of them found it difficult to articulate and share their helplessness and susceptibility. Fortunately, Lawyers' Fraternity Tamil Nadu (LFTN), an initiative of Legal Action Advocacy Service (LAAS), Madurai provided the necessary space for some advocates to vent out their emotions, uncertainties, and anguish. In the past, LAAS has been bringing together advocates to develop critical understanding of emerging socio-political and legal issues in an atmosphere of dialogue and mutual respect among the members of the lawyers' fraternity. A few members voiced out that the impact of Covid-19 is an opportunity to bring out the plight of the lawyers, especially the young and economically needy advocates in Tamil Nadu.

During the exploration regarding feasibility and relevance of the study with some members of Lawyers' Fraternity Tamil Nadu (LFTN), some recommended that this study must address issues related to financial vulnerability and impact on legal profession. They also advised that it might be good if a short and simple questionnaire could be prepared so that many young advocates could find it easy to participate, and their voices are heard. Some expressed strong reservations about an elaborate study. Duly considering the need of the study and various inputs received LFTN and Indian Social Institute Bangalore (ISI-B), Research, Training and Advocacy centre, jointly initiated this study.



## Objectives of the Study

The study has four major objectives:

1. To articulate the experiences of financial vulnerability of the advocates during lockdown period.
2. To understand the impact of lockdown on legal profession and clients, who were affected the most.
3. To understand the efficacy of E-filing and Videoconferencing facilities followed during lockdown.
4. To critique the steps taken by Bar Council of Tamil Nadu and Puducherry (BCTN&P) and Government of Tamil Nadu to reach out to the advocates and to propose concrete recommendations to BCTN&P, the State and advocates' fraternity to mitigate the vulnerabilities in future.



“The questions raised in this study probe core and critical issues faced by many advocates”

- L.F. Shika Shahul, Advocate, Madras High Court.

## Methodology

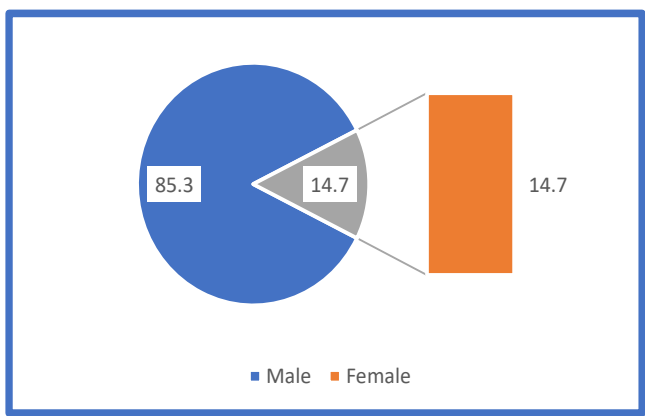
A short draft questionnaire was prepared and was shared with some experienced advocates to elicit their comments. Based on their inputs the final questionnaire was prepared. Google form was used to collect data using email and WhatsApp communication channels so that the tool could be shared as widely as possible to reach out to all those who are interested in this project and access to virtual communication in Tamil Nadu.

For some, this phenomenon might be ‘obvious’ and ‘acceptable’. However, this reality raises critical questions for reflection. Is there gender bias in this profession? Is this profession women friendly?

Between 25 – 35 years of age there were 58 respondents (34.1%). Government of India considers those below 35 as youth. In this profession, it is a critical age group since many learn the job under the supervision of a senior advocate. The foundation for this profession is laid at this age. From 36 – 50, there were 81 respondents and between 51 – 70 there were 31 respondents.

