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# FROM CONSTITUTION TO COURTROOM: ENHANCING ACCESS TO JUSTICE THROUGH LEGAL FRAMEWORKS IN INDIA

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## ABSTRACT

Accessible and impartial justice is one of the core principles underlying the rule of law. Everyone should be able to access fair and timely legal representation of their issue, regardless of their social, economic, or cultural backgrounds. Accessing justice means individuals must have recourse options to resolve their issues through formal or informal institutions. Accessing justice also entails people understanding their rights, such that they can receive legal support and access legal aid through available systems. While the Indian Constitution and legal frameworks have played an essential role in improving access to justice, the road from constitutional guarantees to the courtroom can still be bumpy. Article 39A, which ensures free legal aid towards everyone who requires access to justice, specifically targeting marginalised communities, is a central part of the discussion here, and is examined through institutional frameworks particularly focusing on NALSA and state legal services authorities and their access to justice initiatives and case law discourse, which has broadened access to legal aid outside of a criminal context and identified the importance of access to justice (implicating social and economic rights) even in civil contexts.

Yet, in spite of these frameworks, justice could not be further away, as the following barriers stand in the way of equitable justice perceptions. Accessing justice is fraught as institutional barriers abound due to ignorance, limited resources, and bureaucratic inefficiencies. Corollaries to the policies in question are limited in scope. The research, which includes case studies from various states, is drawn from best practices and creative solutions to such impediments.

Last but not the least, this paper offers suggestions on how legal aid delivery systems in India can be made stronger in a better way through campaigns for awareness, technology for proper accessibility, and coordination from government agencies and civil society institutions. In this regard, India can make steps towards actualising its constitutional vision of justice for all, in which

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the pathway from the Constitution to the court is not an empty legal ritual but is actual for all citizen.

**Keywords:** Indian Constitution; Article 39A; Equality; Fairness; NALSA; Legal Aid

## 1. INTRODUCTION

According to the former Supreme Court Justice Uday U. Lalit, legal aid to individuals contending with poverty does not mean poor legal aid.<sup>2</sup> The foundation of democratic legal systems is a norm of justice that is equally available to and unbiased against all people. It largely alleviates the grievance and discontent among the people across all socio-economic levels. In India, it is built upon and enforced through Article 39A of the Constitution and is executed through free legal aid for citizens unable to access services. Despite the good intent of constitutional provisions, the path from constitutional mandates to courtroom realities has remained quite arduous. This paper tries to critically analyse to what extent accessible justice has been conceptualised in India and what systemic barriers continue to impede effective delivery. Article 39A explicitly ensures that the state shall ensure that legal proceedings are not hindered by arbitrariness of vast distances, extensive travel or economic or other disabilities. It also secures the right to free legal aid for equality before the law and to equal protection under the law conferred under Article 14. Article 39A assumes further importance because Article 14 and 22(1) guarantee equality before the law and a legal system that affords justice based on equal opportunity.

The scope of legal aid will explore the journey of provisions on legal aid from constitutional guarantees to practical realities on the ground and discuss the role of institutions like the National Legal Services Authority (NALSA), State-level legal aid authorities, and judicial interpretation in broadening that scope.<sup>3</sup> In addition, the study will discuss the problems encountered in implementing legal aid policies and provide some recommendations for improvement, particularly in making the system more effective for marginalised communities.

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<sup>2</sup> Gursimran Kaur Bakshi, *'legal aid to poor should not be poor legal aid : Supreme Court Issues Directions to ensure prisoners get Free & Timely Legal Aid*, LIVE LAW (2024), [https://www.livelaw.in/top-stories/supreme-court-issues-directions-to-ensure-prisoners-get-free-timely-legal-aid-273321#:~:text=Justice%20Viswanathan%20orally%20added%20that,State%20of%20UP\(2022.](https://www.livelaw.in/top-stories/supreme-court-issues-directions-to-ensure-prisoners-get-free-timely-legal-aid-273321#:~:text=Justice%20Viswanathan%20orally%20added%20that,State%20of%20UP(2022.) (last visited Nov 20, 2024).

