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LEGAL AID SERVICES:

BRIDGING THE GAP BETWEEN LAW AND THE COMMON MAN

-Chitranshi Singh

INTRODUCTION

Law is often described as the backbone of a civilised society. It sets out the rules by which people live, work, and resolve their differences. Yet a law that exists only on paper, and cannot be reached or understood by the very people it is meant to protect, fails in its basic purpose. This is where the idea of legal aid becomes important. Legal aid means providing free or subsidised legal help to persons who cannot afford a lawyer or who do not know how to approach the legal system. It is not a favour or an act of charity. It is a right, recognized by constitution of India and reinforced by statute, that ensures no person is denied justice merely because of poverty, illiteracy, or social disadvantage. When litigation has become more technical more expensive and more time consuming. In the present day, when litigation become more technical, more expensive, and more time consuming, the relevance of legal aid service has grown manifold.

UNDERSTANDING THE CONCEPT TO LEGAL AID

The heart and soul of legal aid is that which provides legal help by the State and other organization to weaker marginalized segments of society. Legal aid takes different forms. It might take the form of a free lawyer's services to the individual involved in criminal case, civil litigation, or even a matrimonial dispute. Or it might simply be providing draft of applications, petitions, and complaints for someone who lacks knowledge of language used by the court and police station. it may also be basic knowledge of law about an individual being arrested, or filing of complaint to a consumer or cybercrime website. Thus, legal aid is not only limited to legal help in the courtrooms.

CONSTITUTIONAL AND STATUTORY FOUNDATION

The framers of the Indian Constitution were conscious that formal equality before the law means little without substantive access to it. 42nd Amendment in Article 39A¹, states that the State endeavor to provide for its citizens a legal system where justice can be administered on the principle of equal opportunity and, it particular, shall provide free legal aid to ensure that the economically and or socially disadvantaged section of the population and not deprived of justice. This constitutional mandate has received legislative support in the Legal Service Authority Act, 1987², which has provided for a structure for legal service all over India, in the form of National Legal Service Authority at the top, the State Legal Service Authority in each state, and the District and Taluka legal Service committees at the bottom. These authorities have the responsibility of conducting legal aid camps, conducting Lok Adalat for friendly settlement of disputes³, and making penal lawyers available without any charge to represent eligible litigants. Article 21 of the Constitution has been held by court to include within itself the right to free legal aid, especially for the benefit of an accused who is unable to afford a lawyer in a criminal case⁴.

WHY LEGAL AID MATTERS IN THE PRESENT SCENARIO

Firstly, there has been an exponential increase in litigation which involves more statutes and processes. Banking recovery cases, cyber fraud cases, matrimonial cases, service laws, and complaints from consumers now necessitate a thorough Knowledge of a large number of laws and procedures. the normal citizen who does not have any idea about how a debt recovery tribunal works or how a cybercrime police station functions cannot protect his interest without proper legal assistance. At this point comes the intervention of legal aid clinics who help the people in drafting petitions, deciphering notices and appearing before the correct authority.

Secondly, there has been the emergence of cybercrimes and online fraud cases in recent years. Victims of money loss through fraudulent investments and online fraud do not have any idea about how to lodge a complaint at the national cybercrime reporting portal⁵ or about invoking

¹ The Constitution of India, 1950, art 39A (inserted by the Constitution (Forty-second Amendment) Act, 1976).

² The Legal Service Authorities Act, 1987, ss 3, 6 Nand 9 (constituting the National Legal Service Authority State Legal Service Authority and District Legal Service Authority respectively).

³ The Legal Service Authorities 1987, s 19 (Organization of Lok Adalats).

⁴ The Constitution of India 1950 Article 21 Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1369; M.H. Hoskot v. State of Maharashtra, air 1978 SC 1548.

⁵ National Cybercrime Reporting Portal, Ministry of Home Affairs, Government of India, available at cybercrime.gov.in.

the IT Act, 2000⁶. They need guidance in becoming recognised as victims before the police and judicial authorities.

Third, economic problems such as debt default, debt recovery, and bankruptcy have made many people and small firms face legal action by tribunals and courts without adequate legal representation. If the case of debt recovery brought against a borrower or guarantor by a financial institution is considered, there will be a clear gap between the two parties. Legal aid guarantees that the gap will not translate to injustice.

