

# Efficacy of Legal Aid: Bridging the Justice Gap

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## ABSTRACT

The legal resource is the supply of help to those who are not able to come up with the money for felony illustration and get admission to the courtroom docket system. Ensuring that legal aid is available for everyone especially to the economically weaker sections of the society where this access to justice is so important. This paper investigates the judicial attitude and role towards legal aid, with a special but not exclusive focus on its elevation to a constitutional right under Article 21 of the Indian Constitution through adjudication. In fact, Justice P.N. Bhagwati defined legal aid as “not merely a repaint of law in favour of the strong.” Thus, it prospers on equal justice. As per him, legal aid is one type of emergency call for the help of law. Moreover, legal aid involves a broader concept of social justice, which affords a societal climate in which equality of status and opportunity will be secured to all, thus making the power of the judiciary accessible and in everyone’s grasp during the critical point at which the citizen must assert his rights.

**Keywords:** Legal Aid, Unbiased Justice System, Law, Constitutional Provisions, Other Legal Provisions

## INTRODUCTION

“The concept of seeking justice cannot be equated with the value of dollars. Money plays no role in seeking justice.”

-- **Justice Blackmun** [Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1968)]

A significant portion of India's population lives in poverty and lacks literacy, resulting in widespread ignorance of legal and constitutional rights. Even when individuals are informed about their rights, many are unable to afford legal representation due to the high costs associated with legal counsel. Geographic, resource, and infrastructural challenges further hinder a large segment of the Indian populace from accessing legal services. The critical need for legal aid arises from these barriers, making legal representation unaffordable and inaccessible for the underprivileged. People of underprivileged corporations on the panchayat stage have grow to be made worse via way of means of failing to apply mainstream prison useful resource services. Legal useful resource has an extended records in India, that's supported through vast legislation, jurisprudential guidance, and numerous state-funded initiatives. However, the lack of a standardized format that is also financially viable has prevented lawyers from actively providing legal aid to individuals who require it. The lifestyle of seasoned bono remains developing. Although non-governmental organizations, law schools, bar associations, as well as individual advocates give and arrange legal aid, the need for it is unquestionably greater than the supply. The forty second Amendment to the Constitution, surpassed with the aid of using the Indian Parliament in 1976, protected a particular Directive Principle, called Article 39-A, proceeding to

offer unfastened felony help to the worthy segments of society. Articles 21 and 39-A of our Indian Constitution guide prison useful resource as a constitutional right. According to Article 21 of the Indian Constitution, no person can be disadvantaged in their lifestyles or non-public freedom except doing so below a felony process. Free legal aid has a close connection with the principle of the 'welfare state'. Legal aid comes to rescue for the people who somehow could not bear the cost of access to lawful framework. Legal aid also helps to make sure that people are entitled to welfare provisions, such as social housing, with access to legal advice and the courts, enforces welfare provisions. Legal aid services are treated as judicial arm of the War on Want and campaign for social justice. The free legal aid programme is aimed at doing social justice by removing the socially and economically unjust institutions. The Constitution aimed of a society based upon the philosophy of equity and dignity of manhood. For the preservation of an orderly society 'rule of law' is mandatory. This cannot be fulfilled unless the last person of the nation is denied proper access to justice delivery mechanism. If a person in need is not legally represented, he is being denied equal chance to get justice. Historically, felony resource has performed a sturdy position in making sure admire for economic, social and cultural rights which might be engaged on the subject of social security, housing, social care, health And training carrier provision, which can be furnished publicly or privately, in addition to employment regulation and anti-discrimination legislation. The judiciary which is also a pillar of democracy, has taken an active interest in making the legal service serve the individuals in need. The Constitution of India provides for an independent judiciary which has the goal of providing justice to every person irrespective of their economic status. The judiciary should protect the rights of the poor and this has been duly highlighted in the Directive Principles in the

Constitution of India. Public Interest Litigation is one of the bright spots in the history of Indian judiciary. This shows dedication of the judiciary in acting as a vanguard of the rights of the weakest sections of the society. The State must ensure that, the judicial system provides justice based on equal opportunities for all its people. Thus, it should provide free legal aid to those who do not have enough means to access justice due to social and economic disabilities. Thus, to make accessible the doors of justice to the weak, free legal aid has been induced in the judicial system.

