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Ensuring Equality: The Role of Legal Aid in Upholding Access to Justice under the Indian Constitution

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ABSTRACT

The democratic government and the rule of law are the fundamental pillars for easy access to justice, ensuring that every individual, irrespective of their economic conditions or lack of education, has equal access to the legal system in their respective country. Individuals can seek and obtain remedies for grievances through the constitutional provision for legal aid, which safeguards the rights of “marginalized and economically disadvantaged populations. “Easy access to equal justice is considered a basic fundamental right of every person”, which is enshrined in the Constitution of India, primarily under Articles 14, 21, and 39A. The researcher will examine the importance of legal aid as it is stated in the "Constitution of India", thus stressing that the legal aid system is a component in the effort to secure equity and fairness for all of the justice system participants in India.

The "Indian Constitution" through the 42nd Amendment Act, 1976, guaranteed free legal aid under Article 39A, which states that every person in India is entitled to free legal assistance so that it will ensure no person is denied justice. Effective legal representation is a right, not a privilege; therefore, it is viewed as the government's responsibility to establish a legal framework that enables justice. The right to “legal aid” is deemed an essential element of the "right to life and personal liberty under Article 21", establishing a strong judicial precedent for the importance of legal assistance in protecting rights of every citizen.

The "Legal Services Authorities Act, 1987" established the "National Legal Services Authority (NALSA)" and state legal services authorities and tasked it with implementing the legal aid scheme. These authorities try to provide legal assistance by implementing various schemes to promote the legal literacy of the underprivileged sectors and to keep alive their legal rights.

The researcher tries to address systematic inequalities affecting various segments of the Indian population. It is essential to implement effective legal aid in India. Despite having a compulsory

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constitutional provision of free legal assistance, many individuals, particularly people belonging to low-income backgrounds, face significant barriers in accessing legal services. The lack of awareness about legal rights, combined with financial constraints, aggravates these challenges.

The problem of adequate legal aid provision in India has plenty of obstacles. The researcher will attempt to tackle the issues of limited funding, limited awareness of the existence of these provisions by intended users, and limited trained legal professionals in rural areas, which make effective “access to justice” debilitating.

The provision of aid for legal matters in the Constitution is an essential mechanism in securing equitable access for each citizen of India to justice. Legal aid protects individual rights and embodies the values of its democracy and social justice. The efficacy of the legal aid provisions is reliant on the commitment to ensure that the provisions are developed to further assist access, and the responsibility to ensure that “legal aid” identity, mechanisms, and resources are available and known to citizens, such that access to justice becomes an inclusive process for all citizens.

Keywords: Legal Aid; Indian Constitution; Equality; Systemic Inequalities; Social Justice; Inclusive Legal Landscape

INTRODUCTION

"Justice is not just about laws but ensuring everyone has access to them. Without equal legal aid, justice remains an ideal, not a reality."

In a democracy-based country, equality is considered the cornerstone, and legal aid is deemed the fundamental right of the marginalised group that connects them to the promise of justice. Equal protection is guaranteed by the constitution of a democratic country to every citizen, irrespective of their belonging to a different caste, religion, place of birth, etc., through equal legal aid. The “Indian Constitution” envisions that justice should be a universal right, and everyone should have access to justice. Still, this vision cannot be achieved without easy and free access to legal aid. Legal aid is the key that ensures that the poor, the marginalised, and the disadvantaged are not left behind and therefore essential to unlocking the doors of justice.² Justice is regarded as the foundation of equality and is the fundamental basis of fairness and rights in a democracy.³ Under “Indian

² Access to Justice and Legal Aid in India (Statutory and Case Laws) – Judicial Process and Administration, INFLIBNET (n.d.), <https://ebooks.inflibnet.ac.in/lawp02/chapter/access-to-justice-and-legal-aid-in-india-statutory-and-case-laws/> (Last visited on May 19, 2025).

³ Principles of Justice and Fairness, Beyond Intractability (June 29, 2016), https://www.beyondintractability.org/essay/principles_of_justice (Last visited on May 19, 2025).

Constitution,” this “right to justice” is not a privilege but a “fundamental right,” and legal aid is the key to making this right a reality for all.

