



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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NO PRICE FOR JUSTICE: THE CONSTITUTIONAL ETHOS OF LEGAL AID IN INDIA

Debdeep Giri

ABSTRACT

This article explores the constitutional, statutory, and institutional dimensions of legal aid in India, framing it not as a discretionary service but as a fundamental right integral to the country's democratic and egalitarian ethos. Anchored in Article 39A and reinforced by Articles 14, 21, and 22 of the Indian Constitution, the legal aid framework aims to ensure that justice is neither denied nor delayed due to economic or social disadvantage. Landmark judicial pronouncements have progressively expanded this right, transforming legal aid into a constitutional imperative that safeguards the dignity and liberties of marginalized communities. The article examines the implementation mechanisms under the Legal Services Authorities Act, 1987, which established a four-tier system comprising NALSA, SLSAs, DLSAs, and TLSCs. It evaluates the roles played by these institutions, recent legislative reinforcements like the BNSS 2023, and supporting structures such as Lok Adalats and legal aid clinics. Despite a comprehensive legal framework, the realization of universal legal aid faces several obstacles, including poor public awareness, uneven quality of legal representation, geographical imbalances, and systemic underfunding. The article proposes a forward-looking strategy rooted in legal literacy, increased investment, professionalization, technological integration, and accountability to bridge the gap between the constitutional promise and practical reality. Ultimately, the paper argues that legal aid is not merely about compliance with constitutional directives but about affirming the dignity and rights of every citizen. Justice, in its truest form, must be accessible to all, regardless of their means.

KEYWORDS

Legal Aid, Access to Justice, Article 39A, Social Justice, Fundamental Right.

INTRODUCTION: JUSTICE BEYOND MEANS

In a constitutional democracy as vast and diverse as India, justice cannot remain the privilege of the affluent, the informed, or the socially powerful. It must be universally accessible, irrespective of a person's economic status, literacy, or social background. Legal aid, in this context, is not a charitable service extended at the discretion of the State, but a constitutional duty rooted in the ideals of equality and dignity.

The Indian Constitution¹ envisions a justice system that does not discriminate based on a citizen's capacity to pay for legal representation. This vision is reflected in Article 14², which guarantees equality before the law, and is more explicitly articulated in Article 39A³, introduced by the 42nd Amendment⁴, which mandates the State to provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen due to economic or other disabilities.

In a society burdened by deep socio-economic disparities, the guarantee of legal aid becomes indispensable to upholding the rule of law and democratic legitimacy. Recognizing this, the Indian judiciary has expanded the scope of fundamental rights, particularly Article 21⁵, which protects the right to life and personal liberty, to include the right to free legal assistance. Landmark judgments have affirmed that without such aid, the promise of a fair trial or access to remedies becomes hollow, especially for the marginalized and underprivileged.

This article critically examines the constitutional foundations of legal aid in India, the statutory and institutional frameworks established to implement it, the evolving judicial interpretations that have expanded its reach, and the persistent barriers that hinder its effective realization. In doing so, it affirms that a strong legal aid system is not merely desirable but is also essential for achieving meaningful justice for all, not just for the few who can afford it.

CONSTITUTIONAL FOUNDATIONS OF LEGAL AID IN INDIA

The constitutional vision of India is fundamentally anchored in the ideal of social justice, which obliges the State to guarantee that legal remedies are accessible to all citizens, regardless of their financial or social status. This commitment to equal access to justice found explicit

¹ INDIA CONST.

² INDIA CONST. art. 14.

³ INDIA CONST. art. 39A.

⁴ INDIA CONST., *amended by* The Constitution (Forty-second Amendment) Act, 1976.

⁵ INDIA CONST. art. 21.

constitutional recognition through the 42nd Constitutional Amendment of 1976⁶, which introduced Article 39A⁷ into the Directive Principles of State Policy. Article 39A⁸ mandates the State to promote justice on the basis of equal opportunity and to provide free legal aid so that no individual is denied justice due to economic or other disabilities.