### **RESEARCH METHODOLOGY**

The research has been completed using the Doctrinal method and the secondary data collected from the secondary sources have been cited.

### **MEANING OF LEGAL AID**

- According to Cambridge Advanced Learners' Dictionary "Legal Aid" means "a system of providing free advice about the law and practical help with legal matters for people who are too poor to pay for it."
- According to Oxford Dictionary "Legal Aid" means "payment from public funds allowed, in cases of need, to help pay for legal advice or proceedings."
- According to Collins Dictionary "Legal Aid" means "Legal aid is money given by the government or another organization to people who cannot afford to pay for a lawyer."
- According to Merriam-Webster Dictionary "Legal Aid" means "aid provided by an organization established especially to serve the legal needs of the poor."
- According to Black's Law Dictionary "Legal Aid" means "Free or inexpensive advice, assistance, or representation concerning the law. Given to those cannot afford it, based on jurisdictional criteria."

In the conventional feel criminal resource is thought as economic help to someone who desires to say or guard his rights in a courtroom docket of regulation and who would not be able to do so without such assistance given his financial means. The standard that means of the term “Legal Aid”, consequently is a felony support, social security, and social arrangement, for extending and presenting unique help or assist to the poorer and weaker members to enable them to enforce their legal rights through legal process.

## HISTORY

### 1. Throughout the world

**1.1. Ancient time:** Whereas, the idea regarding legal aid can be traced back to Ancient Societies wherein legal help and support were also offered with bias on certain rules existing in the society or religion. For instance, in ancient Rome, advocates would offer their services pro bono what this means is that they operated based on what we call causa gratis where they would defend individuals who could not afford the lawyer’s fee.

**1.2. Medieval Era:** In Medieval Europe, during the medieval period, the Church played a significant role in providing legal aid. Ecclesiastical courts offered assistance to the poor, often rooted in the principles of charity and justice as taught by the Church.

### 1.3. Early Modern Era

- **England:** The period of early modernity had more organized types of legal help. Under Henry VII in England, the Statute of 1495 was created and the appointment of pauper lawyers for those of the poor was made possible. This statute is widely appreciated as one of the earliest provisions for legal aid in the entire world.

### 1.4. 19th and Early 20th Century

- **United States:** In the topic about the history of the United States of America’s version of legal aid societies, it is important to mention that the

concept originated in the 19th century. The first society for providing legal aid was registered in New York in 1876 to help German immigrants. Such organizations were mostly based on charitable motives with a view of offering justice to the less privileged section of the society.

- **United Kingdom:** In England, the movement got a major acceleration when Lord Chancellor, Simon appointed the ‘Rushcliffe Committee’ to make recommendations on the matter of free legal service.
- **Europe:** Similar movements occurred in Europe. For example, the French Bar introduced a system of voluntary legal aid in the late 19th century, where lawyers provided services free of charge to those in need.

### 1.5. Post-World War II Era

- **Global Expansion:** After World War II, the idea of legal aid began to gain more traction globally, influenced by the principles of human rights and social justice.

The establishment of the United Nations and the Universal Declaration of Human Rights in 1948, which emphasized the right to a fair trial and access to justice, played a crucial role in promoting legal aid.

- **United Kingdom:** The UK introduced the Legal Aid and Advice Act in 1949, creating a comprehensive system for providing legal assistance to those who could not afford it. This act marked the beginning of the modern legal aid system in the UK.
- **U.S.A.:** In the United States, significant advancements were made in the 1960s and 1970s. The Legal Services Corporation (LSC) was established in 1974 to provide financial support for civil legal aid to low-income Americans. This organization aimed to ensure access to legal assistance, emphasizing the importance of legal aid as a

fundamental component of social justice.

