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Legal Aid in India

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INTRODUCTION

Legal aid is the provision of free legal services to those who are unable to afford legal representation and access to the court system. In a country like India, where a vast section of society lives in poverty or is socially marginalized, access to justice remains a distant dream for many. The Indian Constitution, however, recognizes justice as a fundamental value and mandates the State to ensure that legal assistance is available to all, especially to the disadvantaged. Legal aid is not merely charity; it is a right guaranteed to the underprivileged to ensure that justice is not denied due to economic or social barriers.¹

Legal aid aims to empower the vulnerable sections of society by ensuring their access to legal remedies². It is essential to a fair trial and the effective functioning of the rule of law. The objective is to provide a level playing field where everyone, irrespective of their socio-economic status, can seek justice. The concept has evolved over the years through constitutional provisions, judicial pronouncements, legislative enactments, and institutional mechanisms.³

HISTORICAL EVOLUTION

The idea of legal aid is not new to India. Even during the colonial period, social reformers and lawyers advocated for access to justice for the poor. Post-independence, legal aid gained prominence as the government and judiciary began focusing on the need for inclusive justice.⁴

¹ INDIA CONST. art. 39A; see also *M.H. Hoskot v. State of Maharashtra*, (1978) 3 S.C.R. 544 (India) (holding that legal aid is an essential ingredient of a fair procedure under Article 21).

² *Hussainara Khatoun v. State of Bihar*, (1979) 3 S.C.C. 532 (India); see also Law Comm'n of India, 14th Report: Reform of Judicial Administration, at 587–89 (1958).

³ Legal Services Authorities Act, No. 39 of 1987, INDIA CODE (1987); see also *Khatri (II) v. State of Bihar*, A.I.R. 1981 S.C. 928 (India).

⁴ Usha Ramanathan, *Legal Aid: A Right to Equality*, 29(13) *Econ. & Pol. Wkly.* 755, 755–56 (1994).

The 14th Report of the Law Commission of India (1958) emphasized the importance of providing legal aid to the poor and suggested state-sponsored legal assistance. Justice V.R. Krishna Iyer and Justice P.N. Bhagwati were instrumental in promoting the ideology that legal aid is an essential component of the right to life and personal liberty under Article 21 of the Constitution.⁵

The initial efforts were based on voluntary services offered by lawyers. However, the need for a statutory and institutional framework led to the enactment of the Legal Services Authorities Act in 1987.⁶

CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

Article 39A of the Indian Constitution

The 42nd Amendment Act, 1976, introduced Article 39A into the Constitution. It directs the State to ensure that the legal system promotes justice on the basis of equal opportunity and provides free legal aid to ensure that justice is not denied to any citizen due to economic or other disabilities.⁷ Though it is part of the Directive Principles of State Policy and thus non-justiciable, Article 39A reflects a constitutional commitment to legal aid.

Although Article 39A is not enforceable in a court of law—being a part of the DPSPs under Part IV of the Constitution—it is nonetheless a guiding principle for governance and legislative action. It enshrines the ideal that legal aid is not a matter of charity but a matter of right, intended to reinforce the concept of substantive equality and ensure a level playing field in legal proceedings.⁸ In this context, Article 39A serves as the constitutional foundation for India's legal aid framework, paving the way for the enactment of laws such as the Legal Services Authorities Act, 1987, and for the judiciary to interpret the right to legal aid as intrinsic to Article 21, which guarantees the right to life and personal liberty.⁹ The provision thus reflects a constitutional commitment to inclusive justice, transforming the State's duty into an instrument of social transformation aimed at democratizing access to the legal system.

LEGAL SERVICES AUTHORITIES ACT, 1987

⁵ Law Comm'n of India, 14th Report: Reform of Judicial Administration, at 587–89 (1958).

⁶ Legal Services Authorities Act, No. 39 of 1987, INDIA CODE (1987).

⁷ INDIA CONST. art. 39A, inserted by The Constitution (Forty-Second Amendment) Act, 1976.

⁸ See M.P. Jain, *Indian Constitutional Law* 1346–47 (7th ed. 2014); see also Granville Austin, *Working a Democratic Constitution: The Indian Experience* 188–89 (1999).

⁹ *Hussainara Khatoon v. State of Bihar*, (1979) 3 S.C.C. 532 (India); *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 S.C.C. 401 (India); Legal Services Authorities Act, No. 39 of 1987, INDIA CODE (1987).