## A. Profile of the Respondents

### Sex and Age of the Respondents



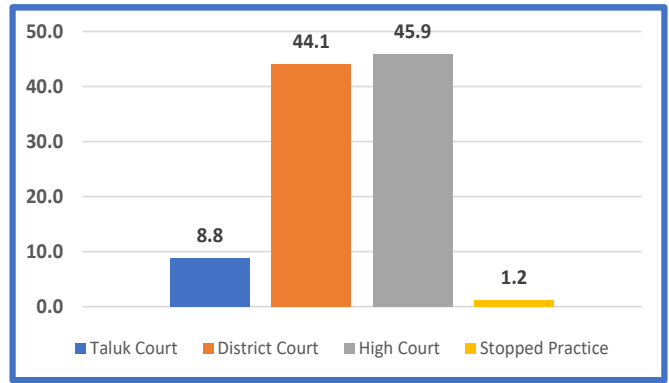
**Chart 1: Sex of the Respondents**

In a week’s time 173 advocates practicing in the Taluk Courts, the District Courts and the High Courts, of Madras and Madurai Bench of Madras High Court had responded to the questionnaire. Of these, 3 respondents stated that they were not practicing after enrollment. Barring these three, 170 responses were analyzed.

Gender gap among the respondents is glaring. Of the 170 respondents about 145 were male advocates and only 25 were women.

The respondents were asked to identify where they were practicing primarily, notwithstanding some practice in multiple courts. The responses were dominated by those who practice in the District and High Courts. The highest number of respondents, 78, were practicing in the High Courts and almost equal number of respondents, 75 practiced in the District Courts. Only about 15 respondents practiced at the Taluk Courts.

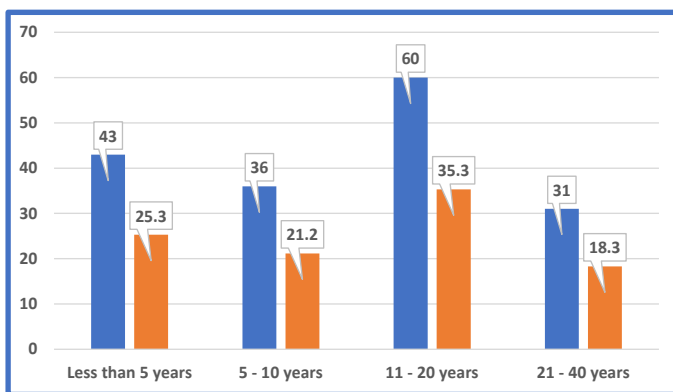
### Place, Years and Nature of Practice



**Chart 2: Courts in which the Respondents Primarily Practiced**

On further inquiry it was found out that reason for low level of participation of those who practice in the Taluk Courts was unfamiliarity with e-communications and google form. Two persons stopped practice due to age and personal reasons. Of the 25 women respondents, only 2 were practicing in the Taluk Courts. About 11 were practicing in the District Courts and 12 in the High Courts.

**Chart 3: Years of practice**



Nearly 91 (53.6%) respondents had more than 10 years of experience. Another 36 (21.2%) had minimum of 5 years of experience. Only about 43 respondents (25.3%) had less than 5 years of experience.

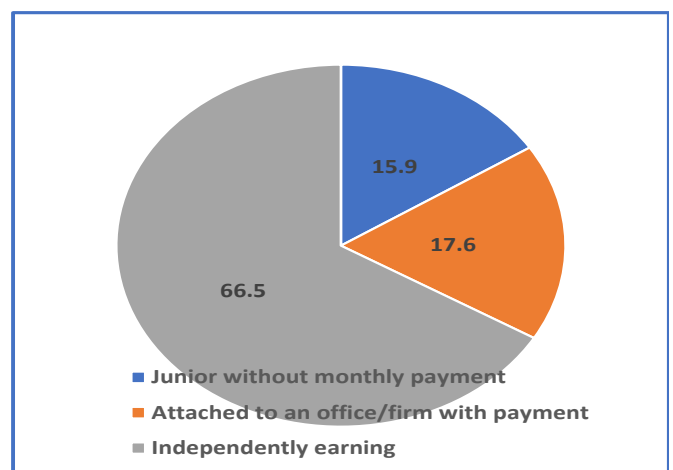
Among the total respondents, about 107 (62.9%) respondents stated that they were practicing independently. About 46 (27.1%) respondents were attached to offices as juniors. There were only 8 Senior advocates. The remaining 9 were working in Law firms, and as counsel/panel advocates in banks, companies, and institutions.