### 1.6. Late 20th Century to Present

- **International Frameworks:** Various international conventions and treaties have underscored the importance of legal aid. For example, the International Covenant on Civil and Political Rights (ICCPR) adopted in 1966 includes provisions for legal assistance.
- **Developing Countries:** In many developing countries, legal aid systems have been established with support from international organizations and NGOs. These systems often focus on providing access to justice for the poor and marginalized communities.
- **Technological Advancements:** In recent years, technology has played a significant role in expanding the reach of legal aid. Online legal aid platforms, hotlines, and mobile applications have made it easier for people to access legal assistance.

The history and evolution of legal aid reflect a global commitment to ensuring access to justice for all individuals, regardless of their socio-economic status. From its early beginnings in ancient societies to the sophisticated legal aid systems of today, the provision of legal aid has continually adapted to meet the needs of society, driven by the fundamental principles of justice and equality.

## 2. History of Legal Aid throughout India

About the legal aid, India enjoys a pretty rich history of legal aid movements. This is not some fleeting idea that occurred to a few academics and lawyers in a while. One could not discuss justice in ancient civilizations as if this concept of social justice was unheard of. Its antecedents go back to what is characterized as the Vedic period. It is from the constituents of dharma that legal aid traces can be spotted. After Vedas were divided into four groups;

Rigveda, Yajurveda, Samveda and Atharvaveda, the feature of legal aid find their root in Rigveda. In the period of Vedas or Vedic period the Dharma was thought to be significant. The liberation of 'rakshas' and violent people, getting strength for protecting those people along with pray the god to bless to those people who donate as described in the 36th and 42nd shlokas of the chapter one.

During the medieval ages the 'Manusmriti' was legal which allowed the king to do justice without caring about his wimps emphasizing on the religion. The first real example of equal justice as Mukherji has rightly pointed out could be made as site back to the Mughal period. This is possibly the glimpse of Emperor Jahangir who is being credited to do justice irrespective of birth, profession and official rank. These people were allowed to practice private laws in reaching civil and religious matters in their society. This methodology of fair justice is named as 'Jahangiri Nyaya'.

It is in India where after the jubilee of the country's independence the problem of the provision of free legal assistance was solved. As far as law reform is concerned, the issue connecting insufficient legal assistance was also discussed in the meetings and conferences of Law Ministers and Law commissions in 1952. In other words, as a concrete measure in the matter, the government has circulated certain guidelines regarding legal aid schemes and the states were receptive to change and reshape it to suit their needs. In 1952, Government of India called upon State Governments to provide for legal aid in criminal proceedings the legal aid in cases of offences where the punishment was not less than five years rigorous imprisonment and further appeals. For the several states of the nation, support to the legal aid program was provided by different Law Boards, Legal Aid Societies and Departments. The article will additionally focus the major committees that had their share in this area.

### **2.1. Law Commission Report (1958)**

**chaired by Mr. MC Setalwad** - The 14th Law commission report had a dedicated chapter in the matter of legal aid. The report highlighted the increased need for legal aid due to industrialization and upgraded lifestyle. Further, it read that it was the State's obligation to provide legal aid and also rejected the criticism that it makes citizens more litigious. The report also recommended the legal professionals to consider it their social responsibility for implementing legal aid to the needy.

The Commission made certain recommendations on legal aid -

- "Free Legal Aid to poor person and persons of limited means is a service which the modern state and in particular a welfare state owes to its citizens. The Government must, therefore, accept this obligation and make available funds for providing such legal aid to poor persons and individuals of limited means.
- The legal profession if not entirely, accepts the responsibility for the administration and working of schemes of legal aid.
- The Legal profession owes a moral and social obligation to poor members of society which should be discharged by every member of the profession doing a certain amount of legal work free for poor persons.
- The Scheme of Bombay Legal Aid and Advice Committee, 1949 and West Bengal Committee to be adopted with some modifications by all States as soon as financial conditions permit.
- Bar Association should take immediate measures to render legal aid on a voluntary basis".