To operationalize the mandate of Article 39A of the Constitution, the Parliament enacted the Legal Services Authorities Act, 1987, which came into force on 9 November 1995.¹⁰ This legislation provides a comprehensive statutory framework for delivering free and competent legal services to the weaker sections of society. The Act institutionalized legal aid through the establishment of a hierarchical structure of legal services authorities operating at various levels:

- National Legal Services Authority (NALSA) at the apex,
- State Legal Services Authorities (SLSAs) at the state level,
- District Legal Services Authorities (DLSAs) in each district, and
- Taluk Legal Services Committees (TLSCs) at the sub-district or taluka level.¹¹

These authorities are entrusted with the vital role of identifying beneficiaries eligible for legal aid, implementing welfare-oriented schemes, and providing legal representation and counselling. They also organize Lok Adalats for alternate dispute resolution and conduct legal literacy and awareness programs, especially in rural and underserved areas.¹² Each authority functions under the supervision of a senior judge—ensuring accountability and judicial oversight. NALSA also issues guidelines and model schemes to be adopted across the country. Through this statutory and institutional mechanism, the Act aims to transform legal aid from a theoretical entitlement into a practical reality, thereby strengthening the rule of law and access to justice.

ELIGIBILITY CRITERIA FOR LEGAL AID

Under Section 12 of the Legal Services Authorities Act, 1987, the eligibility criteria for receiving free legal services are clearly outlined to ensure that the benefits of legal aid reach the most marginalized and vulnerable populations. The provision adopts a broad and inclusive approach, recognizing both economic hardship and social disadvantage as valid grounds for entitlement. Legal aid is mandatorily provided to the following categories of individuals:

- Members of Scheduled Castes (SCs) and Scheduled Tribes (STs), who have historically faced systemic discrimination and exclusion, making access to legal systems particularly challenging.¹³

¹⁰ Legal Services Authorities Act, No. 39 of 1987, Section 1, INDIA CODE (1987) (Act came into force on Nov. 9, 1995).

¹¹ Legal Services Authorities Act, No. 39 of 1987, Sections 3–11, INDIA CODE (1987).

¹² Legal Services Authorities Act, No. 39 of 1987, Sections 12–13A, INDIA CODE (1987); see also National Legal Services Authority v. Union of India, (2014) 5 S.C.C. 438 (India).

¹³ Legal Services Authorities Act, No. 39 of 1987, Section 12(a), INDIA CODE (1987).

- Victims of human trafficking or beggars, acknowledging their exploitation and lack of social and economic capital.¹⁴
- Women and children, who are often unable to assert their legal rights due to patriarchal barriers, lack of legal awareness, and economic dependency.¹⁵
- Persons with disabilities, including physical, mental, and intellectual disabilities, recognizing their additional vulnerabilities in navigating the legal process.¹⁶
- Persons in custody, such as those in prisons, protective homes, juvenile homes, or psychiatric institutions, whose liberty is already restricted and who require assistance to exercise legal rights.¹⁷
- Victims of mass disasters, ethnic violence, caste atrocities, floods, droughts, earthquakes, or industrial disasters, ensuring that legal recourse is accessible in times of crisis.¹⁸
- Industrial workmen, acknowledging the imbalance of power between employers and workers in labour disputes.¹⁹
- Persons with an annual income below a prescribed threshold, which varies across different states, generally ranging from ₹1,50,000 to ₹3,00,000.²⁰

This expansive eligibility framework serves to democratize access to justice by removing financial and structural barriers. It reflects the principle that the ability to pay should not determine one's ability to seek justice. By prioritizing the needs of disadvantaged groups, the Act affirms the constitutional values of equality, dignity, and social justice, and underscores the role of the State in actively facilitating legal empowerment.

TYPES OF LEGAL AID SERVICES

Legal aid in India extends far beyond mere court representation. It encompasses a wide range of legal services designed to ensure that justice is accessible, affordable, and equitable for all, particularly the marginalized. These services include:

¹⁴ Legal Services Authorities Act, No. 39 of 1987, Section 12(b), INDIA CODE (1987).

¹⁵ Legal Services Authorities Act, No. 39 of 1987, Section 12(c), INDIA CODE (1987).

¹⁶ Legal Services Authorities Act, No. 39 of 1987, Section 12(d), INDIA CODE (1987)

¹⁷ Legal Services Authorities Act, No. 39 of 1987, Section 12(e), INDIA CODE (1987).