Among the 46 respondents who were attached to offices as Juniors, 26 respondents were having less than 5 years of practice, 13 were practicing between 5 to 10 years and 7 were continuing as Juniors, in the offices of the Senior Advocates, having more than 10 years of experience. This phenomenon clearly indicates the complexities of the profession and consequently earning capacities of the respondents.

Juniors are considered to be learners and very few offices pay them. Most of these Juniors depend on other sources of income till they could earn on their own.

## B. Earning and Financial Vulnerability of the Respondents

About 113 (66.5%) respondents stated that they were independently earning through their professional services; whereas 30 (17.6%) respondents received monthly or periodic payments as they were attached to law offices, firms, banks or worked as counsels to institutions.



**Chart 4: Earning status of the Respondents**

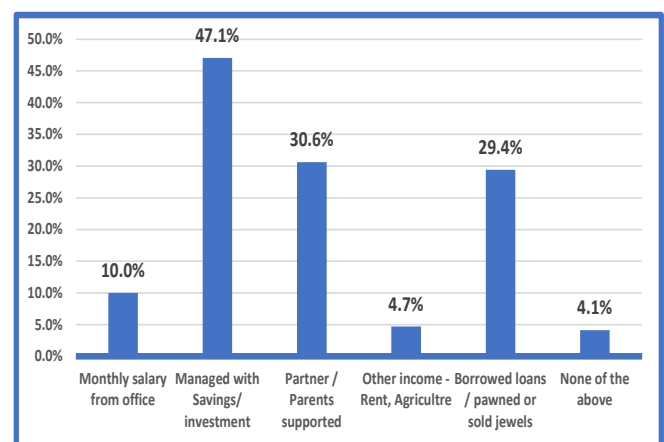
About 27 (15.9%) were going to court as juniors without any sort of regular income. These juniors usually received small tips from the clients for assisting the seniors, case follow-up, filing petitions or making small representations in the court. Occasionally they received token sum from the seniors or received a small portion of the fee collected by the Seniors, if the juniors had brought clients to the Seniors.

During lockdown, as the courts were closed cliental services and consequently earnings of the advocates came to a standstill, as it happened to many other non-salaried private professionals. Generally, most of the junior advocates earned a small sum of money daily by rendering paperwork services to the clients or some services to other advocates. These junior advocates were seriously affected during the lockdown and they lost their means to livelihood.

In order to find out how the respondents managed their daily family needs financially during prolonged lockdown period, out of 8 options given, the respondents were asked to choose two appropriate responses.

From the total 170 respondents, 219 responses were received. This means 49 respondents had chosen two options and the rest opted for one option. The responses were clubbed in 6 broad categories. As it is a multiple choice the total percentage added up to 128.8 per cent of cases, proportionate to 219 responses.

**Chart 5: How the respondents managed financially?**



The three dominant trends are: 1. Managed with savings or investment 2. Salaried partners or parents supported and 3. Borrowed loans or pawned or sold jewels. Managed with savings and investment was chosen by large number of respondents who had been practicing for more than 10 years. The other two trends were opted by those who were practicing for less than 20 years.



**This study would echo the voice of the suffering advocates and I hope it would reach the authorities and convince them to act”**

**- Mrs. Jayanthi Rani, Advocate, Trichy.**

It is shocking to note that about 50 (29.4 % of cases) responses indicated that the respondents had to borrow loans or sell jewels for their living. Only 17 (10% of cases) responses indicated that they received monthly salary from their offices. Those who had long years of practice and steady income managed with savings and investments.