### **2.2. PN Bhagwati Committee Report (1971) chaired by Justice PN Bhagwati**

- Thus the Committee was formed in the year 1970 by the Gujarat government with an aim of lifting the ban of 1965 imposed on PUF. Those members of the commission were Justice P. N. Bhagwati as the chairman, the then Chief Justice of Gujarat

High Court and others. This was to relate to the fact that Justice Bhagwati decried the fact that even while retaining the adversary system some changes may be effected where they should judges be given participatory role in the trial so for the poor putting them on the same footing as the wealthy within administration of justice. The committee posited that obligation of the government was not only social or political but that reason exists under Articles 14 and 22(1). Three tests were developed to determine whether the court there is a person being qualified to free legal aid and these were, Means test, Prima facie test and Reasonability test.

### **2.3. Krishna Iyer Committee Report (1972) chaired by Justice Iyer**

- Reported by the committee, the document containing the proceeding known as Processional Justice to Poor was in 273 pages and was released in the year 1973. The deliberation that took place within the committee involved law and more explicitly the panchayat system as a mode of solving conflicts.

The Report also made an effort to classify those categories of persons who are most in need of Legal Aid, they are as follows:

- poor people, as a general rule.
- THOSE persons belonging to the Scheduled Castes, \*or the Scheduled Tribes, that is the category of people who have been economically as well as socially defeated and subdued by the so-called superior cultured civilization society right from the ancient period of history.
- Those persons who either due to being inhabitants of backward areas or are geographically situated in such a position that they cannot approach the Courts of Justice such as the inhabitants of Scheduled Areas, Mountain regions, areas that have no connectivity with the outside world, etc. or any worker or peasant class who works and struggles for wages and Hugo own the fruits of their hard labor.

- It applies to those soldiers and armed forces personnel that in an endeavor to safeguard the boundaries are posted at the periphery of the territory for long.
- of the biological infirmity that children and women face and the lack of social justice on biological infirmity.
- Untouchables or those who are referred to as Harijans and who even after the abolishment of administrative class on the grounds of their unacceptance in the community.

#### **2.4. Juridicare Committee Report (1977)**

- had jointly worked on this project. The committee recommended the establishment of National Legal Services Authority (NALSA). The report primarily focused on the infrastructure of the law services of the organization and stated that it was not to be a department of the government but an autonomous institution headed by the Justice of the Supreme Court. The body would have representations from different Bar Associations, the Government, the Parliament and the Judiciary as well as voluntary associations and social workers and that there would be A multi-tier installation for the prison useful resource organization. Justices Bhagwati and Krishnan are the pioneers of the legal aid movement in India. This part of the paper dealt with the growth and evolution of the free legal aid movement in India from ancient times to the present times. India has changed a lot since independence but the problems of illiteracy, poverty, and joblessness still exist in society in 2024 also where persons are unable to pay their legal expenses to their Lawyers as they have no job so poverty still exists. The government has taken a lot of measures to uplift the deprived sections of society, but inequality still plagues the country. On paper, India is a welfare state but we have not been able to fulfil the constitutional promises of equality and public good to the fullest. The judiciary through its significant interventions has compelled as well as guided the legislature to come up with suitable laws to bring

justice to the doorsteps of the poorest sections of the society. The top court has actively participated in the protection of Human rights. The Constitution of India mandates the 3 organs of the state i.e. Legislature, Executive and Judiciary to realize the objectives in the Fundamental Rights and Directive Principles of State Policy.

