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THE ROLE OF LEGAL AID IN INDIA

~*Anshika Singh*

Abstract

Legal aid is a fundamental mechanism for ensuring access to justice and upholding the constitutional guarantee of equality before law in India. Recognized as an essential component of the right to life and personal liberty under Article 21, legal aid aims to protect individuals who are unable to secure legal representation due to economic or social disadvantages. This paper examines the constitutional and statutory framework governing legal aid in India, with particular emphasis on Article 39A of the Constitution and the Legal Services Authorities Act, 1987. It discusses the institutional structure and functioning of legal aid bodies, including the National, State, and District Legal Services Authorities, Lok Adalats, and outreach initiatives such as the Tele-Law Programme. The paper further highlights the challenges faced in the effective implementation of legal aid, including lack of awareness, administrative limitations, and socio-economic barriers. It concludes by emphasizing that legal aid is a constitutional obligation essential for ensuring fair and effective access to justice.

Introduction

Legal aid in India is a tool to provide equal justice to everyone and to ensure that nobody is ever deprived of it due to oppressive economic and social circumstances. Legal Aid serves as a link between the Legal Rights as expressed in the Constitution, and the day-to-day experiences of Persons who are confronted with the Police, Courts, or Administrative Bodies.

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Legal aid in India is an integral part of “access to justice” which was identified by the Supreme Court as a part of the right to life and personal liberty under Article 21. The Court has pointed out that a fair procedure has no value when an accused person cannot effectively participate in the process through trained legal assistance.

Therefore, legal aid is not considered as giving a share of one's wealth or being kindhearted, but as the indispensable requirement for the just and equal functioning of the legal system.

India's event of providing legal assistance exists Constitutionally by means of both the Directive Principles, and the Fundamental Rights' landscapes. Under Article 39A, which was added to the Constitution through the 1976 Forty-second Amendment, it is the obligation of the State to ensure that the working of the courts are in keeping with the principle that justice should be provided equally to all persons, and requires the State to create suitable laws and schemes for providing free legal assistance to those who cannot afford it. Article 39A has been found by many courts to be key in guiding the interpretation of Articles 14 and 21 of the Constitution and was found to be a significant influence when developing Article 14 and the Right to Life and Liberty as including 'effective access to legal assistance' for all those requiring legal assistance.²

The Constitution, through its provision to provide free legal assistance, was enshrined in the Law Services Authority Act 1987, creating a method to access these services on a national level. The Law Services Authority Act establishes the National, State, and District Law Services Authority and defines those eligible for legal assistance. The LSA Act defines "legal services" as generally any service provided by a lawyer and includes representation before courts of justice; providing advice regarding the law; preparing legal documents; and helping in applying for government benefits.

Under Section 12 of the LSA Act, there are defined categories of people entitled to receive free legal help, such as Scheduled Caste/Scheduled Tribe members, women, children, persons with a physical disability, victims of trafficking or exploitation or those who are in the custody of authorities; also, any other individual whose total income is within the limits set. The Act defines the persons who can receive assistance and identifies the agencies through which they can obtain that assistance, thereby removing any opportunity for discretion regarding the

² INDIA CONST. art. 39A,
https://www.indiacode.nic.in/bitstream/123456789/19151/1/constitution_of_india.pdf.

availability of legal aid and providing for legal assistance as an entitlement of the person. It is intended to provide equal access to justice for all people through free access to legal services based on the rights guaranteed in the Constitution. The Legal Services Authority Act (LSA Act) has established a three-tiered legal service delivery system. Legal service delivery begins with the National Legal Services Authority (NALSA) established under section 3, which operates as the apex of the system and is responsible for establishing policy, creating programs, and issuing guidelines to facilitate access to legal services nationwide. In addition to NALSA, there are two additional layers of legal service delivery: State Legal Services Authorities and District Legal Services Authorities, both of which operate at the state and district levels, and both of which are usually under the auspices of the Chief Justice of the High Court and the District Judge, respectively. At the local level, Taluka Legal Services Committees provide services and access to the justice system. Finally, Chapter VI of the Act provides for the establishment of Lok Adalats and Permanent Lok Adalats to serve as a forum for compromise-based settlements and for pre-litigation conciliatory measures, thereby greatly enhancing access to justice at the lowest possible cost and ensuring equal and effective access to the justice system for all.

Although a solid legal framework exists in place for Legal Aid Services in India, there are still many gaps in how this service is delivered. This has resulted in many people being eligible for free legal representation but not knowing about the service or how to access it. Additionally, there are several social and economic factors within the rural and disadvantaged communities that are barriers to accessing legal aid services including: stigma; language barriers; lack of education; and distrust of government institutions.

Lawyers who provide legal aid generally receive modest fees for their services, which allows them to provide limited resources and time to represent clients with the same level of service provided by traditional law firms. In addition, due to insufficient training to assist vulnerable clients, a lack of a proper system for monitoring the provision of legal services, and a lack of coordination among the many legal institutions, including legal aid authorities, police, prisons, and courts, it is not uncommon for legal representation to be delayed in the form of appointment to the counsel of a client or for ineffective assistance at critical stages during a legal proceeding.

Through the Tele-Law Programme, which allows rural communities to connect with legal professionals at Common Services Centers through video conferencing, as well as access to

legal assistance from Paralegal Volunteers.³ The Third Area of Action (Disha) is focused on improving Legal Awareness in disadvantaged communities through Camp and School Awareness Programs.⁴

Legal Aid includes the Legal Rights to Equal Treatment in All Jurisdictions Articles 14, 21, & 39A provide equal access to Justice regardless of financial status. The constitutional obligation to provide Legal Aid has been established in the Legal Services Authority Act 1987, and in decisions like *Hussainara Khatoon vs. State of Bihar* (AIR 1979 SC 1369) and *Khatri vs. State of Bihar* (AIR 1981 SC 1361), and reaffirmed many times since then through ongoing Legal Aid Policy Development in India.⁵⁶

While technological, training, and outreach capabilities will continue to increase, the current legal framework enables expanded access for disadvantaged individuals as mandated by the Constitution of India.

³ Dep't of Just., *Tele-Law: Reaching the Unreached*, <https://www.tele-law.in/overview-of-tele-law.html> (last visited Dec. 13, 2025).

⁴ Dep't of Just., *Designing Innovative Solutions for Holistic Access to Justice (DISHA)*, <https://doj.gov.in/designing-innovative-solutions-for-holistic-access-to-justice-disha/> (last visited Dec. 13, 2025).

⁵ *Hussainara Khatoon & Ors. v. Home Sec'y, State of Bihar*, AIR 1979 SC 1369 (India), <https://api.sci.gov.in/jonew/judis/4873.pdf>.

⁶ *Khatri & Ors. v. State of Bihar & Ors.* (1981) 1 SCC 627 (India), <https://lawfoyer.in/khatri-and-others-v-state-of-bihar-and-others-1981-1-scc-627/>.