This chart clearly indicates that nearly 50 per cent of the respondents did not have any back up support and they were solely dependent on income generated through their professional services. As long as the courts are closed down, they will continue to depend on others or sell their possessions for living. It is an unwritten code that most of the advocates, realizing income predicament of this profession especially in the initial years, look for salaried persons as life partners. Unfortunately, lack of income and social security is part and parcel of this noble profession.

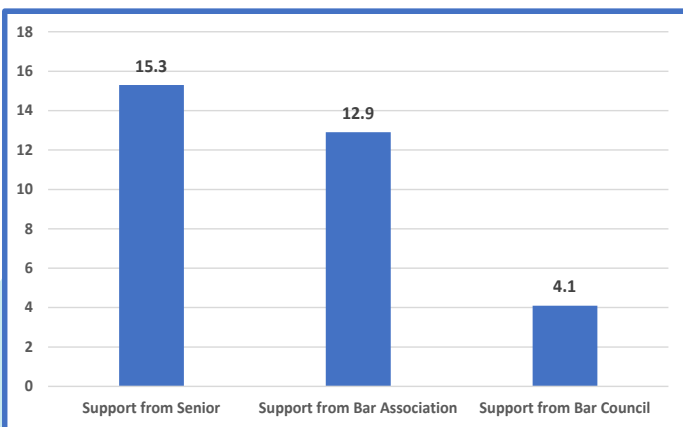


Chart 6: Support received from

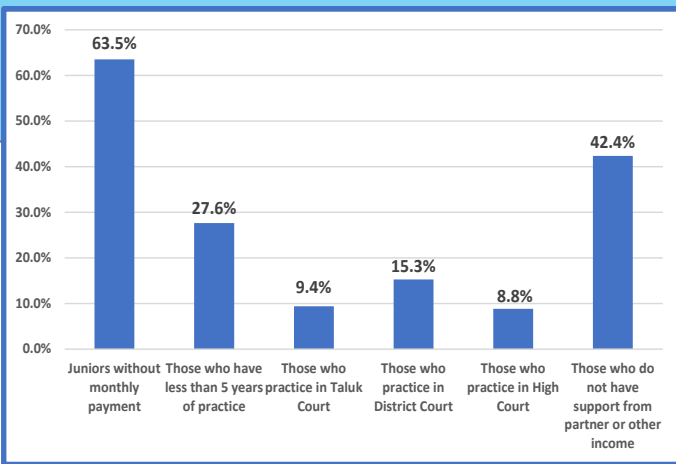
Chart 6 clearly indicates that only 26 (15.3%) respondents received support from the seniors, 22 (12.9%) from the Bar Association and only 7 (4.1%) received support from the Bar Council. While many respondents complained that both the Bar Association and the Bar Council were not proactive in responding to the needs of the advocates at this moment of crisis, some complained that the criteria used by the Bar Council for selection of beneficiaries was not fair and just. It is pertinent to mention that various Bar Associations and advocate volunteers mobilized funds from the Judges, the Senior Advocates and Advocates and distributed dry rations and vegetables to the needy advocates.



Nearly, 93 (54.7%) respondents felt that lockdown will have serious repercussions in their future career. Of these 93 respondents, 6 respondents were practicing at the Taluk Courts, 43 at the District Courts and 44 in the High Court. About 51 (30%) felt that lockdown would affect their future career ‘to some extent’.

Only 30 (17.6%) respondents seemed to have received frequent calls from their clients during lockdown period. Of these, 2 were from the Taluk Courts, 11 from the District Courts and 17 from the High Courts. About 60 (35.3%) stated sometimes. Nearly 47 per cent stated that either they received calls rarely or not at all.

