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LEGAL AID AND ACCESS TO JUSTICE FOR MARGINALIZED COMMUNITIES IN INDIA

Iram khan

“We do not merely regard a man who takes no part in public affairs as harmless, but as useless. Our constitution favours the many instead of the few; this is why it is called a democracy... and the law secures equal justice to all alike in their private disputes.”

— Pericles, Funeral Oration, 431 BCE¹

ECHOES OF JUSTICE

The renowned Greek general Pericles in his famous funeral speech promulgated the concept of equal justice, long before India became the largest democracy of the world enshrining the very spirit of his words under the Article 39A of the Indian Constitution. Promising equality in justice not as a mere aspiration but as a right. Yet for India’s marginalized such as the Dalit’s, Adivasi’s, women, LGBTQ+ persons, and the economically weaker sections, constitutional promise of equality seems more a mirage than a material reality.

ROOTS OF INEQUALITY

Justice in ancient India was rooted in the caste based system introduced by Manusmritis and Dharma Shastra based texts, granting privilege to a few while prescribing harsh punishments to the others.² While we traded our scriptures for codified laws and courts of the Colonial Rulers, it was evident that they favoured procedure over justice, as their pens and swords aimed to uphold procedural uniformity rather than social justice, while perpetuating existing caste, gender, and class disparities.³ However, with India's independence and the drafting of its Constitution, the country underwent a radical transformation.

THE CONSTITUTIONAL VISION

With the newfound Independence the architects of our constitution, in pursuit of justice enshrined in our Preamble “Social, Economic and Political justice.⁴ They envisaged legal equality as a means to dismantle oppression and ensure dignity for all citizens. Through Articles 14, 15, 17 and 39A what seemed like an unachievable dream became a possible

¹ Thucydides, History of the Peloponnesian War bk. 2, ch. 37 (431 B.C.E.).

² Manusmriti ch 8-9

³ Marc Galanter, Law and Society in Modern India 215-17 (Oxford Univ. Press 1997).

⁴ India Const. pmb1

reality.⁵ But the constitutional promise often runs into a stone wall of entrenched socio-economic inequality.

BRIDGING LEGAL ACCESS

A fair trial with meaningful representation as a right, before the court of law is the cornerstone of any just legal system. But in reality access to competent legal representation is often met with hindrance by a lack of legal awareness and extortionate cost of legal services, making justice a privilege rather than a right. In *Hussainara Khatoon v. State of Bihar*, the Supreme Court held that free legal aid is a constitutional right under Article 21 is integral to a fair trial.⁶ However, when economic and social constructs heavily influence the quality of justice one receives, achieving true justice becomes an enormous and almost elusive task. But if democracy means what Pericles envisioned—laws that serve all equally—then India’s legal aid architecture holds potential and can truly uphold Article 39A’s promise. In the spirit of Article 39A the Legal Services Authorities Act, 1987 established the National Legal Services Authority (NALSA) along with a nationwide network of legal aid institutions.⁷ This framework ensures free legal aid services not just based on economic criteria but also on vulnerability indicators such as caste, gender, and disability.⁸ In 2024 alone, over 16 lakh beneficiaries’ accessed free legal assistance under NALSA, with a significant proportion belonging to SC/ST communities.⁹ In 2025, NALSA made significant impact through a range of targeted interventions. In Arunachal Pradesh and regions of Narmada, the tribal outreach programs and the Mega Samwad camps were initiated to offer on-site legal aid, awareness programs, and grievance redressal mechanisms, recognizing the persistent exclusion of the tribal populations and remote rural groups.¹⁰ Furthering its mandate the launching of “Mediation for the Nation” campaign, NALSA promoted a cost-effective and participatory justice systems for dispute resolution.¹¹ Establishing Nyay-Sampark portals, and the tool-free helplines (15100) these programs ensured that through their Legal Service Management System (LSMS), legal aid and assistance could reach even the remotest corners of the country.¹²

PROGRESSIVE MECHANISMS

Now NALSA was not the only innovation in the system to create legal aid accessible to all. Innovative mechanisms like Tele-laws and Lok-Adalats have further expanded the scope of the right to free and fast access to justice for all the citizens. As an initiative Tele-Law connects marginalized individuals to legal experts through its Common Service Centres located in remote and underserved areas. Similarly, offering an alternative dispute resolution system by settling cases without formal trials, Lok-Adalats thereby reduce litigation costs, ease court burdens, and encourage peaceful settlements.¹³

⁵ India Const. arts. 14, 15, 17, 39A

⁶ *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 SCC 81.

⁷ Legal Services Authorities Act, No. 39 of 1987, § 3, India Code (1987).

⁸ *Id.* at § 12.

⁹ NALSA, Annual Report 2024, available at <https://nalsa.gov.in>.

¹⁰ NALSA Tribal Outreach, *Hindustan Times* (Mar. 23, 2025), <https://www.hindustantimes.com>.

¹¹ NALSA Mediation Drive, *NSL Online* (July 1, 2025), <https://nslonline.in>

¹² NALSA Legal Aid Expansion, *Brighter Kashmir* (Mar. 10, 2025), <https://brighterkashmir.com>.

¹³ Ministry of Law & Justice, Tele-Law Dashboard, <https://tele-law.in>.

THE IMPLEMENTATION GAP

Yet the system is fraught with gaps. From lack of legal awareness in rural settings and among illiterate population to lawyers lacking incentive and accountability that gravely impacts representation, timely justice remains elusive. Some critics even contend that an overreliance on legal aid misplaces the burden of justice to even more under resourced systems and Lok-Adalats with their informality might just sidestep procedural fairness among other things.¹⁴ Moreover, with over 4.7 crore cases pending, critics assert that without deeper reforms, legal aid might just be reduced to a procedural formality rather than a tool of empowerment.¹⁵

CONCLUSION

In the 21st century equal justice, as envisioned in Article 39A, must be more than a constitutional promise. As the gulf between the vision and grass root reality widens systematic mechanisms like NALSA or Lok-Adalats offer hope, however what is imperative is to bridge systematic gaps like judicial delays, poor legal literacy and ensuring accountably allowing these institutions and frameworks to provide justice to all and not just the privileged few.

¹⁴ Legal Services Authorities Act, 1987, § 19.

¹⁵ Namita Wahi, Mapping the Legal Aid System in India, Centre for Policy Research (2022).