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LEGAL AID IN INDIA – A MERE RULE OR A POOR’S BOON?

Sandhya Karthik

INTRODUCTION

Amidst the global justice systems, our Indian Justice system also stands on the pillar of “Equality before Law,” one of Dicey’s three principles of the Rule of Law, also enshrined in our Constitution. However, India faces stark discrimination, especially in economic factors. A substantial part of India’s population, firstly, is not aware of their rights and thus ignorant about their legal provisions. Secondly, although aware of their rights, a large population of the country cannot afford legal representation due to the high costs of advocates, court fees, etc.¹ Such barriers of unaffordable and inaccessible justice have given rise to the concept of Legal Aid.² Yukti Kumar, in her paper, writes that ‘*The right to pursue justice for themselves is a right which is essential and accorded to one and all*’³, an idea that was also found to be of great importance in the Fourteenth Law Commission Report of 1958. In layman’s terms, Legal Aid implies giving free legal services to the poor and needy who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any court, tribunal or before an authority.

CONSTITUTIONALISATION AND INSTITUTIONALISATION OF LEGAL AID

Relieving Legal Poverty is not only a societal requirement but also a constitutional mandate, recognised under Articles 14, 21, 22 and specifically Article 39-A. Introduced by the 42nd Amendment to the Indian Constitution, Article 39-A states that “*The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to*

¹ Anubhab Mukherjee, *Efficacy of Legal Aid: Bridging the Justice Gap*, 8 GIJASH 29 (2024).

² *Id.*

³ Yukti Kumar, *Failing Legal Aid System in India: Possible Solutions*, 7 Issue 1 INT’L J.L. MGMT. & HUMAN. 1720 (2024).

ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities”.

Although Article 39-A was enacted as a Directive Principle for state policy, it was seen in application in the case of *Hussainara Khaton v. State of Bihar*⁴ where the court said

“We do not think it is possible to reach the benefits of the legal process to the poor, to protect them against injustice and to secure to them their constitutional and statutory rights unless there is a nationwide legal service programme to provide free legal services to them.”, observing and realising the right to legal assistance. Subsequent decisions like *Khatri v. State of Bihar*⁵ and *Suk Das v. Union Territory of Arunachal Pradesh*⁶ reaffirmed that the right to legal aid arises not when the accused demands it but when circumstances show that he is unable to secure counsel, placing a proactive duty on magistrates and sessions judges to inform indigent accused of this right. Through these rulings, legal aid was effectively constitutionalised: it ceased to be charity and became a legal right whose violation could vitiate a criminal trial.

To transform this idea into a firmer system, the Legal Services Authorities Act 1987 was passed. This resulted into a multi-tier institutional structure of para-legal systems with NALSA (National Legal Service Authorities) at the tip of the pyramid, followed by SLSAs (State Legal Service Authorities), DLSAs (District Legal Service Authorities), Taluka Legal Service Committees and similarly Lok Adalats at various levels. The act's section 12 identifies citizens eligible for these services and the overall act thus regulates this system of legal aid.

LEGAL AID AS A BOON

Legal Aid indeed has proved to be a catalyst in providing justice. The establishment of Legal Aid clinics was mandated, especially in Indian Prisons, under a 2011 NALSA Regulation⁷, an initiative helping the populated community of Indian Prisons to attain their right to access courts. Furthermore, adding to the bright side of Legal Aid, based on the research conducted by prominent efficiency personalities such as of Bina Agarwal and E. Venkatesan, Iftikhar Bhat states in his paper that legal aid has helped in overcoming traditional power structures, gender

⁴ *Hussainara Khaton (4) v. State of Bihar*, (1980) 1 SCC 98

⁵ *Khatri (1) v. State of Bihar*, (1981) 1 SCC 623

⁶ *Suk Das v. UT of Arunachal Pradesh*, (1986) 2 SCC 401

⁷ Nitin Kumar Bharti & Jonathan Lehne, *Justice for All? The Impact of Legal Aid in India*.

based discriminatory violence, and other such obstacles mainly in marginalised communities, thereby empowering them with their constitutionally guaranteed rights.⁸

Not only are these para-legal systems a boon for citizens to voice their rights, but they also dispose of a significant burden of the enormous number of cases filed daily in Indian courts. Statistically speaking, as of early January 2026, there are approximately 4.75 crore pending cases in India.⁹ Subsequently, in a one-day Lok Adalat of 13th September 2025, which took up 5.02 crore cases, out of which, roughly 4.18 crore cases were disposed of,¹⁰ one could only imagine what the burden on courts then would be in the absence of such mechanisms.