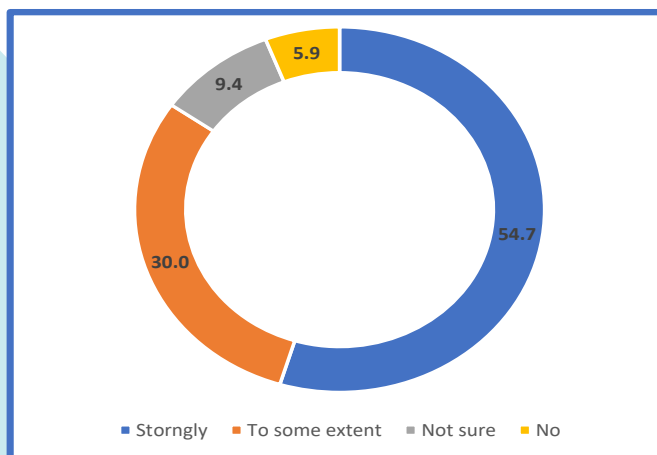
Even if the courts reopen, many advocates are not sure whether they would be able to render services to their clients that would bring reasonable income for their sustenance. Substantial number of advocates feel highly uncertain and are apprehensive of their profession due to economic meltdown. The ability of the clients to pay for services will be minimal as they have many other pressing basic needs. Unless efforts are taken to address this concern, both by BCTN&P and Bar Associations, collectively with concrete way forward strategies, either the poor clients will face the brunt of this scenario or there will be drastic reduction of the poor accessing courts of justice.



**Chart 7: Which advocates were financially most vulnerable?**

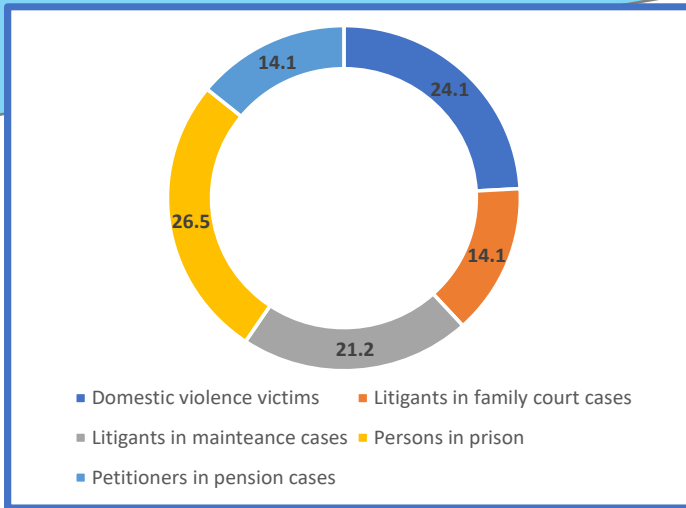
Out of 6 options, the respondents were asked to choose 2 options. This chart clearly sets out the criteria to identify most vulnerable advocates in legal profession. Juniors without monthly payment seem to be the most vulnerable group. The second criterion is that those who do not have other income support such as salaried partner, or other sources of income. The third criterion seems to be those who have less than 5 years of practice. Juniors and those who have less than 5 years of practice are overlapping categories. These three criteria are cross-cutting in nature irrespective of in whichever court – the Taluk, the District, or the High Court, one practices.

