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## LEGAL SERVICES AUTHORITIES IN INDIA: ASSESSING ACCESS AND EQUITY IN FREE LEGAL AID

*Stuti Vineet*

### INTRODUCTION

The essence of a democratic society is based in its initiative to provide equal rights and opportunities to each of its members and access to justice is considered to be one of the most important rights of an individual. The Indian Constitution honours this principle through Article 39A, which provides free legal aid to a citizen, especially if they are economically or otherwise disabled to have access to it.<sup>1</sup> This provision was added by the 42<sup>nd</sup> Amendment. One can derive that this provision is rooted in the fundamental rights to “equality before the law”<sup>2</sup> and “life and personal liberty.”<sup>3</sup>

In 1977, taking into consideration the socio-economic state of the country and in favour of developing a comprehensive approach to legal aid, a commission was formed with Justice P.N. Bhagwati as its head.<sup>4</sup> This commission observed that – to bridge the gap between the law and the people of India, it is essential that the right to free legal aid be treated as not a privilege but a moral obligation of the State, and therefore the Legal Services Authority Act was enacted in 1987. This Act established various legal services authorities across the nation to help the weaker and poor sections of the society by providing free legal aid and granting access to justice to all, regardless of their monetary situation. These authorities are established in a specific hierarchy – from National Legal Services Authority (NALSA) at the top, State Legal Services Authorities (SLSAs) as the State level, to District Legal Services Authorities (DLSAs) at the lowest-level.

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<sup>1</sup> INDIA CONST. art. 39A.

<sup>2</sup> INDIA CONST. art. 14.

<sup>3</sup> INDIA CONST. art. 21.

<sup>4</sup> *Report of the Expert Committee on Legal Aid – “Processual Justice to the People”*, MINISTRY OF LAW AND JUSTICE, GOV'T OF INDIA (Aug. 31, 1977) <https://archive.org/details/dli.csl.762> (last visited July 13, 2025).

However, despite this explicit statutory framework, gaps still remain in implementation. This article examines how accessible free legal aid is in practice, who benefits from it, and who is left behind. It focuses on assessing what is the quality of these legal aid mechanisms, and what is their impact on the marginalized communities, for which they were precisely designed.

## **THE HIERARCHY OF AUTHORITIES**

The Legal Services Authorities Act, 1987 lays out provisions for who exactly is eligible and entitled to free legal aid. This mainly highlights the marginalized and economically weaker sections of the society, such as – women and children, Scheduled Castes (SCs), Scheduled Tribes (STs), victims of trafficking, persons with disabilities, and etc.<sup>5</sup>

The authorities created under the Legal Services Authorities Act, 1987, were made in a ranking order with the National Legal Services Authority (NALSA) at the apex. It is currently constituted with Hon'ble Mr. Justice Bhushan Ramkrishna Gavai, The Chief Justice of India as its Patron-in-Chief, and Hon'ble Mr. Justice Surya Kant, Judge of the Supreme Court of India as its Executive Chairman.<sup>6</sup> NALSA is tasked with supervising all the other legal services authorities created under the Act and implement various schemes, such as – Lok Adalats, legal awareness camps, legal aid clinics, and victim compensation schemes.

At the state level, State Legal Services Authorities (SLSAs) work under the authority of the Chief Justices of the High Courts of the specific states as patron-in-chief, and give effect to the policies tailored by NALSA. This helps in aligning policies created on the national level with the policies on the state level. Like NALSA, SLSAs are also responsible for holding Lok Adalats. These supervise the District Legal Services Authorities (DLSAs).<sup>7</sup>

The DLSAs are where the matter of free legal aid is implemented on the ground level. It operated under the District Judge and constitutes a panel of legal aid lawyers. The DLSAs are assigned with organizing awareness and outreach campaigns in order to cater to the needs of the marginalized communities in specific districts and educate them about their constitutional right to free legal aid.<sup>8</sup> The Taluk Legal Services Committees (TLSCs) are another part of the hierarchy at the very bottom which are assigned with extending free legal services to the least fortunate in rural and semi-urban areas, since these are the areas where most of the population that cannot afford legal aid on their own resides.<sup>9</sup>

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<sup>5</sup> Legal Services Authorities Act, § 12, No. 39, Acts of the Parliament, 1987 (India).