India has tremendous natural diversity with distinct cultures, languages, and traditions. The abundance of differences in education, barriers of language, and the geographical distance of many communities often pose barriers to obtaining legal resources. The range of economic conditions of different individuals means many individuals, particularly from marginalised or impoverished sections of society, find it difficult to afford legal counsel or are overwhelmed and struggle to make sense of the complexities of the judicial system. Thus, focusing efforts through legal aid and public awareness campaigns is critical to closing these gaps, fully contributing to justice for all, and leaving no one behind so that fairness and equality are attainable.

There is a strong foundation for a justice system laid down in the “Constitution of India” that is autonomous and capable of safeguarding the rights of every individual. At the very heart of this system lies the access to court for justice, which is enshrined as a fundamental right⁴. If the state fails to provide equal opportunities for legal assistance to individuals, it means that the state has been failing to fulfil its societal responsibilities.

Justice should not be considered an abstract principle but a practical tool that must reach every person, whether they are rich or poor or belong to urban or rural society. The “Constitution of India” provision, particularly under Article 39A, expresses a commitment to making justice an accessible right for all. This provision emphasises that the state is responsible for ensuring that “legal aid” is available to the marginalised; therefore, this provision aims to create a more inclusive legal system. Article 39A seeks to eliminate obstacles to justice and encourage “equality before the law” by providing “legal aid” to disadvantaged and marginalised populations⁵. It represents the element in a democracy in which justice can only be realised when justice is equally accessible and available to all “Shall” in Article 39A is a defined constitutional requirement, not a suggestion⁶.

In recent times, legal aid has started playing an important role as a powerful tool in developing social justice. The state has developed various innovative measures to make justice more inclusive and accessible, such as establishing free legal aid clinics, increasing awareness campaigns, and

⁴ Pritam Baruah, Human Dignity in Indian Constitutional Adjudication (Chapter 1), in Human Dignity in Asia, Cambridge Core (July 26, 2022), <https://www.cambridge.org/core/books/abs/human-dignity-in-asia/human-dignity-in-indian-constitutional-adjudication/7BBB9960207BC44B913E61B155F87D84> (Last visited on May 19, 2025).

⁵ National Legal Services Authority (NALSA), Access to Justice for the Marginalized, Ministry of Law and Justice (n.d.), <https://doj.gov.in/access-to-justice-for-the-marginalized/> (Last visited on May 19, 2025).

⁶ Compilation on Cases Article 39A, ProBono India (n.d.), https://www.probono-india.in/Indian-Society/Paper/790_6.%20Compilation%20on%20Cases%20Article%2039A.pdf (Last visited on May 19, 2025).

providing legal assistance through mobile units in remote areas. Additionally, there has been a focus on simplifying legal processes, offering pro bono services, and training lawyers to handle cases of social and economic marginalisation. The primary goal of “legal aid” is to give disadvantaged and marginalized populations a fighting chance in the legal system and a voice to their complaints and a more equitable opportunity to access justice, that they would not be able to otherwise access or obtain because of a lack of access to funding and knowledge, skill or expertise⁷.

True equality under a just legal system can only be achieved when every citizen has the means to access justice. Therefore, free legal aid is considered an inseparable part of India’s justice system. Legal assistance in a country by providing sufficient resources and legal knowledge will help the poorest and most vulnerable members of society have a voice in legal matters, ensuring their rights are not trampled upon. This service is a lifeline, especially for those who might not have the resources to navigate the complex legal processes.

In several landmark judgments, “Supreme Court of India” has reinforced the need for “legal aid” has emphasised that legal representation is a fundamental right which is the most crucial element in upholding the “right to equality before the law”, as enshrined in “Articles 14 and 21 of the Constitution”. It includes the cases in which the individuals are unable to afford a lawyer and may face serious consequences, which may include imprisonment or death if the person is denied legal support.

The Court has recognised the fundamental importance of “legal aid” in protecting human rights, and it has instructed that no one should be denied justice solely based on their financial inability to pay for it, and in doing so, it has reaffirmed the belief that justice should be available to all. Therefore, Article 39A, “Article 14 (Right to Equality)⁸”, and “Article 21 (Right to Life and Liberty)⁹” of the Constitution emphasise that the provision of legal aid is a matter of justice, fairness and human rights and is not just a matter of convenience. There is a real danger of injustice if individuals are denied access to legal assistance, as it will undermine the very principles on which democracy and equality are based.