THE “BANE” DIMENSION OF LEGAL AID

Despite this impressive normative and legal architecture, many scholars describe Indian legal aid as a “paper tiger” that appears formidable on paper but often fails at the point of delivery. The 2011 regulations require that Legal Services clinics must be operational in a location accessible to the people of the locality along with signage in English and local languages, however, effectively these clinics are found in panchayat offices and other such government offices with no such reasonable display of such signage, which remain closed on weekends, which is actually the period most accessible to daily wage workers, thus diminishing the whole essence of the idea of legal aid.¹¹ Apart from this, a survey published in the report by Vidhi Centre for Legal Policy¹² reveals that half of the surveyed beneficiaries faced issues of lack of proper assistance due to unwilling staff, unprofessional behaviour and long waiting periods. Another factor is finance; it is observed that legal aid providers also face challenges such as inadequate funding, disbursements and operational inefficiencies, limiting their capacity to provide their services to society.¹³ A significant hurdle is manpower; in India, there are hardly 5 lawyers per 1,00,000 people, which makes it unmanageable, of low quality and thus, negligent justice.¹⁴ All of such factors contributing to the potholes in the road to achieving

⁸ *Journal of Society in Kashmir* (2023).

⁹ *NJDG-National Judicial Data Grid*, https://njdg.ecourts.gov.in/njdg_v3/ (last visited Jan. 2, 2026).

¹⁰ *Statistics | NATIONAL LEGAL SERVICES AUTHORITY (NALSA) | India*, <https://nalsa.gov.in/statistics/> (last visited Jan. 2, 2026).

¹¹ *Session_3_-_Sunil_Chaohan_2_.Pdf*, https://ilag2025.jura.uni-koeln.de/sites/ilag2025/Session_3_-_Sunil_Chaohan_2_.pdf (last visited Jan. 2, 2026).

¹² *10.-a.-Vidhi_Impact-Report-2021-22-1.Pdf*, https://vidhilegalpolicy.in/wp-content/uploads/2024/01/10.-a.-Vidhi_Impact-Report-2021-22-1.pdf (last visited Jan. 2, 2026).

¹³ Adv Aditi Ganesh Patnuskar et al., *Financial Challenges and Sustainability of Legal Aid Programs*, 3 (2023).

¹⁴ Kumar, *supra* note 3.

accessible justice to all are the reasons why citizens, even today, are either ignorant or hesitant to approach courts.

FUTURE OF LEGAL AID: TO MAKE IT A TRUE BOON

Although legal aid has definitely put the pedal to the metal of the Indian legal system, there are pull-downs in this process, especially in procedural, infrastructural and economic factors. Scholars and policy reports advocate for higher and more predictable budgetary allocations, professionalisation of legal services bodies with full-time leadership instead of part-time judicial heads, and robust mechanisms to assess the quality and outcomes of legal aid representation. Strengthening training and incentives for panel lawyers, integrating clinical legal education into law school curricula, and scaling up paralegal volunteer networks can create a larger, better-skilled ecosystem around legal aid.

CONCLUSION

Legal aid in India occupies a paradoxical position: constitutionally entrenched as a guarantee of equal justice, yet persistently fragile in its everyday operation. Article 39A and the Legal Services Authorities Act, 1987 collectively mark a decisive normative commitment to dismantling the economic barriers that exclude vast sections of the population from the formal legal system. Through landmark decisions such as *Hussainara Khatoon*, *Khatri and Suk Das*, courts have recast legal aid as an element of fair procedure.

The analysis of legal aid in India highlights how this constitutional “boon” is often neutralised by structural deficits, chronic underfunding, over-burdened and judge-centric institutional design, low-quality representation, and abysmally low public awareness. However, we cannot overshadow the fact that legal aid para-legal mechanisms are not only advantageous to citizens but also to the judiciary sitting on the other side.

Whether legal aid is ultimately a boon or a bane, therefore, depends less on its conceptual foundations and more on how seriously the State invests in its future architecture. A rights-based, adequately funded, professionally managed, and rigorously monitored legal aid system can function as a powerful instrument of substantive equality, making courts meaningfully accessible to the poor and marginalised. Left in its current under-resourced and under-scrutinised form, however, legal aid risks entrenching a two-tier system of justice in which the poor receive second-class representation under the banner of constitutional benevolence. The imperative, then, is not to abandon legal aid as a failed experiment, but to

confront its contradictions and re-engineer it so that the constitutional guarantee of “equal justice for all” becomes a lived reality rather than a deferred aspiration.