## C. Impact on the Future of the Profession and the Most Affected Clients



**Chart 8: Lockdown will affect the future of the profession**





**Chart 9: What type of clients were the most affected?**

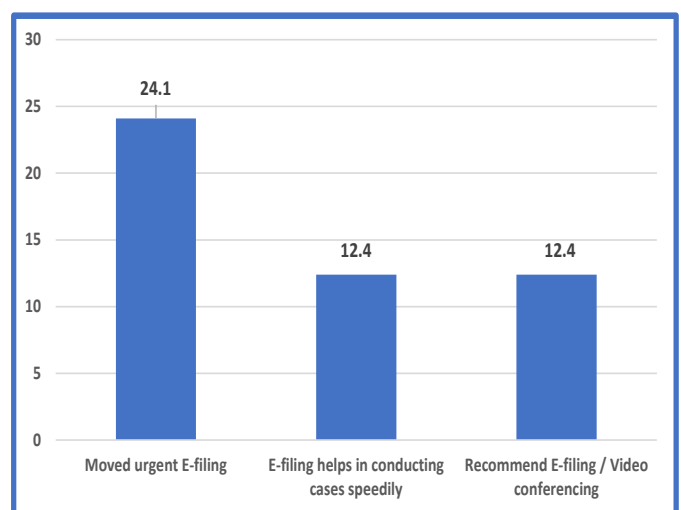
Five major client services were identified, and the respondents were asked to choose one. More than 20 per cent of respondents identified persons in prison, domestic violence victims and litigants in maintenance cases as the most vulnerable clientele categories. Pension cases and family court cases were identified as the most affected clients by 24 respondents each. As the courts were not functioning, those who were arrested and kept in prison for alleged offences had no opportunity to apply for bail. Under trial prisoners and the convicts were also hoping that their cases would be heard and released on merits. Both prisoners and advocates were pushed to a helpless situation. The principle of ‘Bail is rule and jail is exception’ was also under lockdown, which affected many innocent victims languishing in prison for relief. Several reports have pointed out that during lockdown, domestic violence and violence against children had increased. Lockdown also denied justice to women who had undergone domestic violence since these cases were not taken up.

Those who filed petitions for interim relief and received orders such as monthly maintenance could not enjoy the benefits as the orders were still to be executed.

## D. E-filing and Videoconferencing

The greatest value of human life is best represented in the recognition of fundamental rights, and in fully enabling people to enjoy and exercise these rights to the extent that preserves their humanity and respects their civility. To ensure that justice never sleeps, the judiciary introduced e-filing and video conferencing facilities in the District Courts, the High Courts and the Supreme Court to address important and urgent matters. Limited number of cases were filed, considered, and orders passed.

**Chart 10: E-filing and Videoconferencing**





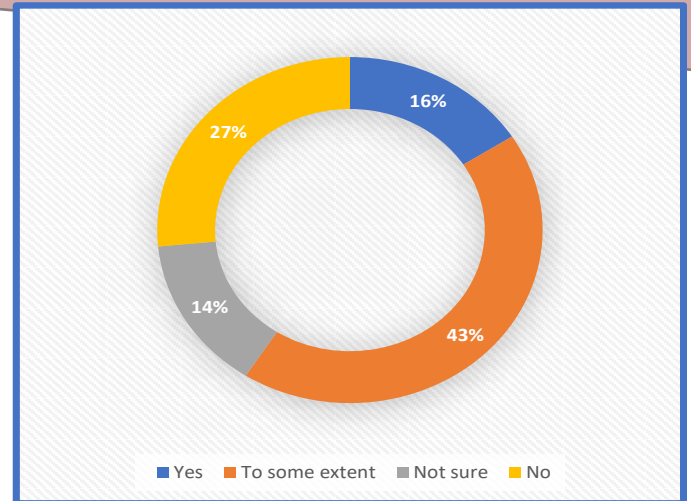
Three questions were asked: Did you move any urgent filing? Do you think video conferencing hearing facility would help in conducting cases speedily and would you recommend virtual hearing to be continued after lockdown? Chart 10 clearly demonstrates that 41 (24.1%) respondents utilised e-filing of cases. Of these 41 respondents, one was primarily practicing at the Taluk Court, 21 from the District Courts and 19 from the High Court. This indicates that out of 78 respondents who stated primarily practicing at the High Court, only 24.3 per cent moved the court with urgent filing.

Only 21 respondents stated that e-filing and videoconferencing were helpful in conducting cases speedily. Of these respondents, 3 were practicing at the Taluk Courts and 9 each from the District and the High Courts.