Nonetheless, there are numerous obstacles to meeting the goal of full “access to justice” in the Indian legal system. To be clear, while there is a legal framework and constitutional provisions, and hence an obligation to make legal aid available to every citizen, there are still challenges in

⁷ Legal Aid to Poor and Marginalized Sections, Press Information Bureau (n.d.), <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1910032> (Last visited on May 19, 2025).

⁸ INDIA CONST. art. 14.

⁹ INDIA CONST. art. 21.

establishing an effective legal aid delivery system for all citizens in India who require legal assistance. In addition, the entire judiciary is struggling with delays that make timely justice much more complicated. The shortage of lawyers in rural and underserved communities also hinders people's access to legal representation¹⁰. These restrictions to access to justice, along with socio-economic factors such as “poverty, illiteracy, and social exclusion”, are some of the major factors which continues to prevent large sections of society from fully benefiting from the legal protections afforded to them under the Constitution. As such, these barriers demand not only improving the existing legal framework, but also, very importantly, bringing legal awareness, resources, and support to the most marginalised communities so that the concept of justice is not a nebulous dream, but a tangible reality for them¹¹.

The COVID-19 pandemic has highlighted and deepened these disparities. The poor and marginalised sections of society, already vulnerable, faced even greater challenges during the pandemic, making it harder for them to access legal resources when they needed them the most¹². Hence, this establishes a need for a stronger, more accessible legal aid system that reaches every corner of the country and ensures that justice is not something that only the privileged can afford.

The Indian legal system must continue to evolve and address these challenges to truly achieve the promise of justice for all and ensure that legal aid remains available to the vulnerable section of society. The promise of justice can only be fulfilled if it is available to everyone and not just those with the resources to pay for it, as it is not a matter of legal obligation, but a moral obligation of a just legal system. India takes another step toward becoming a more just and equal society by ensuring that “justice is accessible to the poor”, the marginalised, and the disenfranchised.

FROM DHARMASHASTRA TO MODERN LAW

In India the concept “legal aid” has a long history which has its root in the “Dharmashastra”, in which there is a clear emphasizes that “the king must protect the rights of those who are unable to defend themselves” and in addition to it there has been the concept of equal justice prevalent from ancient times. The very idea of equal justice can be seen in “Manusmriti”, an ancient Hindu text emphasising the duty of the King to administer justice fairly without bias or personal whims.

¹⁰ Sunil chauhan, Legal Needs in Rural India, clp.law.harvard.edu (June 11, 2023), <https://clp.law.harvard.edu/wp-content/uploads/2023/06/Legal-needs-in-Rural-India-conference-paper-Sunil-Chauhan.pdf> (Last visited on May 19, 2025).

¹¹ MINISTRY FOR FOREIGN AFFAIRS, Access to justice for persons living in poverty: a human rights approach, socialprotection-humanrights.org (Jan. 22, 2014), <https://socialprotection-humanrights.org/wp-content/uploads/2015/06/A2Justice-publication.pdf> (Last visited on May 19, 2025).

¹² Francisco H. G. Ferreira, Inequality in the Time of COVID-19, IMF F&D (Summer 2021), <https://www.imf.org/external/pubs/ft/fandd/2021/06/inequality-and-covid-19-ferreira.htm> (Last visited on May 19, 2025).

It was based upon the very principle that justice should be based on religious, social, economic, and political principles, and that the sanctity of justice should be preserved and developed¹³.

The need to provide free legal services to marginalised and oppressed sections of society gained momentum in India after the country gained independence, as the government began to work in the direction of a welfare state, and it became essential to provide these fundamentals to achieve the welfare of the citizen collectively. Therefore, parliament further solidified this movement by introducing “the 42nd Constitutional Amendment of 1976”, which added “Article 39A to the Constitution” that ensured that the state shall make provision of free legal aid to those in need, making it a mandatory requirement.

The “Legal Services Authorities Act of 1987”¹⁴ was created to provide easy disposal and remedies for legal matters in India, which works to establish a network of legal aid institutions spread widely across the nation. The Act provides for different bodies at various levels to ensure that the efficient delivery of legal services is available to all citizens of India. “The National Legal Services Authority (NALSA)” is responsible for examining legal issues in which aid is to be provided in India and formulating policies, principles and guidelines for services in legal matters across the country. There are discrepancies due to a lack of education and the non-availability of resources to the underprivileged section of society in India. The state should implement effective measures to implement these policies across the nation.