<sup>6</sup> *Introduction*, NAT'L LEGAL SERVS. AUTH., <https://nalsa.gov.in/introduction> (last visited July 14, 2025).

<sup>7</sup> *Functions of State Authority*, CHANDIGARH ST. LEGAL SERVS. AUTH., <https://chdlslsa.gov.in/index.php?trs=functions> (last visited July 14, 2025).

<sup>8</sup> *What Are the Functions of the District Legal Service Authority?*, BYJU'S, <https://byjus.com/ias-questions/what-are-the-functions-of-the-district-legal-service-authority> (last visited July 14, 2025).

<sup>9</sup> *Legal Aid*, NAT'L LEGAL SERVS. AUTH., <https://nalsa.gov.in/legal-aid> (last visited July 14, 2025).

The common function of all these authorities is to hold Lok Adalats, a form of alternate dispute redressal mechanism. It is the primary method to provide free legal aid since there is no court fee charged for filing cases in Lok Adalats. Conciliators instead of judges preside of the matters to facilitate voluntary settlements between parties, leaving little to no room for coercion. Another major reason for holding Lok Adalats is to settle the numerous pending court cases in India that leads to a delay in justice. Its decisions and awards are binding and final as they are treated as civil court decrees.

### **ASSESSING ACCESS TO FREE LEGAL AID AND EVALUATION OF EQUITY**

The Supreme Court has promoted this constitutional right in many of its judgements. For example, in *Suhas Chakma v. Union of India & Ors.* (2024), it declared that “legal aid to the poor should not be poor legal aid.”<sup>10</sup> The Court also emphasized the value of legal rights awareness and directed high courts and trial courts to take it into account.<sup>11</sup> Another case was *Ashok v. State of Uttar Pradesh*, where the Supreme Court set aside a rape-murder conviction based on the fact that the accused was not given legal aid at critical stages of the case, such as – framing of charges, investigation, and etc.<sup>12</sup> In *Suk Das v. Union Territory of Arunachal Pradesh* (1986)<sup>13</sup>, the Supreme Court expressed that it is a legal right of the people and it must be “effective and meaningful,” instead of being treated as a mere formality by the judiciary.<sup>14</sup>

Although, simply having extensive legislations and authorities established under them does not automatically prove that actual access to justice is implemented in all cases. There remain various structural and socio-economic barriers in a country like India, since people belong to different backgrounds and are not as privileged as one another in all aspects. By the end of March 2022, the total decrease in numbers of legal aid clinics amounted to a massive 66.6 per cent.<sup>15</sup> To clearly assess how impactful the mandate for free legal aid is, we must take into consideration how it affects the disadvantaged communities – such as women, children, tribes, scheduled castes, and other minorities.

One such barrier is lack of awareness among the masses, especially in rural and tribal areas where the literacy rates are low. This barrier results in procedural delays and poor judgements because legal aid is denied to the affected parties. This is in clear violation of Article 21 of the Constitution, as was stated

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<sup>10</sup> *Suhas Chakma v. Union of India & Ors.*, W.P.(C) No. 1082 of 2020, 2024 INSC 813 (India).

<sup>11</sup> Gursimran Kaur Bakshi, *Supreme Court Issues Directions to Ensure Prisoners Get Free Timely Legal Aid*, LIVE LAW (Oct. 23, 2024), <https://www.livelaw.in/top-stories/supreme-court-issues-directions-to-ensure-prisoners-get-free-timely-legal-aid-273321> (last visited July 15, 2025).

<sup>12</sup> *Ashok v. State of Uttar Pradesh* (2024 INSC).

<sup>13</sup> *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 S.C.C. 401.

<sup>14</sup> *All About Legal Aid in India: An Attempt to the Bridging the Justice Gap for the Marginalized*, LEX TALK (Dec. 20, 2023), <https://www.lextalk.world/post/all-about-legal-aid-in-india-an-attempt-to-the-bridging-the-justice-gap-for-the-marginalized> (last visited July 15, 2025).