Although Directive Principles are not enforceable in a court of law, they provide crucial normative guidance to legislative and executive action and have, over time, been judicially integrated with enforceable Fundamental Rights. Most notably, Article 21⁹, which guarantees the right to life and personal liberty, has been expansively interpreted by the Supreme Court to encompass the right to legal aid. In the landmark case of *Hussainara Khatoon v. State of Bihar (1979)*¹⁰, the Court held that legal assistance to the poor and needy is an essential component of a fair, just, and reasonable procedure under Article 21¹¹. Without such aid, the constitutional guarantee of due process would be rendered meaningless.

Article 14¹², which guarantees equality before the law and equal protection of the laws, reinforces the constitutional imperative of legal aid by condemning any structural barriers that prevent indigent persons from accessing justice. In *Sheela Barse v. State of Maharashtra (1983)*¹³, the Supreme Court held that providing legal assistance to a poor accused, particularly one whose life or liberty is at stake, is a constitutional obligation under Articles 21¹⁴, 14¹⁵, and 39A¹⁶. The Court further directed that all arrested individuals must be informed of their right to free legal aid at the time of arrest and upon first appearance before a magistrate. This principle was later reiterated in *Suk Das v. Union Territory of Arunachal Pradesh (1986)*¹⁷, where the Court emphasized that free legal aid is not a matter of governmental discretion but a fundamental right intrinsic to a fair and just legal system.

⁶ *supra* note 4.

⁷ *supra* note 3.

⁸ *Ibid.*

⁹ *supra* note 5.

¹⁰ *Hussainara Khatoon & Ors. v. Home Secretary, State of Bihar, Patna, 1979 AIR 1369.*

¹¹ *supra* note 5.

¹² *supra* note 2.

¹³ *Sheela Barse v. State of Maharashtra, 1983 AIR 378.*

¹⁴ *supra* note 5.

¹⁵ *supra* note 2.

¹⁶ *supra* note 3.

¹⁷ *Suk Das & Anr. v. Union Territory of Arunachal Pradesh, 1986 AIR 991.*

Further, Article 22(1)¹⁸ strengthens this right by ensuring that no arrested person is denied the right to consult and be defended by a legal practitioner of their choice. Judicial interpretation has extended this to mean that when a person cannot afford a lawyer, the State must provide one to fulfil the constitutional mandate of fair legal representation.

Collectively, these provisions, when read harmoniously, have evolved the notion of legal aid in India from a non-enforceable directive principle to an enforceable fundamental right. This transformation reflects the judiciary's dynamic and purposive interpretation of the Constitution¹⁹ to align legal processes with the principles of justice, fairness, and human dignity. It also underscores that access to justice is not a privilege for the few, but a constitutional entitlement for all.

STATUTORY AND INSTITUTIONAL FRAMEWORK

To translate the constitutional vision of Article 39A²⁰ into reality, the Indian Parliament enacted the Legal Services Authorities Act, 1987²¹, which was later amended. This landmark legislation provides a statutory foundation for the delivery of free legal services in India. It establishes a four-tiered institutional structure comprising the National Legal Services Authority (NALSA) at the apex, followed by State Legal Services Authorities (SLSAs), District Legal Services Authorities (DLSAs), and Taluk Legal Services Committees (TLSCs) at the grassroots. These bodies are entrusted with implementing legal aid schemes, organizing Lok Adalats, and fostering legal literacy. Section 12²² of the Act lays down the eligibility criteria for free legal services, covering groups such as women, children, SC/ST members, persons with disabilities, victims of trafficking, and economically weaker sections.