The primary objective of “legal aid” in India is to ensure that no individual is excluded from the justice system due to financial or physical constraints. Legal aid services are available to economically weaker sections of society, women, persons with disabilities, victims of trafficking, and those affected by natural disasters. “Legal aid” comprises a wide range of services, including lawyers' advice and representation in the court, and public education programs aimed at empowering citizens. Therefore, it is the responsibility of the state and also the professional individual to make the resources and knowledge available and to establish a legal organisation for the effective and widespread provision of “legal aid” in India.

INTERSECTION OF “LEGAL AID” AND “HUMAN RIGHTS”: A PATH TO EQUALITY

“Legal aid” is a means of providing “access to justice” and a fundamental basis for advancing human rights. It has been implicitly mentioned in several International human right declaration

¹³ The Editors of Encyclopaedia Britannica, Manu-smriti, Britannica (Oct. 19, 2024), <https://www.britannica.com/topic/Manu-smriti> (Last visited on May 19, 2025).

¹⁴ The Legal Services Authorities Act, Acts of Parliament, 1987 (India).

for instance in Article 7, 8; 10 of the “Universal Declaration of Human Right” and similarly there are provision for these basic principles to be enshrined in the “Constitution of India” which is provided under Article 39A, which makes it mandatory for the State to provide free legal services to ensure that even the poorest citizens can have “access to the justice system”¹⁵.

This principle is about the understanding that "legal representation" is essential to defend human rights, promote social equality of all people and support individuals to take an active part in their processes. If legal aid is not available to disadvantaged groups, they cannot have their grievances examined for each instance of injustice and cannot invoke their legal rights, leading to systemic inequalities and further alienation. Therefore, legal organisations can play such a significant role available by being an available resource and assisting in providing legal assistance. In this regard, legal organisations play a distinct but important role, and where they should be self-serving in support, and where necessary, they build in resources in its considerations to support them recoup legal aid in its protections of individuals, ensuring the rule of law prevails, and supporting the evolution of society with legally protected and enforced rights for all citizens.

Legal aid programs are vital to securing human rights because they prevent people from being denied access to justice due to financial hardship. They also help advocate for legislative changes and policies designed to create equality and fairness. Accordingly, legal organisations and the state should help raise awareness of human rights issues at the broader level, allow people to exercise their rights, and facilitate individuals seeking remedies for injustices.

THE VITAL ROLE OF “LEGAL AID”

The "Constitution of India" provides free “legal aid” under Article 39A. “Legal aid” within a Constitutional and democratic system is vital in securing 'access to justice' for disadvantaged and marginalised communities with limited access to knowledge and resources, specifically for groups who cannot access private representatives. Included in these groups are lower-income citizens, minorities, women, persons with disabilities, immigrants, refugees, victims of domestic violence, and others who are often not able to “access legal services” because of financial or systemic obstacles.

Legal aid agencies should address this inequality gap by providing free or low-cost legal assistance to vulnerable populations and proactively ensure that they have the prospect of representation by legal professionals and access and navigate the legal system to protect their rights and seek justice,

¹⁵ Rohit Kumar, Human Rights in Indian Constitution, IJSSRD (Apr. 9, 2024), https://iaeme.com/MasterAdmin/Journal_uploads/IJSSRD/VOLUME_6_ISSUE_1/IJSSRD_06_01_009.pdf (Last visited on May 19, 2025).

therefore, access to explanation. All persons have legal remedies, regardless of their economic status. Thus, the state must take necessary measures to realise a minimum intervention so that marginalised people can contest legal injustices and inequalities on a level playing field, challenge systemic barriers, and, ultimately, give effect to and advance the rule of law and equitable outcomes.

Disadvantaged communities encounter numerous obstacles when trying to access justice. These barriers can include the lack of resources to hire a private attorney, a lack of law knowledge, language barriers, and the inaccessibility of legal services, which is more commonplace in remote or underserved areas. This might help marginalised communities protect their rights, which might help promote equality before the law and ultimately provide greater social and legal inclusion.

The legal aid institutions must assist marginalized groups and populations, including immigrants, refugees, victims of domestic violence, and people with disabilities who face systemic oppression. The state should also support the establishment of organizations which, while primarily working towards economic sustainability, will ultimately make efforts to provide culturally responsive services and services in different languages to provide legal representation and access to justice based on a person's needs, cultural background, and circumstances, including promoting equity within the justice system¹⁶.