Only 21 respondents favoured continuation of e-filing and videoconferencing facilities after the lockdown. Of these respondents, 13 were from the District Courts, 7 from the High Court and 1 who had stopped practicing for personal reasons. From these responses, it can be concluded that most advocates are not in favour of virtual hearing of cases. Virtual hearing was something new and many advocates were unprepared and untrained. Some even commented that they could not afford to have video call facilities. Having an internet connection was a luxury. For many advocates, mobile phones were the only virtual connect instrument. Virtual hearing is considered non-viable for trial courts, as examination of witnesses require their presence for effectively rendering of justice.

## E. Critique of Efforts Taken by BCTN&P to Address Financial Vulnerability

It was heartening to note that Bar Council of Tamil Nadu and Puducherry (BCTN&P) took some efforts to reach out to the most vulnerable advocates. Of the total respondents, 132 (77.6%) were aware of the financial support scheme of BCTN&P. This indicated communication about this scheme had gone across to the advocate community.



**Chart 11: Satisfaction about the initiatives of BCTN&P**

Only 21 (15.9%) respondents were reasonably satisfied with the initiatives of BCTN&P and 57 (43.2%) were satisfied 'to some extent'. 35 respondents were not satisfied and 19 did not know what to say. For the first time in history, the Bar Council generated Rs 5 crores from the Hon'ble High Court Judges, respected Senior Advocates, Advocates, General Fund of BCTN&P and Advocates Welfare Fund Committee of BCI. It invited advocates in need to apply online for cash relief support. Of the 17,059 advocates who applied, about 12,000 were supported with Rs 4,000 each.

“I am confident that this study will help the advocate fraternity to conscientize the Bar council and the government to change their apathetic attitude towards the advocates”  
- Mr. Manohar. S. Senior Advocate, Madurai.



- Perusal of various sources revealed that there are about 115,000 advocates on roll of the BCTN&P. Among them, those who submitted certificate of practice, place of practice and those cleared All India Bar Examination are around 67,000.
- The announcement of the scheme was late, and distribution of meagre cash support was done only after 8 May 2020.
- Some advocates questioned the selection criteria, as some of the most deserving advocates did not receive and well-off advocates were provided with cash support. They also expressed that there was confusion, discrimination, and delay.
- Mandating the advocates to apply online in a short period of time, when most of the vulnerable advocates did not have online facility was termed as 'insensitive approach' by some respondents.
- Some mentioned that knowing fully well that there were many advocates in need of financial support, the Bar Council should have negotiated with the government for more financial assistance.

## F. Recommendations

Based on some conversation with some experienced advocates, a concrete proposal was mooted to find out the opinion of the respondents.

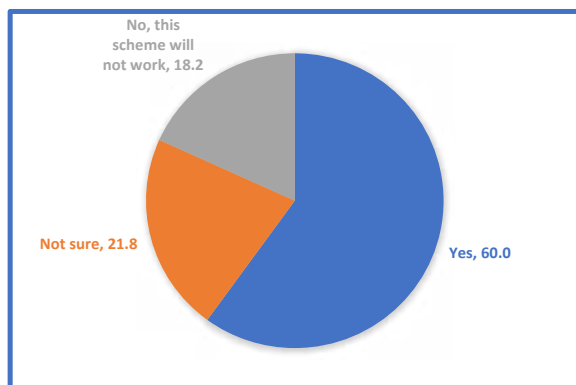


Chart 12: Stipend scheme for young advocates for certain years and age

The proposal was whether initiating a stipend scheme for young and newly enrolled practicing advocates for certain number of years with age bar would be a right strategy to address the financial vulnerability of the advocates in future emergency situations. Of the total respondents, 102 (60%) unanimously supported this proposal. 37 (21.8%) respondents were not sure whether this scheme would work and 31 (18.2%) did not approve the proposal.

The respondents were also asked to come out with concrete proposals to address financial vulnerability in future emergency scenarios. They proposed concrete recommendations to BCTN&P, State and to the advocate fraternity.

