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## LEGAL AID IN INDIA

~ *Yasaswini Vommi*

### Introduction

The preamble of the Indian constitution states that the fundamental framework and aim of our nation is to ensure social, economic, and political justice for the people of India. Certain articles of the Constitution of India warrant particular focus notably, Articles 38 and 39A. Article 39-A indicates that the government has a proactive obligation to ensure free legal assistance, whether via laws or other means, as failure to do so prevents citizens from having equal chances to pursue legal action. Article 38 (1) establishes that the state has the duty to regulate and promote social order, which entails justice, with the aim of improving the wellbeing of its citizens. The Legal Assistance Authorities Act, enacted in 1995, aims to ensure that the rights of economically or socially disadvantaged individuals in India receive legal aid free of charge. The law seeks to guarantee that all individuals have equal chances to access their preferred legal aid by requiring pro bono lawyers and advocates to volunteer in representing and/or advising those who cannot afford these services. There is no doubt that the task is extremely challenging, which significantly restricts its ability to achieve its fullest potential and simultaneously denies impoverished individuals the chance to obtain quality legal representation.

### Legal aid in India

To foster and safeguard the principles of the legal system, thereby strengthening the democratic core of the citizens' government, the issue is to ensure equal access to justice for everyone, particularly for the disadvantaged, the unheard, and the financially unstable. As per Article 14 of the Indian constitution mandates that the state must ensure equal treatment of all individuals according to the law and offer them a fair and impartial judicial system. In 1976, the Indian

Parliament added Article 39A<sup>13</sup> into the Indian Constitution, thus establishing the provision of free legal aid as a basic right. The concept received official backing with the passage of the Legal Services Authorities Law of 1987 and the later establishment of NALSA in 1995. It currently stands as a symbol of optimism for those who did not have any before. The following laws have been established to strengthen the facilitation of legal support: The passage pertains to the Legal Aid Rules established by the Indian Bar Council, which were developed established in 1983 by the Bar Council of India. Moreover, the document mentions the Legislators (Protecting Client Interests, Promoting the Rule of Law, along with Maintenance and Regulation of Standards in Practice) Bill of 2010.

Even with the implementation of these standards, legal aid services in India continue to fall short of the required criteria. In the matter of *Sheela Barse v. State of Maharashtra*<sup>1</sup>, it was concluded that one of the crucial responsibilities outlined in articles 21 and 14 of the constitution, alongside article 39-A, are to provide legal assistance to a destitute accused person who is imprisoned and facing the death penalty.

In India, "legal help" signifies offering complimentary legal services to those who cannot afford a lawyer or engage in court processes. The main goal of legal aid is to ensure fair access to justice for every person, regardless of their economic situation. This text includes essential information about legal aid in India. Article of Constitutional Authority 39A of the Indian Constitution guarantees that every citizen has the unrestricted right to obtain legal support without charge, regardless of their financial situation or any other constraints. 15The 1987 Legislation Services Authorities Act: Introduced in 1987, this law provides an organized framework for the delivery of judicial support in India. This law established the State Legal Services Authorities (SLSAs) and the National Legal Services Authority (NALSA) at both the federal and state levels, respectively. Specifications: People facing economic hardship, women, youth, and those from marginalized groups communities and other vulnerable groups generally hold the right to obtain legal support. Countries can possess different standards. Legal assistance includes various services, like drafting documents, court representation, representation, legal advice, and various types of legal assistance. The piece covers numerous legal subjects such as criminal trials, civil lawsuits, and family law matters. Legal Assistance Clinics: Across the country, Legal aid clinics were created to offer cost-effective legal support. Usually, lawyers and Paralegals oversee these clinics.

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<sup>1</sup> *Sheela Barse v. State of Maharashtra*, (1983) 2 S.C.C. 96 (India).

## **HISTORY OF FREE LEGAL AID IN INDIA**

As per the 1958 report by the Law Commission of India named "Reform of Judicial Administration," the absence of legal counsel for low-income petitioners is a crucial concern rather than a trivial one administrative issue. In 1960, the government-imposed restrictions on efforts to provide legal aid. Article 39-A was added to the Constitution through the passing of the Constitution (Forty-second Amendment) Act, 1976 in the year 1976<sup>2</sup>. Hon. Justice P.N. Bhagwati led the Committee for Executing Legal Aid Schemes, established in 1980 to manage and supervise legal aid initiatives. The Authorities for Legal Services the Act was passed in 1987 to create a uniform organizational framework and regulatory structure for legal support initiatives nationwide. The Authority for National Legal Services was created on December 5, 1995, as a governing body aimed at forming efficient and cost-effective legal aid initiatives, along with the essential rules and standards to guarantee that legal help is provided in compliance with the law.