Apart from legal representation, legal aid organisations and the state should try to address systemic issues that cause legal inequality. These become hindrances in socioeconomic disparities, social stigma, and discriminatory laws or policies. Organising legal aid programs jointly with NGOs and advocacy groups will create awareness about legal rights affecting marginalised communities and ensure that these communities know the resources and services available to them¹⁷. Legal aid programs contribute to long-term systemic change by confronting fundamental causes of legal inequities, advocating policy reforms, challenging unjust laws, and creating a climate for social justice through which human beings are afforded a fair legal system.

Along with a direct legal service apparatus to ameliorate the injustice gaps pervasive in the society, legal professionals and the State must ameliorate barriers that interfere with individuals' abilities to access justice. Barriers include a lack of knowledge of legal rights, geographical isolation, financial

¹⁶ International Bar Association, Access to Justice, Legal Aid for the Accused, and Redress for Victims of Violence, International Bar Association, <https://www.ibanet.org/document?id=Int-Access-to-justice-Legal-Aid-for-the-Accused-and-Redress-for-Victims-of-Violence> (Last visited on May 19, 2025).

¹⁷ U.N. Secretary-General, Legal Empowerment of the poor and eradication of poverty, Report of the Secretary-General, A/64/133 (July 2009).

struggles, and a lack of language capacity to communicate with the justice system. Legal aid services should aim to provide approaches to these barriers using numerous ways to navigate, such as telephone hotlines for information, online services, legal clinics, and the coordination of transportation for clients who are attending a court appearance. Legal aid programs will also undertake community outreach to promote public awareness of “legal rights and the existence” of “legal aid services”.

"Legal Aid" organisations should aim not just to provide representation but also to educate clients about their rights and obligations, and education and empowerment, as an aspect of providing legal aid, is to inform clients and others. Therefore, public education initiatives are an important objective of the state to promote legal literacy for vulnerable populations, so that they come to appreciate the legal system, avoid difficult legal situations, and make informed decisions. The various public education initiatives include workshops, outreach meetings and legal education campaigns designed to provide legal information in accessible ways that are culturally relevant to the target populations. It ultimately sought to bridge the justice gap because it provided equal access to rights to everyone in society.

In addition to those mentioned above, the legal aid community in the state should develop partnerships with schools, colleges, and other educational institutions to provide basic awareness of legal education¹⁸. This will help promote a culture of legal awareness from a very young age, ensuring that individuals build a connection to the legal system and know that there is help available whenever they need it throughout their lives. In this way, legal aid helps promote greater legal literacy, ultimately laying the groundwork for a fairer and more equal society. So, these are ways the state can help eliminate the gaps in inequalities and ensure justice for all citizens of society.

CONSTITUTIONAL COMMITMENTS AND PERSISTENT CHALLENGES

The Indian Constitution guarantees free legal aid under Article 39-A, which obliges the state to deliver justice to the country's citizenry on an equal opportunity. Free legal assistance can be understood as a guarantee to economically disadvantaged citizens, and to render justice accessible to every citizen irrespective of any financial/social barriers. Therefore, to establish a just society in India, it is unassumingly crucial that an equitable and fair legal system be made available to those

¹⁸ Nidhi Sharma, Legal Aid Clinics in India as a part of Law School Curriculum: An Overview, pramanaresearch.org (Aug. 13, 2018), <https://www.pramanaresearch.org/gallery/prj-p220.pdf> (Last visited on May 19, 2025).

citizens who are the most vulnerable and were at a disadvantaged start in society. Equitable justice also has a basis of ensuring opportunity, specifically to poor and marginalised classes of people, so that they can be afforded “access to justice in the judicial system”, by which they can interpret for themselves a “right to a fair trial” irrespective of their limited resources. Consequently, the provision of “free legal aid”, by its constitutional imperatives and recognition, tongues-in-cheek remains a complicated concern for any country with over a billion populations, which has continued to grapple with not only legal awareness but also an increasing shortage of legal professionals, ultimately and inadvertently leading to a greater denial of justice to marginalised classes of people. The ultimate aim of the state is to create a welfare society, and one of the cornerstones for achieving this goal is to guarantee that no citizen should be denied “justice” on account of economic or other disabilities.