#### **Statutory Provisions of Free Legal Aid in India**

##### **1. The Indian Constitution –**

The Indian Constitution is the Supreme Authority to enact any law and to secure the rights of the citizens of India. Indian Constitution was enacted on 26 January in the year of 1950 by Dr. B.R. Ambedkar. As the Constituent Assembly found it necessary to change or modify or amend the Constitution for the time being, the Constitution has been amended many times. But, in this paper, I will describe the amendment where Free Legal Aid had been Amended in the Constitution of India. In the 42nd Amendment in 1976, the provision of the Article 39-A was added to the Constitution of India that deals with equal justice and free legal aid and the same was came into effect from 3rd January, 1977. The provision is geared toward making sure get entry to justice for all, mainly the economically and socially weaker sections of society. It recognizes that the cost of legal proceedings can be a major barrier to justice, and seeks to remove this obstacle by providing free legal aid. To supply impact to the provisions of Article 39-A, the Legal Services Authorities Act, 1987 turned into enacted. The Act affords for the charter of criminal offerings government on the national, state, and district levels, and for the supply of loose criminal resource to eligible persons. Article 39-A is a large provision withinside the Indian Constitution that seeks to make sure identical get right of entry to justice for all citizens, particularly individuals who are economically and socially disadvantaged. Its implementation through the Legal Services Authorities Act,

1987 has been instrumental in providing free legal aid to millions of people who would otherwise have been unable to afford it. Article 39-A has several merits, including the promotion of access to justice, equality before the law, simplicity in legal procedures, efficient deployment of legal resources, and the protection of fundamental rights. These deserves have made a vast contribution to the improvement of a simply and egalitarian society in India.

## **2. The Legal Services Authority Act, 1987**

To accomplish the objectives encompassed in Article 39A of the Indian Constitution the Legal Services Authority was implemented. The Act aims to set up a countrywide network to provide free legal services to the poor sections. It makes it an obligation for the State to ensure equal protection for all and equality before law. The Legal Services Authorities Act provides for creation of legal services authorities at various levels which would make sure that fair and free legal service is given to every person who needs so. The main priority of the Act is to provide social justice to the people who due to social or economic disability are not able to approach the relevant authorities. Legal aid service is provided in almost all the Courts, Tribunals and Commissions throughout the country. Section 2(1) (a) defines court as a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions. As per Section 2(1)(c) 'legal service' includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of recommendation on any felony matter. Under the act, National Legal Services Authority (NALSA) has been setup as a statutory body to implement the aims and objectives of the act. The Legal Services Authorities Act, 1987 also provides for

formation of the legal services authority at State, District and Taluk levels. There are entitlement criteria to Legal Services. The persons who satisfy all or any of the criteria specified in section 12 of The Legal Services Authority Act, 1987 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has a prima facie case to prosecute or to defend and an affidavit made by a person is needed, as to His earnings can be seemed as enough for making him eligible to the entitlement of criminal offerings below this Act except the involved Authority has purpose to disbelieve such affidavit.

### **2.1. National Legal Services Authority**

**(NALSA)** - It was constituted in the year 1995, under the aegis of The Legal Services Authority Act, 1987. It is a statutory body, which has been created to implement and monitor the legal aid policies of the government. 'NALSA' receives grants from the central government which they, in turn, disburses to the State authorities and NGOs working in this program. The legal aid program by 'NALSA' includes conducting 'Lok Adalats', LAC in colleges and legal literacy camps etc. The law prescribes the criteria for giving free legal services to the eligible persons.

It makes a person eligible for assistance under the act if he is –

“(a) a member of a Scheduled Caste or Scheduled Tribe;

(b) a victim of trafficking in human beings or begar as referred to in Article 23 of the Constitution;

(c) a woman or a child;

(d) A person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);

(e) a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste

atrocities, flood, drought, earthquake or industrial disaster; or

(f) an industrial workman; or

(g) in custody, including custody in a protective home or in a juvenile home or in a psychiatric hospital or psychiatric nursing home within the meaning of clause of section 2 of the Mental Health Act, 1987; or

(h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.”.

The legal services authority, after strict scrutiny of the applicant provides him an advocate, pays the Court fee and pay all the other expenses concerning the suit.

**2.2. State Legal Services Authority (SLSA)** - Every state has been directed to set up its own State Legal Services Authority to implement the directions of ‘NALSA’. ‘SLSA’ is chaired by the Chief Justice of the State’s High Court while a serving or retired judge is the Executive Chairman. The main function of the body is to conduct ‘Lok Adalats’.