## **CONSTITUTIONAL PROVISIONS RELATING TO LEGAL AID**

India offers legal assistance to most of its citizens based on Article 39A of the Indian Constitution charter. This essay aims to suggest how the legal requirements of everyone can be addressed equitably and impartially by suitable legal service providers or shelters, given there are no monetary limitations or other legal obstacles that could obstruct access to the type of legal support needed by those individuals. Here is the relevant section from the constitution: The Constitution of India, through the Amendment Act of 1995, incorporated Article 39A, which mandates that the state must endeavour for creating equal opportunities in legal proceedings and fairness for all individuals. Consequently, for every the in the cases mentioned, it is essential to offer free legal assistance to reduce people's chances of pursuing justice because of monetary or various challenges, which can be addressed through appropriate laws or other AI efforts. The constitutional provision demonstrates India's commitment to uphold justice and provide free legal aid to individuals.

This declaration asserts that the right to seek justice is one of the essential elements that every individual possesses a right to, and it also emphasizes the importance of eliminating obstacles that might hinder individuals from litigating. The Indian government established the regulations for enforcing the Law via Article 39A was established as the statute for Legislative

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<sup>2</sup> *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 S.C.C. 81 (India).

Services Authorities in 1987. This law establishes the basis for on which the legal aid program in India would be based. This law was designed to ensure enhancements in the pace at which legal aid services and programs are provided by federal and state governments. Consequently, the state legal skill authorities (SLSAs) and the national legal skills authority (NALSA) were established. Article 39A of the Indian Constitution describes the framework of India's program that offers free legal support for individuals. This assertion highlights the importance of guaranteeing equitable and impartial access to the legal system, along with the duty of the government to remove any barriers that could impede individuals from pursuing justice because of insufficient funds or other reasons. What does Article 39-A signify in the Constitution of India? The entitlement to a just trial is a basic human right that is closely associated with the right to legal counsel. Article 39-A took effect following the adoption of the Constitution (Forty-second Amendment) Act from 1976. The State is given the power to create appropriate laws and programs for free legal aid in alignment with the guidelines known as the "Directive Principles of State Policy". The primary aim of this suggested amendment was to ensure that no person's capacity to pursue.

#### **AWARENESS OF LEGAL AID: STILL A CHALLENGE**

A partial grasp of where to obtain legal assistance is one aspect of the insufficient organizational structure. Individuals facing accusations frequently do not realize they have the right to legal counsel. A significant concern is the belief that a complimentary service lacks quality. Insufficient financing signifies that the limited number of attorneys working for the legal service authority cannot perform their duties efficiently. Barriers to Obtaining Legal Representation Currently, there is a disjointed, uncoordinated, and disorganized legal assistance initiative in India. Collaboration is clearly insufficient. It is currently a common belief that everyone must be held accountable by the justice system. Notable disparities are present among the stated objectives and the real outcomes. They are currently too focused on remaining operational to accept pro bono cases based on a recent study conducted by a law firm. Several factors may cause attorneys to decline pro bono work. Currently, there is a lack of financial resources. Legal education traditionally did not incorporate social issues research. Professionals rarely interact with members of the community looking for legal assistance, and neither the people nor their coworkers have a solid understanding of the circumstances. Additionally, illiteracy poses a significant issue for legal assistance. It is recognized that 70% of rural inhabitants lack education and are unaware of their legal rights. Poor management and the deprivation of poor individuals' benefits and rights happen due to insufficient understanding

of the law. There exist considerable obstacles currently and ahead for India's legal aid framework. A significant issue with accessibility is that numerous low-income and rural communities lack access to legal services because of an insufficient understanding, scarce resources, and poor infrastructure. The quality of legal advice offered through legal assistance can be insufficient due to financial limitations, overworked attorneys in the program, and systemic inefficiencies. Additionally, the stigma linked to seeking legal help prevents numerous individuals from claiming their rights in court. Upcoming challenges might involve addressing the growing demand for online and remote legal services stemming from technological advancements and the COVID-19 pandemic. It is essential to enhance legal aid policy structures, continually educate and train attorneys involved in legal aid foundation, and lessen the gap between rural and urban locations in obtaining legal support. It will need coordinated efforts from the government, the legal field, and civic organizations to address these problems and ensure equal opportunity for justice for everyone.

## **CONCLUSION**

As a crucial element of India's justice delivery system, legal aid ensures equal access to the court by everyone, particularly the impoverished and advocates for the individual's legal rights. Two main objectives of the goals of the legal assistance program are to maintain public trust in the judicial system and guarantee equality access to responsive justice among the community. Owing to the requirement that every individual and infant, male, women, elderly individuals, and various other marginalized groups should and are able to access legal assistance justice regardless of their societal status or any type of social and economic hardships. Therefore, as per the Indian Constitution, Article 39A guarantees equality before the law and equal protection of the laws. The Constitution that ensures equal access to courts as a crucial element of the Indian justice system The Legal Aid law in India was established in 1987 with the implementation of the Legal Services Authorities Act which led to the establishment of the National Legal Services Authority (NALSA) and the State Legal Services Regulatory bodies (SLSAs). These organizations were established to offer pro bono legal assistance. The main factor leading to the establishment of these organizations. Legal aid is provided in the following way: essential means of upholding justice, protecting the rights of every citizen, and attaining social fairness in support of fairness. This demonstrates the Indian government's dedication to eliminating anything that might hinder an individual from pursuing justice and thus undermines the belief that there is anyone who should be denied access to a courtroom based on their financial capacity or knowledge via a type of impairment.

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