In addition, the “Preamble of the Constitution” also guarantees justice for all citizens. The judiciary has further extended its role in legal aid through Public Interest Litigation (PIL) and, lately, it has started assuming a proactive role in addressing public issues by guaranteeing that even the most marginalised and under-represented groups have access to remedies. By using PIL, the judiciary has helped facilitate access to justice by encouraging government attention to several social, environmental and human rights issues, while ensuring that equality and fairness principles are practised for all citizens, and in all fields by all citizens and the government.

Although the constitution and other legal provisions have offered legal structure to have effective “access to justice” in the matters of “legal aid” however still its implementation is faced with various challenges illegibility combined with a massive population of India, issues of illiteracy no “legal awareness and economic difficulty will complicate the effectiveness legal assistance availability issue and it is bound to a gap in the completion of justice.

THE JUDICIARY’S CONTRIBUTION TO LEGAL AID

Judiciary in any country plays an important role in ensuring that there is equitable access to justice to every citizen who is in need for it. Through the provision of judicial review which has been established by the constitution under Articles 32, 226, and 136 every citizens is guaranteed the access to court, with the courts being impartial and just to the parties.¹⁹ Currently, the Supreme Court has embraced a progressive approach, particularly through Public Interest Litigation (PIL), which has further opened the doors to access to courts for justice, particularly for unprotected and

¹⁹ Prof. Dr. Nishtha Jaswal and Dr. Lakhwinder Singh, Judicial Activism in India, docs.manupatra.in (Apr. 29, 2017), <https://docs.manupatra.in/newslines/articles/Upload/0BD8AAF5-4031-484F-AB92-2B84EFE0ABCA.pdf> (Last visited on May 19, 2025).

excluded groups. Historically, the judiciary has represented a credible institution, where many persons accessed the courts to adjudicate their rights and grievances when other avenues of redress were closed or ineffective.

In “Hussainarakhaton v. State of Bihar” it has been stated that “free legal services” represent a right to all citizens without sufficient means, reinforcing the perspective that resources to law are a fundamental right, an important right to protect individual rights and not just a benefit for those who have financial means²⁰. The judgement emphasizes the obligation of the state to guarantee that not one citizen can be deprived of their right to representatives to facilitate justice and equality.

As a result, “the Supreme Court reiterated that free legal aid is integral to a reasonable, fair and just” procedure for those who could not afford legal services. Essentially, the court confirmed that the state is responsible for providing legal aid services to ensure that individuals are not denied justice because of economic or other disabilities, thus reiterating the right to legal representation as necessary in obtaining a fair trial.

In “Suk Das v/s Union Territory of Arunachal Pradesh (1986)²¹” has affirmed that providing “legal aid” is a fundamental human right that secures accessibility to fair legal process for disadvantaged persons of low income, while also ensuring that abuses and injustices arising from their inability to afford legal representation are prevented²².

In the case of “Madhav Hayawadanrao Hoskot vs. State of Maharashtra (1978)²³”, the Court expanded the ambit of legal aid to include every stage of the process, not only the trial stage and post-trial processes, including appeals. The Court held that ‘legal aid’ is an implied constitutional right under Article 21, guaranteed under the ‘right to life and personal liberty’, and that access to “representation” was fundamental to maintaining the individual rights of the ‘fair and just’ legal process. The decision articulated that in all stages of the legal process; ‘legal aid’ is essential to ensure no bargain on justice due to inability to bear the expenses.

In the case of “State of Punjab vs Gurmit Singh & Ors (1996)”²⁴, the Supreme Court raised the issue as to whether or not a State has an obligation to establish a Legal Aid Services scheme to

²⁰ Hussainara Khatoon & Ors. v. Home Secretary, State Of Bihar, 1979 AIR 1369.

²¹ Suk Das & Anr. v. Union Territory Of Arunachal Pradesh, 1986 AIR 991.

²² Mandate to Inform Accused of Right to Free Legal Aid: Suk Das v. Union Territory of Arunachal Pradesh, CaseMine (Mar. 11, 1986), <https://www.casemine.com/commentary/in/mandate-to-inform-accused-of-right-to-free-legal-aid:-suk-das-v.-union-territory-of-arunachal-pradesh/view> (Last visited on May 19, 2025).

²³ Madhav Hayawadanrao Hoskot v. State Of Maharashtra, 1978 AIR 1548.