¹⁸ Legal Services Authorities Act, No. 39 of 1987, Section 12(f), INDIA CODE (1987).

¹⁹ Legal Services Authorities Act, No. 39 of 1987, Section 12(g), INDIA CODE (1987).

²⁰ Legal Services Authorities Act, No. 39 of 1987, Section 12(h), INDIA CODE (1987); see also National Legal Services Authority (NALSA), Income Criteria for Legal Aid, <https://nalsa.gov.in> (last visited July 18, 2025).

1. **Legal Advice:** Individuals from eligible categories can avail free consultations with empanelled lawyers to understand their rights, legal remedies, and the procedures involved. This is often the first step toward justice and can prevent unnecessary litigation through informed decision-making.
2. **Legal Representation:** For those who cannot afford a private advocate, legal services authorities appoint experienced lawyers to represent them in various legal forums, including subordinate courts, tribunals, and even High Courts and the Supreme Court. This ensures that no one is denied justice due to lack of representation.
3. **Legal Awareness and Literacy:** Legal aid authorities frequently organize awareness campaigns, seminars, and workshops in rural and urban areas to educate people about their constitutional rights, basic laws, and available legal remedies. This empowers citizens to assert their rights and fosters a legally aware society.
4. **Alternative Dispute Resolution (ADR):** Recognizing the burdened court system, legal aid promotes resolution of disputes through Lok Adalats, mediation, and conciliation. These methods are faster, cost-effective, and less adversarial, offering amicable solutions especially in cases like family disputes, property matters, or compoundable offenses.
5. **Assistance in Documentation:** Legal aid clinics and centers also help the poor and illiterate in preparing legal documents such as affidavits, complaints, petitions, applications, and notices. This assistance is vital in navigating procedural requirements, particularly for those unfamiliar with legal formalities.

Together, these services reinforce the idea that legal aid is a comprehensive entitlement aimed at upholding the **rule of law** and ensuring that justice is neither delayed nor denied due to socio-economic constraints.²¹

LOK ADALATS: JUSTICE AT DOORSTEPS

Lok Adalats are a unique feature of India's legal aid system. Established under the Legal Services Authorities Act, they provide an alternative mechanism for dispute resolution that is informal, quick, and cost-effective.²² Lok Adalats are organized at regular intervals and are empowered to settle civil cases, including matrimonial disputes, motor accident claims, and compoundable criminal cases.²³

Key features include:

²¹ The Legal Services Authorities Act, No. 39 of 1987, Section 2(1)(c), India Code (1995).

²² The Legal Services Authorities Act, No. 39 of 1987, Section 19, India Code (1995).

- No court fees
- No strict procedural laws
- Binding decisions equivalent to a civil court decree
- No appeal against the decision

Millions of cases have been resolved through Lok Adalats, significantly reducing the burden on regular courts.

JUDICIAL CONTRIBUTION TO LEGAL AID

Indian courts have played a transformative role in expanding the scope of legal aid. The judiciary has held that legal aid is an integral part of the right to a fair trial under Article 21.

- *Hussainara Khatoon v. State of Bihar* (1979): The Supreme Court held that legal aid is essential for a fair trial and must be provided to indigent accused.²⁴
- *Khatri v. State of Bihar* (1981): The Court emphasized that legal aid should be provided from the time of the first appearance of the accused.²⁵
- *Suk Das v. Union Territory of Arunachal Pradesh* (1986): The Court ruled that non-provision of legal aid amounts to a violation of fundamental rights and invalidates the trial.²⁶

These cases underscore the judiciary's commitment to ensuring that legal aid is not a mere formality but a constitutional obligation.

CHALLENGES IN LEGAL AID DELIVERY

Despite a strong legal framework, the delivery of legal aid in India faces numerous challenges:

1. **Lack of Awareness:** Many people eligible for legal aid are unaware of their rights and the availability of services.²⁷
2. **Poor Quality of Legal Representation:** Legal aid lawyers are often underpaid and lack motivation, leading to substandard representation.²⁸

²⁴ *Hussainara Khatoon v. State of Bihar*, (1979) 3 SCC 532.

²⁵ *Khatri v. State of Bihar*, (1981) 1 SCC 627.

²⁶ *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 SCC 401.

²⁷ Law Commission of India, Report No. 142 on Concessional Legal Procedures for the Poor, ¶ 2.4 (1991).