NALSA plays a pivotal role in policy formulation, coordination, and monitoring of legal aid programs. It guides subordinate authorities, runs legal literacy campaigns, and organizes Lok Adalats nationwide. In rural and remote regions, Legal Aid Clinics function as village-level service hubs. SLSAs, headed by Chief Justices of State High Courts, implement national schemes and supervise district and taluk-level bodies, ensuring outreach in both urban and rural areas. DLSAs, led by District Judges, and TLSCs, headed by Senior Civil Judges, act as the first point of access for many citizens.

¹⁸ INDIA CONST. art. 22, cl. 1.

¹⁹ *supra* note 1.

²⁰ *supra* note 3.

²¹ The Legal Services Authorities Act, 1987, No. 39, Acts of Parliament, 1987 (India).

²² The Legal Services Authorities Act, 1987, § 12, No. 39, Acts of Parliament, 1987 (India).

The framework also includes Supreme Court Legal Services Committee (SCLSC) for aiding litigants before the apex court. The recently enacted Bharatiya Nagarik Suraksha Sanhita, 2023²³, further strengthens this regime. Section 341 of the BNSS, 2023²⁴ mandates the provision of legal aid at State expense to accused persons who cannot afford representation. Together, these mechanisms form a robust yet evolving infrastructure designed to deliver justice to all, especially the most vulnerable.²⁵

BARRIERS AND CHALLENGES TO EFFECTIVE LEGAL AID

Despite the strong constitutional and statutory mandate supporting legal aid in India, the system continues to grapple with deep-rooted structural and operational challenges. A significant barrier lies in the widespread lack of public awareness and legal education. The very individuals whom legal aid seeks to protect, particularly those from rural, illiterate, or socially marginalized backgrounds, are often unaware of their basic legal rights, let alone the mechanisms like Lok Adalats or legal aid clinics that are designed to assist them. The absence of widespread legal literacy campaigns has resulted in many people silently enduring injustice simply because they are unaware that free legal support is available.

The quality and availability of legal representation also present persistent hurdles. Legal aid lawyers frequently receive inadequate remuneration, which dampens professional motivation and may lead to poor-quality representation. Moreover, many legal aid counsels lack the specialised training required to handle sensitive cases, such as those involving women, juveniles, or individuals from marginalised communities. A related concern is the lack of active participation by senior or experienced advocates, many of whom are reluctant to provide pro bono services, resulting in a justice gap for the underprivileged.

Geographical disparities further compound the problem. The urban–rural divide in legal aid infrastructure means that while legal services and Lok Adalats are more accessible in urban areas, rural and tribal regions often lack trained personnel, court connectivity, and basic awareness programs. Digital illiteracy and limited internet penetration hinder access to technology-based solutions like online legal services or virtual hearings, further excluding those in remote areas. Para-legal volunteers, who are meant to serve as a bridge between

²³ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India).

²⁴ The Bharatiya Nagarik Suraksha Sanhita, 2023, § 341, No. 46, Acts of Parliament, 2023 (India).

²⁵ *Legal Aid System in India*, PW ONLYIAS (Jul. 31, 2025), <https://pwonlyias.com/current-affairs/legal-aid-system-in-india/>.

communities and the justice system, remain underutilized due to inadequate training, poor oversight, and insufficient numbers in proportion to the population.

Institutional limitations also obstruct the delivery of effective legal aid. Lok Adalats, while designed as accessible dispute resolution forums, suffer from limited powers. They cannot compel parties to appear, and the absence of procedural rigidity often leads to delays and dismissals when one party fails to attend. Bureaucratic inefficiencies, delays in appointing legal aid counsel, and systemic distrust of formal legal institutions further alienate those most in need of assistance. Until these challenges are systematically addressed through policy reform, increased funding, grassroots awareness, and professional accountability, the promise of equal justice under the law will remain largely aspirational.²⁶

THE WAY FORWARD: STRENGTHENING THE ETHOS OF JUSTICE

To fulfil the constitutional promise of justice for all, India must reform and reinvigorate its legal aid framework through a multi-pronged approach that blends policy reform, institutional strengthening, and technological innovation. The first step is legal empowerment through awareness. Large-scale legal literacy campaigns in vernacular languages and tailored to local socio-cultural contexts must be deployed in rural and remote areas. Collaborations between legal aid authorities, law school clinics, NGOs, and local courts can serve as vital conduits, helping bridge the knowledge gap and empowering citizens to seek remedies without fear or confusion.