²⁴ The State Of Punjab v. Gurmit Singh & Ors., 1996 AIR 1393.

assist victims of crime, particularly where an accused is being charged with a crime²⁵. The Court established that providing compensation to a victim of crime is vital to recognising victims' rights and assisting with compensating them for injustices they have suffered.

Thus, we note the importance of the judiciary in providing access to justice for every citizen, particularly the poor and marginalised. The judiciary is not only willing to draw on its proactive role from time to time, but through its provisions on "Public Interest Litigation (PIL)" and "legal aid" as a right, the judiciary has also consistently sought to bridge the gap to convert legal entitlements into service. Apart from enhancing the definition of legal aid as substantive assistance to unrepresented parties, by sustaining the rights conferred on litigants by the Constitution, the court at large has moved beyond regulatory objectives to the protection of fundamental rights of each citizen under the Constitution, irrespective of their economic or social standing.

OBSTACLES TO ACCESSING LEGAL AID IN INDIA

Despite the legal system's advancement with "legal aid" in creating a strong framework, there are still challenges to effectively implementing legal aid in India. Some of those barriers to effective implementation include limited awareness of services, poor infrastructure, lack of trained personnel, bureaucratic inefficiencies, and socio-legal barriers such as caste and gender discrimination that prevent marginalised groups from accessing justice. The following are some barriers to the practical implementation of legal aid in India:

1. **Lack of Awareness:** Most eligible people from rural and less populated locations are unaware of their eligibility for "legal aid services" due to a lack of effective implementation of a broad range of awareness campaigns, as the level of outreach and community outreach in general is limited and without sufficient communication tools²⁶. Also, this issue is worsened with a lack of investment in legal aid infrastructure, and the lack of local legal resources has only complicated the problem, leaving lower-income and marginalised groups without proper representation and access to legal services.
2. **Inadequate Infrastructure:** Legal aid services are often hampered from addressing these challenges, as they are reliant on the poor infrastructure, which is demonstrated by under-developed legal aid offices as well as old technology, and social infrastructure limitations, which offer remote "legal aid services" only sporadically. This unfortunate circumstance

²⁵ Gurmeet Singh v. State of Punjab, AdvocateKhoj, <https://www.advocatekhoj.com/library/judgments/announcement.php?WID=18075> (Last visited on May 19, 2025).

²⁶ CHRI, Hope Behind Bars: Volume 1 – CHRI Legal Aid Report, [humanrightsinitiative.org](https://www.humanrightsinitiative.org/download/CHRI%20Legal%20Aid%20Report%20Hope%20Behind%20Bars%20Volume%201.pdf) (Sept. 17, 2018), <https://www.humanrightsinitiative.org/download/CHRI%20Legal%20Aid%20Report%20Hope%20Behind%20Bars%20Volume%201.pdf> (Last visited on May 19, 2025).

can be traced back to a failure to establish enough legal aid centres that invest in modern legal aid office systems for providing access to underdeveloped areas. In addition, the professionals in this field generally do not appear to push for the systemic improvement, nor are there examples of proactively working toward creating accessible legal platforms that will effectively advocate for and reach out to marginalized communities.

3. **Shortage of Qualified Lawyers:** Most eligible people from rural and less populated locations are unaware of their eligibility for “legal aid services” due to a lack of effective implementation of a broad range of awareness campaigns, as the level of outreach and community outreach in general is limited and without sufficient communication tools²⁷. Also, this issue is worsened with a lack of investment in legal aid infrastructure, and the lack of local legal resources has only complicated the problem, leaving lower-income and marginalised groups without proper representation and access to legal services.
4. **Administrative Barriers.** Administrative inefficiencies or unnecessary paperwork, approvals, or procedures can slow down the delivery of legal aid by blocking timely access to justice. There should be accommodations for expedited processes, which can minimise bureaucratic impediments and create a more efficient system for processing legal aid applications. Also, the lack of coordination between government agencies and legal institutions often creates longer waiting times and denies individuals a basic right to timely legal representation.

Limited awareness, lack of resources, lack of qualified lawyers, and poor administration all contribute to a lack of timely and accessible legal services for those in need, primarily in rural and marginalised communities. The state needs to address these obstacles with funding and coordination, and a focus on reducing bureaucratic barriers to address this gap and ensure "equal access to justice" for every citizen as a part of establishing a welfare state.

