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Legal Aid as a Pillar of Justice: How It Can Transform India's Justice System

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Introduction

Legal aid plays a very crucial role in providing justice in countries like India, where the population is extremely high, and where the population consists of millions living below the poverty line. Legal aid becomes a necessity when a substantial amount of the population is unaware of their legal as well as fundamental rights. The Indian Constitution, under Article 39-A, makes it mandatory for the state to ensure equal justice and free legal aid to citizens who are unable to access the legal system owing to economic or other disabilities.

The term justice can only be satisfied when it is accessible to all without any discrimination. If the mandate of legal aid is applied properly, it can transform India's justice delivery system fundamentally.

Constitutional and Legislative Framework

The concept of legal aid in India is enshrined in Article 39-A of the Constitution, which was added by the 42nd constitutional amendment act in 1976. Article 39-A directs the state to provide free legal aid to such people who are unable to get any legal help due to various constraints like poverty, illiteracy, etc. The article further stresses upon providing equal justice to every person residing in the country, irrespective of their caste, class, gender, race, etc.

Based upon this Directive Principle, the Parliament enacted the Legal Services Authorities Act, 1987, which led to the establishment of the National Legal Services Authority (NALSA) along with State and District Legal Services Authorities to provide free legal services to such persons who are unable to get any legal services on their own.

The Supreme Court of India, in *Hussainara Khatoon v. State of Bihar*¹, held that the right to free legal aid is a fundamental right implicit under Article 21, making it mandatory under the Constitution rather than being merely aspirational under the Directive Principles of State Policy. The landmark ruling in *M.H. Hoskot v. State of Maharashtra*² further made it clear that the right to legal assistance at the cost of the state is an essential under the Right to Life guaranteed under Article 21 of the Indian Constitution.

The Crisis of Access: Why Legal Aid is Indispensable

The Indian judiciary is circumscribed by an immense backlog, with over crores of cases pending in various courts of the country. Several accused are undertrials, waiting for justice due to a lack of legal representation.

According to a survey of Prison Statistics India, undertrial prisoners constitute more than 75% of the total prison population, and a significant portion of them remain in prison even beyond the maximum period of imprisonment prescribed for the offence they are accused of, which is a grave violation of personal liberty and the right to life.

Legal aid targets this particular problem in the country; it aims at providing free, qualified legal representation to the poor, marginalised, and disadvantaged sections of society. It ensures that individuals are not left alone to tackle the country's complex legal system.

Legal aid provides free legal representation, particularly to women, children, persons with disabilities, Scheduled Castes, and Scheduled Tribes, which is vital in bringing equality in the Indian justice system.

Transformative Role of Legal Aid

1. Reducing Pendency and Decongesting Courts

The institution of Legal aid actively promotes the mechanism of alternative dispute resolution, such as Lok Adalats, mediation, conciliation, and arbitration.

Section 22 of the Legal Services Authorities Act, 1987, states the fundamentals of Lok Adalat. Lok Adalats have been instrumental in resolving millions of disputes outside formal court proceedings. In 2023 alone, NALSA reported that Lok Adalats settled over one crore cases, which significantly reduced the burden on courts. When parties have legal guidance, people are better positioned to consider the legalities of the issue and accept a settlement as a primary solution, reducing the backlog of the courts.

2. Upholding the Rights of Undertrials

The rights of undertrials are upheld by the Legal Services Authorities Act, 1987, which provides free legal aid and advice to such undertrials who are unable to get any such legal services due to societal and economic constraints.

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Panels are assigned at the jails and courts to make bail applications on behalf of such undertrials, to prevent prolonged and unjustified detention. The Supreme Court in *Suk Das v. Union Territory of Arunachal Pradesh*³ held that a failure to provide free legal aid to an accused who is unable to get a lawyer on their own undermines the trial, it underscores the primary nature of the right.

3. Empowering Vulnerable and Marginalised Communities

Legal aid works as a tool of social justice; it is not just procedural assistance; it is much more than that.

Legal aid provides legal guidance to those who feel the absence of legal guidance, for example, women facing domestic violence, children in conflict with the law, displaced tribals, and persons with disabilities.

NALSA promotes targeted legal aid through the Legal Services to Victims of Trafficking and Commercial Sexual Exploitation Scheme, 2015, etc. NALSA provides free legal literacy camps and para-legal volunteers to further extend the reach of legal empowerment to the grassroots.

4. Strengthening Rule of Law and Public Confidence

A system of Justice that provides equal access to all attains a greater public trust and legitimacy in society. When citizens believe that the law works for them, not merely for the privileged section of society, it deepens the adherence to constitutional values. Legal aid is not a charity; it is crucial to implement the rule of law in society.

Challenges and the Road Ahead

Despite the efforts of the government, the judiciary, and the legislature, legal aid still suffers from a crucial implementation gap.

The lawyers under the scheme of Legal Aid are often underpaid and inadequately incentivised, leading to poor representation of the issues. There is a lack of awareness among the eligible people who are entitled to such free legal aid.

There is a severe shortage of legal aid infrastructure, particularly in rural and remote areas.

There is a need for greater monetary allocation for legal aid services, integration of technology for tele-legal aid in remote regions, standardised training for panel lawyers, and

community-based paralegal programmes. The State must treat legal aid not as a financial burden, but as an investment in constitutional fidelity and social equity.

Conclusion

Legal aid provides a fair and equal justice to those who are unable to attain justice by themselves, and it brings light to the directive principles enshrined in the Constitution of India,

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and it removes economic and social barriers that come between justice. The very precondition of legal aid is equal justice. As Justice V.R. Krishna Iyer observed, "legal aid is not charity, it is justice," and it is time India's institutions embrace this truth fully and without compromise.

REFERENCES

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

² *M.H. Hoskot v. State of Maharashtra*, (1978) 3 SCC 544 (India).

³ *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 SCC 401 (India).

⁴ Legal Services Authorities Act, 1987, No. 39, Acts of Parliament, 1987 (India).

⁵ INDIA CONST. art. 39-A.

⁶ National Legal Services Authority, *Annual Report 2022–23* (2023), <https://nalsa.gov.in>.

⁷ National Crime Records Bureau, Ministry of Home Affairs, *Prison Statistics India 2022* (2023), <https://ncrb.gov.in>.

⁸ V.R. Krishna Iyer, *Human Rights and the Law* 47 (1984).