Increasing investment in legal aid infrastructure is equally essential. Higher budgetary allocations must translate into better remuneration, training, and performance monitoring for legal aid lawyers. Specialized certifications and continuing legal education programs can improve the quality of representation, especially in sensitive domains like family, labour, and environmental law. The role of para-legal volunteers must be revitalized through better training, monitoring, and integration into grassroots justice delivery mechanisms.

Technology-driven solutions such as online legal portals, virtual legal clinics, and AI-based helpdesks hold immense potential to democratize access and bridge geographical gaps. Integrating legal aid services into Common Service Centres (CSCs) and promoting e-Lok Adalats and ADR mechanisms can further expedite dispute resolution. At the same time, a

²⁶ Beejal Ahuja, *Challenges and solutions to free legal aid*, IPLEADERS (Nov. 29, 2020), <https://blog.ipleaders.in/challenges-solutions-free-legal-aid/>.

culture of pro bono service and social justice education should be cultivated in law schools to sensitize future legal professionals.

The effectiveness of legal aid also hinges on transparent accountability. Regular performance audits, real-time case tracking, and beneficiary feedback must inform ongoing reforms. The judiciary must continue its oversight role to ensure that legal aid remains a living instrument of justice, not a procedural formality. By aligning vision with execution and community needs with institutional capacity, India can advance towards a truly inclusive legal system where justice knows no price.²⁷

CONCLUSION: BRIDGING THE GAP BETWEEN PROMISE AND PRACTICE

Legal aid in India is more than a statutory service; it is a constitutional commitment to ensure that justice is not only reserved for the privileged but a right equally available to every citizen. Rooted in the ideals of equality, dignity, and social justice, the framework of legal aid seeks to bridge the divide between formal legal systems and the marginalized. The expansion of legal aid into a fundamental right, as interpreted by the judiciary, demonstrates the evolving character of the Indian Constitution²⁸ in meeting the needs of an inclusive democracy.

However, despite the progressive legal and institutional architecture, the practical reality reveals stark inconsistencies. Structural deficiencies such as poor quality of representation, lack of awareness, and geographical imbalances continue to limit the effectiveness of legal aid. Cultural barriers, insufficient funding, and inadequate training of legal aid professionals further weaken the system. These issues underscore the fact that legal aid cannot be reduced to a procedural formality but must function as an empowering force for justice.

To actualize this vision, a coordinated and sustained approach is required. This includes investing in legal literacy, decentralizing legal aid delivery, professionalizing the cadre of legal aid lawyers, and integrating technology to expand reach and efficiency. Legal aid must evolve into a dynamic and responsive service that is accessible, equitable, and attuned to the diverse needs of Indian society. Stronger accountability and beneficiary-centric evaluation mechanisms are essential for ensuring continuous improvement and credibility.

²⁷ Yasho Jain, *LEGAL AID IN INDIA: CURRENT SCENARIO AND FUTURE CHALLENGES*, 5 CLR 27, 32-33 (2024), <https://cnlu.ac.in/storage/2025/05/Legal-Aid-In-India-Current-Scenario-And-Future-Challenges-by-Yasho-Jain.pdf>.

²⁸ *supra* note 1.

Ultimately, the ethos of justice demands more than legal formalities, it demands institutional compassion, administrative commitment, and civic empowerment. Legal aid must be viewed as a public good, one that strengthens the rule of law and democratic legitimacy. When justice becomes truly accessible to the last citizen, India will not only fulfil a constitutional mandate but will also uphold the moral integrity of its democracy.