## Recommendations for the BCTN&P and State

- Stipend scheme must be implemented immediately. Bar council and government should take initiative without any delay. If this scheme had been in force, the financial stress of many young advocates could have been substantially reduced. When introducing this scheme put in place proper procedures to ensure that only regularly practicing advocates benefit by this scheme. While implementing this scheme, advocates with fake degrees should be identified and removed from the roll. Bar Council is a professional body, not an assemblage of law graduates. It has to ensure its members are really in active practice. Then only the schemes could be effectively implemented and the members also could be benefitted.
- Create a corpus or emergency fund to aid the advocates during emergency situations as they are not salaried class. Though this job is considered as 'white-collar professional service' no bank is ready to give loans unless one is a highly earning reputed senior advocate. Banks demand collateral security which many advocates cannot afford to. Bar Council and Bar Associations should come forward to give guarantee for recovery to banks so that the banks could provide loans to the needy advocates with minimum interest.
- Create a cooperative bank or thrift society in all Bar Associations from which advocates could avail loans.
- Current insurance scheme for the advocates covers only accidents. General Health Insurance for the advocates and their family members must be guaranteed, with minimum premium contribution from the advocates.
- Government and Bar Council ought to have released part of the Advocates' Welfare Fund, which is under the custody of Law Ministry, to all advocates who needed this support. This cash support could have been adjusted against final settlement of this amount or could have been asked to be repaid within certain period.
- E-filing and videoconferencing facility should not be thrust on the advocates. If this is considered as a possible option in an emergency scenario, then state should invest in establishing highspeed internet kiosks and should train the advocates free of cost as part of judicial reforms.
- Many felt that this noble profession is not given its due importance by the State. The State often considers the advocates as the 'other' and refuse to understand their needs and concerns. BCTN&P must take efforts so that the nobility of this profession is maintained and ensure justice never sleeps.

## Recommendations for Advocate Fraternity

- Most of the offices, especially in the trial courts, do not have the practice of paying juniors as monthly fees/salary. This must change. The Senior advocates must reach out to their juniors magnanimously and offer fair, living and decent wages. Juniors must be paid a minimum of Rs 10,000 per month or equivalent to minimum wages, so that the young advocates are motivated, dignified and their basic needs met.
- The lockdown along with economic downtrend will affect this profession. There is fear among the clients that if they call the advocates, they will demand fees. This could be one of the reasons why many clients did not call their advocates. However, many poor who are longing for justice would not be able to pay as much as they had been paying in the past. The advocate fraternity must continue to help the poor, without undue expectations.
- Practicing junior advocates must be attached to law offices and the offices should take care of their welfare. This would help the advocate fraternity to maintain respectable distance from the government. Any dependency on government for financial assistance might destroy the independence of the advocates and eventually the dignity of this profession.



## Conclusion

The advocates are never looked at as poor class by the public. Hardly a few are aware of the struggles, pains, and anguish of this community. Corona lockdown has brought out the hidden vulnerabilities of this community, especially the young. Recommendations mentioned above are concrete and practical. The state and advocate fraternity must wake up to the hard realities of advocate fraternity and explore ways and means to safeguard and protect the dignity of this profession.

Lawyers' Fraternity Tamil Nadu (LFTN) and Indian Social Institute Bengaluru are extremely grateful to all those who supported this study and responded generously. To every one of them we are grateful.



**“I see the initiative and questionnaire as valuable and timely effort. I welcome this study”**

*- Dr. V. Suresh, Advocate and National General Secretary, People's Union for Civil Liberties (PUCL), Faculty - Founder Trustee, Barefoot Academy of Governance and Director, Centre for Law, Policy & Human Rights Studies.*

**“The efforts taken by these two institutions are quite appreciable. The data collected from lawyers during this crisis and the analysis that has been made by the authors bring out a clean portrayal of the plight of junior lawyers at times of unexpected crisis. The recommendations need serious consideration by the Bar Council and government authorities.”**

*- Mr. Isaac Mohanlal, Senior Counsel, Madras High Court.*

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