<sup>15</sup> Devyani Ajay Kapse, *A Roadblock to Justice: Socio-Economic Barriers to Legal Aid Access Under Article 39A*, ILS PUB. L. BLOG (Oct. 24, 2024), <https://ilspubliclawblog.wordpress.com/2024/10/24/a-roadblock-to-justice-socio-economic-barriers-to-legal-aid-access-under-article-39a> (last visited July 15, 2025).

by the Supreme Court in *Khatri (II) v. State of Bihar* (1981).<sup>16</sup> Another issue can be geographical and infrastructural gap. Lok Adalats at the lowest levels, catering to the people in remote rural districts or taluks are handled poorly more often than not. Over 75 per cent of the para-legal volunteers in India, which in numbers was 56,842, remained inactive in 2022-23.<sup>17</sup> Pro-bono lawyers are not incentivized enough to take initiatives for helping the poor. This can be credited to the extraordinarily low financial budget set by the government to the department of justice, specifically 0.2 per cent of the GDP.<sup>18</sup>

According to the NALSA's 2020-21 Annual Report, many legal literacy campaigns were in effect across various districts in 2021, however, there was no initiative to evaluate the impact of these campaigns, which made the effort inefficient.<sup>19</sup> The documentation process of legal matters is complex and give a hard time to the weaker sections like tribal people, the rural population, and persons with disabilities, as they do not have access to the traditional and quality education that urban people do to understand judicial proceedings. A 15 per cent drop in para-legal volunteers (PLV) in 2022, which amounted to merely three volunteers per lakh population in various states was no help to the system.<sup>20</sup>

Even in the case of undertrial prisoners, the lack of access to legal aid is one of the major problems. This in itself amounts to lakhs of pending cases and increases the burden on the judiciary. In *Hussainara Khatoon v. State of Bihar* (1979), the Supreme Court held that the right to free legal aid is not something one has to make a request for, but a duty of the State to provide, especially to the undertrial prisoners who cannot afford it.<sup>21</sup>

Women only amount to 18 per cent of the total legal aid panel lawyers which results in lesser representation of women in this sector.<sup>22</sup> Despite legal reforms, there have been persistent lags in the actual implementation of women's rights, as was observed by the Telangana High Court.<sup>23</sup>

There remain language and literacy barriers as well. Non-hindi and non-english speaking individuals, especially migrants face a tough time to understand legal proceedings or interact with their assigned free legal counsel to whom their grievances must be conveyed plainly. This mainly happens because

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<sup>16</sup> *Khatri (II) v. State of Bihar*, (1981) 1 S.C.C. 627 (India).

<sup>17</sup> Sunil Chauhan, *Grassroots Legal Aid in India: Challenges and Lessons*, INTERNATIONAL LEGAL AID GROUP, (May 2025), [https://ilag2025.jura.uni-koeln.de/sites/ilag2025/Session\\_3\\_-\\_Sunil\\_Chauhan\\_\\_2\\_.pdf](https://ilag2025.jura.uni-koeln.de/sites/ilag2025/Session_3_-_Sunil_Chauhan__2_.pdf)

<sup>18</sup> *LXTALK WORLD*, supra note 14.

<sup>19</sup> NATIONAL LEGAL SERVICES AUTHORITY, *Annual Report 2020–21* (2021), <https://nalsa.gov.in/document/annual-reports> (last visited July 16, 2025).

<sup>20</sup> Anubha Bhonsale, *How Paralegal Volunteers Make Justice Accessible to Marginalised Communities*, IDR ONLINE (Aug. 8, 2022), <https://idronline.org/article/rights/how-paralegal-volunteers-make-justice-accessible-to-marginalised-communities/> (last visited July 16, 2025).

<sup>21</sup> *Hussainara Khatoon v. State of Bihar*, (1979) 3 S.C.C. 532 (India).

<sup>22</sup> Ramesh Menon, *India Justice Report Shows Legal System Needs Urgent Attention*, THE LEAFLET (Nov. 16, 2024), <https://theleaflet.in/analysis/india-justice-report-shows-legal-system-needs-urgent-attention> (last visited July 19, 2025).