²⁸ Nikhil Dey & Aruna Roy, Legal Empowerment and the Poor in India: Legal Aid or Legal Empowerment, 1 *Indian J. Legal Stud.* 20, 26–28 (2012).

3. **Administrative Inefficiency:** Delays in appointment of lawyers, bureaucratic hurdles, and lack of coordination among agencies affect service delivery.²⁹
4. **Inadequate Infrastructure:** Many legal aid offices lack basic infrastructure, trained staff, and technological support.
5. **Social and Cultural Barriers:** Women and marginalized communities often face societal constraints in seeking legal help.³⁰

REFORMING LEGAL AID IN INDIA

To overcome these challenges and make legal aid truly effective, several reforms are needed:

1. **Legal Literacy Campaigns:** Awareness programs using local languages, community radio, and digital media should be intensified.
2. **Improved Training and Incentives:** Legal aid lawyers should receive regular training, fair remuneration, and career advancement opportunities.
3. **Technology Integration:** Use of online portals, mobile apps, and virtual legal aid clinics can enhance access, especially in remote areas.
4. **Strengthening Institutional Capacity:** Sufficient funding, staffing, and infrastructure should be provided to legal services authorities.
5. **Community Participation:** Involving law students, NGOs, para-legal volunteers, and retired judges can improve outreach and quality.³¹

ROLE OF NALSA AND STATE LEGAL SERVICES

The National Legal Services Authority (NALSA) plays a central role in coordinating legal aid efforts across India. It formulates policies, conducts research, and oversees the functioning of State and District Legal Services Authorities.

Notable initiatives by NALSA include:

- **Legal Aid Clinics:** Set up in law colleges, villages, and jails.
- **Nyaya Bandhu App:** A platform for advocates to provide pro bono legal services.

²⁹ M.P. Singh, *Outreach and Implementation Challenges of Legal Services Authorities in India*, 10 NUJS L. Rev. 123, 130 (2017).

³⁰ See National Legal Services Authority, *Annual Report 2020-21*, at 56–58 (noting low participation of women in legal aid schemes in backward regions).

³¹ National Legal Services Authority, *NALSA Standard Operating Procedures for Legal Services Delivery* (2021), https://nalsa.gov.in/sites/default/files/SOPs/NALSA_SOP_Legal_Services.pdf.

- Special Schemes: For women, children, senior citizens, acid attack victims, and mentally ill persons.
- Victim Compensation Schemes: To provide financial assistance to victims of crimes.³²

INTERNATIONAL COMPARISONS

India's legal aid framework can benefit from the practices of other countries:

- United Kingdom: Legal aid is administered by the Legal Aid Agency and covers both criminal and civil matters.
- United States: The Legal Services Corporation (LSC) funds non-profit legal aid organizations across the country.
- South Africa: Legal Aid South Africa operates as an autonomous statutory body providing comprehensive legal services.

These models highlight the importance of autonomy, adequate funding, and accountability mechanisms in effective legal aid delivery.³³

CONCLUSION

Legal aid is an essential pillar of a democratic and just society, aimed at ensuring that every individual, regardless of economic or social background, has access to justice. In India, legal aid reflects the constitutional ideals enshrined in Articles 14 and 21, guaranteeing equality before the law and the right to life and personal liberty. While the Legal Services Authorities Act, 1987, and the efforts of bodies like NALSA have institutionalized legal aid, challenges remain in its effective implementation. Issues such as lack of awareness, inadequate legal representation, and infrastructural deficiencies hinder the system's outreach and efficiency.

However, India has taken significant strides through legal literacy campaigns, Lok Adalats, and innovative use of technology such as mobile legal aid clinics and online portals. Judicial pronouncements have also reinforced legal aid as a fundamental right. Comparative models from countries like the UK, USA, and South Africa offer valuable lessons in funding, autonomy, and accountability.

³² National Legal Services Authority, About NALSA, <https://nalsa.gov.in/about-us> (last visited July 18, 2025).

³³ Legal Aid Agency, GOV.UK, <https://www.gov.uk/government/organisations/legal-aid-agency>; Legal Services Corporation, Who We Are, <https://www.lsc.gov/about-lsc/who-we-are>; Legal Aid South Africa, About Us, <https://legal-aid.co.za/about-us/> (all last visited July 18, 2025).

To make legal aid truly effective, there is a need for systemic reforms—better training and incentives for lawyers, increased budgetary allocation, and active participation of civil society. Legal aid must evolve from being a formality to becoming a powerful tool for empowerment, justice, and social transformation.