**2.3. District Legal Services Authority (DLSA)** - Every District of the country has been asked to set up District Legal Services to implement the legal aid schemes of the government. With the 1994 amendment act, Taluk Legal Services have been added to the principal act. The chairman of ‘DLSA’ is a District judge.

**2.4. Taluk Legal Services Authority (TLSA)** - Every state has formed its own rules for the governing and management of ‘TLSA’. It is headed with the aid of using a senior Civil Judge. The states have set up TLSA in different ‘mandals’ and ‘taluks’ to implement legal aid programs and organize ‘Lok Adalats’.

**3. NALSA Regulations, 2010** - In 2010, ‘NALSA’ under section 29 of the 1987 Act executed the National Legal Services Authority (Free and Competent Legal Services) Regulations. The rules laid down under the Act are applicable on Legal Service Committees of the Supreme Court, High Courts, the States and taluks -

- Selection of the panel the respective legal services authority invites applications from legal professionals and lawyers with mandatory proficient knowledge. The legal practitioner requires a compulsory practice of 3 years to be eligible to apply for the empanelment procedure, also the integrity, experience, competence are the parameters while appointment for the panel. The panel will be set up by the Executive Chairman of the institution in counsel with the Attorney General for the Apex Court, Advocate General for High Courts, Government pleader for districts and the Bar association President. The empanelled lawyers are not allowed to take any remuneration from the client and if found doing so, then the panel lawyer might be removed from the case or his name expelled from the panel.
- Advocate Fee The regulations suggest that the fees to the empanelled lawyers should be paid immediately after the fulfilment of all the procedures. The lawyers cannot ask the client for any direct or indirect remuneration. The honorarium is revised regularly.
- Senior Counsels The administrations of senior lawyers might be profited if the Chairman of the legal service institutions shapes an assessment to that impact in instances of great public importance and where a genuine danger to life and liberty of the individual exists.
- Monitoring committee - The state is required to set up a monitoring committee. The committee’s job is to assess the functioning and keep a proper



record of the empanelled advocates and volunteers, which is to be submitted to the Chairman of the committee every month.

**4. Order 33 of Code of Civil Procedure, 1908** - "Order 33 of the Civil Procedure Code enables an indigent person to institute suits, before a civil court, without requiring such a person to pay the court fees. Further, where the person is unable to make such arrangements due to various reasons, civil court has the discretion to assign a legal practitioner to such indigent person".

**5. The Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S., 2023)** - Section 341 of the B.N.S.S., 2023 mandates the state to provide the accused with free legal aid if he is poor enough to afford a lawyer. It is the discretion of the state to extend the application of the section to any class or trial before the courts. If during the trial the accused had not engaged any lawyer for his defence, then the decision of the court is considered null & void. Previously before 1<sup>st</sup> July 2024 Code of Criminal Procedure (Cr.P.C.), 1973 was in force, and then this same section was governed by section 304 of Cr.P.C.

**6. International Covenant on Civil and Political Right (ICCPR)** - Article 14(3) of the ICCPR "guarantees to everyone the right to be tried in his presence, and to defend himself in character or via criminal help of his very own choosing; to be informed, if he does not no longer have criminal help, of his right; and to have criminal help assigned to him in any case where the interests of justice shall require, and without payment by him any such case if he does not have enough means to pay for it".

#### LANDMARK JUDGEMENTS REGARDING LEGAL AID –

• **Hussainara Khatoon v. State of Bihar (1979):** In this case, the Supreme

Court of India held that the right to free legal aid is a fundamental right of every person and that it's miles the responsibility of the nation to offer unfastened felony resource to people who can't have enough money it.

• **Suk Das v. Union Territory of Arunachal Pradesh (1986):** In this case, the Supreme Court of India held that the right to legal aid is an essential element of the right to an honest trial and that the nation has an obligation to offer felony resource to folks who can't come up with the money for it.

• **State of Maharashtra v. Manubhai Pragaji Vashi (1995):** In this case, the Supreme Court of India held that the nation has an obligation to make sure that felony resource is furnished at each stage of the proceedings, and that legal aid should not be restricted to only certain stages of the trial.