Fourth, there has been more awareness about one's rights from media and other sources but not equal growth of capability to make use of the rights. People nowadays have become aware of their rights, but do not know how to protect themselves through the rights. Legal aid bridges the gap between awareness and capability.

THE INSTITUTIONAL MACHINERY

A reasonable number of institutions have been created for rendering legal aid. Policies and guidelines for providing legal aid services are made by National Legal Service Authority. State Legal Service Authority ensures that policies are executed at the state level whereas the District Legal Service Authority headed by the District Judge serves as the first interface for public seeking legal aid⁷. Apart from that, there are legal aid clinics established in law colleges where students, under the supervision of their teachers, help citizens resolve their legal queries while gaining practical experience in the process. Periodic Lok Adalat have been established where legal disputes can be resolved quickly and at no cost through conciliation proceedings. Apart from that, roll para-legal volunteers who are trained members of the community service as an intermediary between the people living in rural areas and those who are undertrial prisoners.

PERSISTENT CHALLENGES

Despite all this, however, access to legal aid in India still encounters various barriers. Lack of awareness is one of these barriers, especially in the rural or remote regions where many eligible individuals are unaware of the fact that legal aid is available to them for free. The quality of representation provided by some panel lawyers is also poor since legal is regarded more as a routine procedure than a serious obligation. Funding insufficiency limits the extent to which outreach activities can be conducted. Procedure delays typical of the Indian judicial system in

⁶ The Information Technology Act, 2000.

⁷ The Legal Services Authorities Act, 1987, s 12(h) (income-based eligibility criterion for free legal services).

general are another barrier for legal aid clients. At times, procedure delays discourage poor clients from pursuing their cases to the end.

LEGAL AID AND VULNERABLE GROUP

The requirement for legal aid is more keenly felt by those categories of people who have extra burdens to deal with apart from being poor. The hesitation of women affected by domestic violence and who want maintenance is not just because of financial reasons but also due to the social pressure that they have to face within the families. Children who have a foul of the law requires special attention since the law of juvenile justice⁸ demands that they be handled in a protective manner⁹. Many of the undertrial prisoners who stay in jail simply because they cannot arrange bail or a lawyer depend on the legal aid clinics in prisoners to get their hearing fast. Elderly people, industrial workers, and people with disabilities are other categories of people who face problems while dealing with court and tribunals. Migrant workers who came from other states and are unaware of the procedures and yet another group of people for which legal aid is very important. Keeping in view such different type of people requiring different type of aid, legal services authorities have introduced schemes, camps, and helplines specific to particular category of people¹⁰.

THE WAY FORWARD

In order to enhance legal aid, various strategies must be adopted. An increased use technological means such as the creation of websites where citizens can access information about the availability of legal aid, use of mobile applications and virtual Consultations may prove instrumental in extending legal aid service to remote areas. The provision of training for the panel lawyers to enable them improve the services rendered through legal aid schemes will go a long way in enhancing legal aid provision. Cooperation between legal aid organisations, law schools, and non-governmental organisations will enable more volunteers to offer their assistance. Public enlightenment through mass media in the local languages of the people will sensitize many citizens to know that there is a legal help that is offered for free.

⁸ The Juvenile justice (care and Protection of Children) Act, 2015.

⁹ The Legal Services Authorities Act, 1987, s 12(G) (Persons in custody, including protection and juvenile homes).

¹⁰ The Legal Services Authorities Act, 1987, s 12 (c), (d) and (f) (women, persons with disability and industrial workmen).

CONCLUSION

Access to justice is meaningless in case it is accessible to those people who can afford to avail the service. Legal Aid Service came into the picture to this anomaly and ensure that there is an effective mechanism in place whereby the law ensures its production to each and every citizen. irrespective of their financial capability to avail the services of a lawyer. For a nation as expensive and heterogeneous as India, where a sizable portion of the population countries to remain economically deprived and legally ignorant, the need of legal aid does not remain limited to Importance alone. it became absolutely necessary. In times disputes have become more technical and life more hectic, enhancing the legal aid service cannot be viewed as a mere policy option. it becomes a constitutional and moral imperative.