STRATEGIES FOR ENHANCING ACCESS TO LEGAL AID IN INDIA

1. Promoting Legal Awareness and Education: The state government must implement thorough legal literacy campaigns aimed primarily at underprivileged and illiterate communities. Such community-based programs must provide easy-to-understand and relatable information on fundamental legal rights, procedures, and processes, which will significantly improve access to justice. Access to justice would improve considerably due to a structured nationwide campaign.

²⁷ Kirti Sharma, Lawyer Shortage Causes Delay in Over 66 Lakh District Court Cases, Socio Legal Corp (Sept. 17, 2024), <https://www.sociolegalcorp.com/judiciary/supreme-court/pendency-of-cases-before-courts-due-to-delay-in-shortage-of-lawyers/> (Last visited on May 19, 2025).

Just as educational programs were implemented to provide education for different age groups in schools focused on knowledge about their legal rights, they might implement a campaign to educate everyone, especially underprivileged communities, about when to seek legal assistance. This national campaign can employ local languages, community-based organisations and digital formats.

2. Enhancing Financial Support for Legal Aid: The government should provide more funds to the Free Legal Services Authorities to eliminate the financial barriers hindering persons from paying for legal representation. Better financial rewards for lawyers engaged in pro bono work could, in turn, lure more professionals into “legal aid services and increase the quality” and reach of assistance. Adequate financial support is an essential element of the welfare state to guarantee that all citizens, “regardless of their economic status”, have the right to effective representation and “fair access to justice”.

3. Increase in the role of NGOs: The role of NGOs should grow in educating citizens about their "legal rights" and facilitating the administration of justice as effectively as possible. NGOs can help spread awareness to and access marginalised communities²⁸.

These actions can improve "access to justice" by ensuring that "legal aid services" better serve all members of society, particularly marginalised groups and those economically disadvantaged.

CONCLUSION

India is a democratic nation, where justice is not an idea. Still, constitutional provisions and access to justice in court are "fundamental rights" ensured to every citizen, regardless of socio-economic status. Therefore, everyone has a right to seek redress. The Indian legal system has many provisions providing legal aid to marginalised and disadvantaged communities; however, there are significant barriers to implementing the idea of justice for all. The barriers are a lack of awareness, inadequate infrastructure, a lack of qualified lawyers and legal professionals, and bureaucratic inefficiencies, making it extremely difficult to implement legal aid services, especially for those who need them most.

The state must act to remove hurdles to justice for all, especially the marginalised and disadvantaged, to ensure everyone is entitled to justice. The first is increasing awareness via comprehensive legal literacy campaigns, which are in short supply in rural areas and among the

²⁸ Norhasni Zainal Abiddin, Irmohizam Ibrahim, & Shahrul Azuwar Abdul Aziz, The role of non-governmental organisations (NGOs) for community development: way forward, *Journal of Management Information and Decision Sciences* 25 2 1-10 (2022), <https://www.abacademies.org/articles/the-role-of-nongovernmental-organisations-ngos-for-community-development-way-forward-14159.html> (Last visited on May 19, 2025).

disadvantaged. These will educate and empower citizens to know their rights and entitlements so they can look for assistance and even make them investigate the possibilities of support available to them.

The government should consider investing in increasing the availability of “legal aid clinics”, creating the infrastructure to improve the digital footprint of “legal aid services”, and creating direct access for marginalised communities to legal professionals to guide their navigation of the judicial system. The government should also consider financing incentives for lawyers participating in pro bono work, allowing them to get financial compensation and some professional recognition that may contribute to increasing the number of qualified legal professionals participating voluntarily.

Additionally, the state must make the application and approval processes more straightforward and enhance the coordination among governmental agencies and legal institutions. This could streamline procedures and facilitate timely “access to justice”. Finally, the state must ensure that ‘legal aid’ services receive adequate funding. It is necessary to increase funding to legal aid programs to ensure that nobody is denied “legal services” due to a lack of money. Also, the use of technology in legal aid services can be expanded. For instance, providing virtual consultations or deploying legal aid workers in mobile units may be possible to reach those in the most remote places. The more the state moves towards inclusivity, accessibility, and efficiency of the “legal aid system”, the stronger Indian democracy will be, and the closer it will come to fulfilling the promise of justice laid down in the Constitution for all its citizens.

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