• **M. C. Mehta v. Union of India (1987):** In this case, the Supreme Court of India held that getting entry to justice is an essential right and that the country has a responsibility to offer unfastened criminal useful resources to people who can't come up with the money for it.

• **State of Punjab v. Jagdev Singh Talwandi (1983):** In this case, the Supreme Court of India held that legal aid should not only be restricted to criminal cases but should also be available in civil instances, especially in instances concerning the bad and marginalized sections of society.

• **Khatri v. State of Bihar (1981):** In this case, the court held that the right to legal aid is a fundamental right under Article 21 of the Indian Constitution.

These landmark cases have played a significant role in shaping the interpretation and implementation of Article 39-A of the Constitution of India, and have helped to ensure that the right to legal aid is a fundamental right to prison resources is an essential proper this is on hand to all

citizens, irrespective of their financial or social background.

### **POSITIVE APPROACH OF LEGAL AID IN INDIA**

Legal Aid in India has very much helped the needy peoples to reach their goal towards fair justice. Some of the key points of positive approach are discussed below.

- **Services Provided:** Free legal services include representation by an advocate in legal proceedings, payment of process fees, expenses of witnesses, preparation of pleadings, drafting of legal documents, and supply of certified copies of judgments and orders. It also involves aiding beneficiaries to access their entitlements under various government schemes.
- **Gender-Neutral Approach:** Legal aid services are designed to be gender-neutral, ensuring that both men and women, irrespective of their gender, can access free legal assistance. Special provisions are made to protect and assist marginalized sections, which include both men and women facing legal issues.
- **Pro Bono Legal Services:** This initiative provides a web-based platform where lawyers can volunteer to offer free legal services to underprivileged litigants. It aims to enhance access to justice for marginalized communities, including women, children, senior citizens, and persons with disabilities.
- **Tele-Law Services:** This program leverages digital technology to connect disadvantaged communities with legal advisors through video conferencing facilities. It aims to make legal aid more accessible, especially in rural and remote areas.
- **Nyaya Mitra Scheme:** The scheme focuses on reducing the pendency of

cases in courts, thereby speeding up the delivery of justice. It specifically targets cases involving marginalized groups to ensure they receive timely and fair treatment.

- **Public Interest Litigations (PILs):** NALSA has been instrumental in filing PILs to address systemic issues and protect the rights of marginalized groups.

For example, NALSA performed a widespread position inside the landmark judgment spotting transgender rights in the case of NALSA vs. Union of India.

### **ISSUES WITH LEGAL AID IN INDIA**

Free legal aid is a constitutional obligation on the state and it should not be considered as a charity. Legal aid is a fundamental element of the rule of law, but the movement has failed to achieve its objectives. There is a huge difference between the goals set and the goals met. Common people are still not aware of their rudimentary legal rights and this leads to their exploitation. The majority of the population is still uninformed about the availability of free legal aid services. Another major impediment to the legal aid movement in the country is that the delivery system for legal aid is far too inefficient. More legal professionals must be inspired to deliver free legal aid and a movement should be launched to inform people about the existence of free legal aid. The legal aid model adopted by India has proven ineffective. The problems are defined as follows –

- **Limited scope of legal aid:** The legal aid provided under Article 39-A is limited to those who are unable to afford legal services. This method that people who won't fall inside this category, however nonetheless face big boundaries in having access to justice, won't be eligible for criminal aid.
- **Lack of awareness:** Another limitation of Article 39-A is that many

people who are eligible for legal aid may not be aware of its availability. This can bring about a loss of uptake of felony resource services, and can save you eligible people from gaining access to justice.

- **Difference between the quality of services offered by a private practitioner and LAC** - In various studies, it has been confirmed that there is a wide gap between the abilities and skills of a private advocate and a Legal Aid Counsel. The argumentative and drafting skills of private lawyers are considered superior over the LACs. This difference between the services encourages the poor to opt for private lawyers even if they have to spend a fortune over it.

