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THE ROLE OF LEGAL AID IN INDIA

~Fizza Jafar

ABSTRACT

Legal Aid ensures that poverty does not deny justice. This blog discusses its constitutional basis, role, challenges in implementation, and practical suggestions to strengthen access to justice in India.

INTRODUCTION

Justice is one of the most important promises of the Indian Constitution. However, for many people approaching a court is not easy. The cost of a lawyer, complicated legal procedure, lack of awareness, and fear of authorities can prevent individuals from seeking justice. This is where legal aid plays an important role. It ensures that a person's financial condition does not become a barrier to protecting their legal rights.

Legal aid means providing legal assistance to people who cannot afford it or who need support because of their social and economic circumstances.

In India, the importance of legal aid is recognized through Article 39A of the Constitution, which directs the State to promote equal justice and provide free legal aid so that opportunities for securing justice are not denied because of economic or other disabilities. The Legal Services Authorities Act, 1987, further established a legal framework for providing free and competent legal services to eligible persons.

ROLE OF LEGAL AID IN INDIA

The concept of legal aid in India is not just limited to providing assistance by a lawyer; it helps the common people access the justice system. Without legal aid, the right to justice would be a mere formality.

1. ENSURES EQUAL ACCESS TO JUSTICE

Legal aid is an essential part of ensuring justice for all, regardless of income. In India, many people cannot afford the fees of private lawyers or the cost involved in the legal process. Legal aid gives such persons access to legal advice, representation and other necessary legal services. It strives to make sure that poverty is not a bar to justice. Legal aid thus puts the constitutional principle of equality before the law into practice.

2.PROTECTS THE RIGHTS OF VULNERABLE AND MARGINALIZED GROUPS

Legal aid is particularly important for people in vulnerable positions such as women, children, disabled persons and other vulnerable groups living on the periphery of society. These groups are more likely to have difficulty in accessing or understanding the legal system. Legal aid helps such people to know and defend their rights through proper assistance. Therefore, legal aid acts as a safeguard against exploitation, discrimination, and injustice.

3. ENSURES FAIR TRIALS AND EFFECTIVE LEGAL REPRESENTATION

A fair trial is one of the most important principles of the justice system, and appropriate legal representation is necessary to protect an individual's rights during legal proceedings. A person who does not have sufficient financial resources may otherwise be forced to face the legal process without adequate assistance. Thus, legal aid provides such persons adequate legal representation and guidance, helping them present their case and understand the proceedings. This is especially significant in criminal cases, where the consequences of inadequate representation can be serious. This right is statutorily guaranteed under Section 341 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which provides that where the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

4. PROMOTES LEGAL AWARENESS AND EMPOWERS CITIZENS

Legal aid is not merely giving a lawyer when there is a conflict but also informing a person about his basic legal rights and rights available to him in a given situation. Legal awareness programs imparted through legal aid departments, educational institutions

and community-based programs enables an individual to identify any injustice committed against him and take appropriate legal recourse. Thus, Legal aid enables an individual to take precautions and seek the help of relevant authorities in time.

5. STRENGTHENS DEMOCRACY AND ADVANCES SOCIAL JUSTICE

Legal aid promotes a good social order and democracy as it helps in making the system of law approachable for common people. A society which is democratic in its real sense cannot sustain if justice is only available for rich people. It paves the way for the deprived section of the society to seek justice as well as it empowers the common people by providing access to the system of law which ultimately helps in maintaining the faith of people in the legal system.

CHALLENGES OF LEGAL AID IN INDIA

- Lack of awareness regarding free legal aid, particularly in rural areas.
- Difficult access for people in remote villages.
- Shortage of funds and experienced lawyers affects quality.
- Long delays in courts cause hardship to poor litigants.
- Social fear, stigma and complex legal language prevent many people from seeking help.

SUGGESTIONS TO STRENGTHEN LEGAL AID IN INDIA

- Spread awareness regarding free legal aid through camps or awareness programmes in villages, schools, colleges, etc.
- Promote Lok Adalats for quick disposal.
- Provide more funds and staff to legal aid offices and set up centers in remote areas.
- Appoint experienced lawyers with fair pay and regular monitoring.

CASE LAWS

***Hussainara Khatoon v. Home Secretary, State of Bihar*¹**

In this case, the Supreme Court of India highlighted the importance of free legal aid. Several under trial prisoners had been detained for a long time without trial. The court

¹*Hussainara Khatoon v. Home Sec' y, State of Bihar, (1979) 3 S. C. R. 532 (India).*

stated that free legal assistance is an essential part of a fair trial under Article 21 of the Constitution of India. The court also underscored the significance of Article 39A that mandates the State to provide legal assistance to all those in need.

***Khatri (II) v. State of Bihar*²**

In this case, the Supreme Court of India held that an accused person who is unable to afford a lawyer should be provided legal assistance where required by the interests of justice. The Court also emphasized the importance of notifying the accused about their right to free legal aid, even when they are brought before a magistrate for the first time.

CONCLUSION

Legal aid is among the most important means of ensuring equality in practice. Through it, the disadvantaged people can learn their rights, protect themselves, and find ways to achieve justice. Legal aid demonstrates that justice should not depend on income or the social position of the person. A legal system does not become democratic until the poor and vulnerable gain the opportunities to obtain justice. Legal aid is the means which brings India closer to this ideal.

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²*Khatri v. State of Bihar*, (1981) 2 S.C.R. 408 (India)