<sup>23</sup> Sagar Kumar Mutha, *Legal Reforms Exist but Implementation Still Lags for Women: Justice Madhavi*, TIMES OF INDIA (May 21, 2024), <https://timesofindia.indiatimes.com/city/hyderabad/legal-reforms-exist-but-implementation-still-lags-for-women-justice-madhavi/articleshow/121854711.cms> (last visited July 16, 2025).

translations for such people are not available at the earlier stages of proceedings, such as – during filing of the FIRs, medical exams, or investigations.<sup>24</sup>

These deficits point to a major gap between the legal framework and ground realities. The law makes it a right to have access to free legal aid but attaining this right has not been easy for the people and still pertains to be a challenge.

## RECOMMENDATIONS AND THE WAY FORWARD

To bridge this gap assessed above, along with the government and judiciary, we as individuals must also take initiatives and volunteer to do better. Some changes can be made –

1. Policy Implementation: The funding for the legal aid sector must be increased and the eligibility for individual to acquire it shall be simplified for better comprehension.<sup>25</sup>
2. Institutional Strengthening: The capacity and monitoring mechanisms for the legal services authorities on all levels shall be enhanced.
3. Awareness Campaigns: Target initiatives shall be taken to promote legal aid, very much like the “Haq Humara Bhi Toh Hai@75,” and the effect and result of such campaigns must be evaluated.<sup>26</sup>
4. Technology Integration: Records can be digitalized and modern mechanisms like social media can be used to expand information about free legal aid to rural and remote areas.
5. Quality Legal Aid: Legal aid lawyers and volunteers must be incentivized properly and promoted to practice due diligence in their affairs and to consider it the duty of their profession to help the unfortunate.<sup>27</sup>
6. ADR and Mediation Promotion: the integration of alternate dispute resolution mechanisms like mediation shall be promoted to access legal aid in a fast and co-operative manner.

These reforms will, without a doubt, bring about changes in the current situation of the implementation of free legal aid in India, and help those who are left behind on this road to justice.

## CONCLUSION

Legal aid is foundational for a legal system to deliver justice without any hinderances and ensure that justice is not only limited for the fortunate members of the society but to all individuals, regardless of their economic or social standing. The inclusion of Article 39A through the 42<sup>nd</sup> Amendment, along with establishment of institutions like the legal services authorities on all levels has assisted the judiciary

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<sup>24</sup> Gaurav Bhawnani, *Linguistic Barriers to Accessing Legal Aid in India*, LEGAL AID WATCH (May 29, 2017), <https://legalaidwatchorg.wordpress.com/2017/05/29/linguistic-barriers-to-accessing-legal-aid-in-india> (last visited July 16, 2025).

<sup>25</sup> *Free Legal Aid*, VISIONIAS (Nov. 14, 2024), <https://visionias.in/current-affairs/monthly-magazine/2024-11-14/polity-and-governance/free-legal-aid> (last visited July 17, 2025).

<sup>26</sup> *NLSA Launches ‘Haq Humara Bhi To Hai’ Campaign*, THE MORUNG EXPRESS (Apr. 2024), <https://www.morungexpress.com/nlsa-launches-haq-humara-bhi-to-hai75-campaign> (last visited July 17, 2025).

<sup>27</sup> *Ramanand @ Nandlal Bharti v. State of U.P.*, (2022) 5 S.C.C. 5273 (India).

extremely in providing free legal aid by excluding the aspects of financial capabilities, religion, caste, gender, literacy, and language; significantly enhancing the access to legal representation of people who were devoid of it. However, this progress is not without its structural and operational challenges, as discussed in this article. To make this right truly effective, higher efforts are required by the government, the judiciary, and individuals who believe that justice must be delivered to all sections of society. Ultimately, legal aid is not just an initiative service to the unfortunate but a commitment that our legal system makes to its subjects to protect them from exploitation and inequality; and only by working together can we honour this commitment, as is the duty of every Indian citizen.