- **Undue payment delays**- Though, the act provides for immediate payment of the honorarium but in actuality, this hardly happens. The reimbursement process is very complicated, technical and cumbersome and the honorarium is rarely paid on time. This unwarranted delay leads to frustration of commitment of the LACs. According to the law, all the expenses incurred during the case duration are met by the LACs and no advance is paid to them for this purpose. Most of the advocates come from not-so-good backgrounds and undue delays create a lot of hardships for them.

- **Lack of control over the Legal Aid lawyers**- Para 15 of the 2010 regulations state that a LAC shall be disqualified and punished for the demanding money from the beneficiaries<sup>48</sup>, but in the past few years, no such actions have been taken by NALSA or any other legal service authorities. The LACs are having a non-serious attitude towards the work which leads to a compromise in the quality of the services offered by them.

- **Underfunding**: The provision of legal aid under Article 39-A is dependent on government funding, which can be limited in some cases. This can bring about a loss of

sources for felony resource providers, and might restrict the provision and first-class of felony resource services.

### **SUGGESTION TO ESTABLISH A BETTER FRAME FOR LEGAL AID –**

If we improve our Legal Aid facility frame, then we can reach near to the welfare state as well as near to a developing nation in some more ways. I have noted some suggestions that can serve to modify the Legal Aid service more perfect -

- In India, a lot of people are still not aware of the constitutional provisions such as Article 39A and because of this, the benefits of legal aid and free legal services are not reaching the targeted mass. Successful felony resource transport calls for the authorities to embark on a marketing campaign to tell and train the general public about the proper to lose felony resources. The poor and underprivileged should be educated about the basic rights given to them by the constitutional makers and this can be effectively done by legal literacy programmes. Law students, paralegal workers, Women, and Children NGOs should volunteer to create legal awareness by conducting workshops, seminars, and street plays etc. Further, the government must employ more effective processes to improve legal aid delivery such as increased funding to the NGOs and improved remuneration for legal aid lawyers. The best way to create legal awareness is through legal aid camps and this can be done with the help of law students and lawyers along with the assistance of the police and district administration.
- The Legal Services Authorities should focus not only on quantity but quality also. The paralegal volunteers and NGOs should visit the prospective areas and help the poor rather than waiting for them to approach the authorities. The teachers and advocates should be given

tax considerations if they are involved in imparting free legal services.

- The untapped resource by NALSA is law students especially in the final years, this fresh talent can be utilised by allowing them to represent clients in the courts and tribunals through a college-based legal aid clinic.
- Social media can act as a powerful weapon in creating legal awareness. Online entertainment platforms such as TikTok and YouTube can act as modes of creating awareness among the people. These online platforms have millions of downloads and it is accessible to almost every person in India.
- The Lawyers should be given with their remuneration per month wise so that interest can be grown towards the Legal Aid. As of now in 2024, it is still there that after too many verifications and permission the allowance of the Legal Aid Lawyers is provided.
- Most of the colleges, still don't have a dedicated Legal Aid Centre for the common public to come and get their grievances resolved.

Panchayats since time immemorial have acted as an efficient tool of Alternate Dispute Resolution. The states should revive the Panchayat culture and give them a modern flavour by mandating them to keep proper records and training the panchayat staff in the basics of law.

## CONCLUSION

In turn, it is possible to define providing legal aid as a provision of free legal assistance that contributes to the improvement of the society's condition. Many ventures have been carried out... An accused also has a right to seek for legal aid if he cannot afford that or pay for that through many provisions of the Indian legislation. Legal aid is recognized, and has evolved with legal, administrative, and legislative changes in India, thus laying a framework for the implementation of delivery of free legal services to the needy classes. Ways still have to be found before

the idea of free legal aid is realized for the majority of the population. The formation of legal consciousness of people of different profiles is the basic prerequisite in this regard. Above all, patriotic lawyers should persevere in the very honourable task of bringing justice to individuals both in every segment of the society. The overall quality of the legal aid in India thus makes it possible to describe India as a growing nation alongside the rest of the developing nations.

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