<sup>3</sup> About NALSA, NATIONAL LEGAL SERVICES AUTHORITY (NALSA) (May 8, 2025), <https://nalsa.gov.in/about-nalsa/#:~:text=It%20also%20disburses%20funds%20and,is%20its%20ex%20officio%20Chairman.&text=Step%20for%20framing%20rules%20for,Awards%20passed%20by%20Lok%20Adalats.> (last visited Nov 20, 2024).

I was a member of my undergraduate law university's free legal aid clinic. I have actively taken part in the camps organized to spread legal awareness through street plays in the local language, It made me realize that there are so many people who don't report the incidents to police because they cannot afford the fee of advocates and that they were unaware of the legal aid schemes of the state that provides free legal helps and legal representatives to such deserving section of the society like "women, children, SC/ST members, Industrial workers, victims of mass disaster, violence, flood, drought, earthquake, industrial disaster, handicapped persons (persons in custody), persons with an annual income below Rs. 1 lakh (in the supreme Court Legal Services Committee the limit is Rs. 5,00,000/-), victims of Trafficking in human beings or beggar." You must realise your social responsibility and help the unprivileged people achieve justice.

## **2. CONSTITUTIONAL AND LEGAL FRAMEWORK FOR ACCESSIBLE JUSTICE**

### **2.1. CONSTITUTIONAL MANDATES AND ARTICLE 39A**

The Indian Constitution has strongly fortified this concept of justice regarding provisions for guaranteeing equality before the law. Among these, quite essential is Article 39A, which imposes a duty on the state to furnish free legal aid to every citizen who cannot pay for such assistance. This provision is intended to serve the constitutional mandate where justice is not a franchise of the wealthy but a right of every citizen, alongside other marginalised citizens.

Part IV of the Constitution emphasises equal justice through the DPSP. Article 38<sup>4</sup> preaches the promotion of social justice, Article 39<sup>5</sup> the adequate means of livelihood, and Article 46 promotes the interests of the weaker sections. All these principles of the legal aid framework point towards the obligation of the state to remove barriers to justice for the disadvantaged.

### **2.2. ESTABLISHMENT OF NALSA AND STATE LEGAL AID AUTHORITIES**

The National Legal Services Authority<sup>6</sup> is established under the Legal Services Authority Act, 1987." The key to operationalising the constitutional provision for free legal aid. NALSA coordinates the national-level legal aid effort and outlines guidelines for the functioning of the state and district legal services authorities. The state and district administrations must also be supplemented to develop free legal aid schemes and actions governments take to make their

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<sup>4</sup> INDIA CONST. art. 38.

<sup>5</sup> INDIA CONST. art. 39.

<sup>6</sup> Legal Services Authorities Act, 1987, § 2, No. 39, Acts of Parliament, 1987 (India).

citizens, particularly rural and other underserved ones, aware of having access to legal services. Besides NALSA, several bodies collaborate with the government to widen access to justice, wherein one finds various legal aid clinics, paralegal volunteers, and public interest litigation (PIL) forums. It aims to render free legal services to eligible persons, organise Lok Adalat for speedy disposal of cases, and impart legal education to the people, especially those below the poverty line. In some states, such authorities also ensure the proper implementation of policies. The main functions of NALSA:

- i. Free Legal Aid: Legal aid is given to all people who cannot hire counsel.
- ii. Legal Awareness Campaigns: There are always campaigns to educate citizens on their rights and the general legal resources available.
- iii. Lok Adalat: These alternative dispute settlement mechanisms provide quick settlement of disputes outside the traditional court processes.

## **2.3. LEGAL PROVISIONS**

In India the relevant provisions relevant to access justice are:

- i. Article 14 <sup>7</sup>
- ii. Article 21 <sup>8</sup>
- iii. Article 39A <sup>9</sup>

## **2.4. JUDICIAL INTERPRETATIONS AND EXPANSION OF LEGAL AID**

The Indian Judiciary has significantly expanded the scope of legal aid. While legal assistance was initially reserved for criminal cases, where indigent defendants could be assigned government-paid legal representation, the judiciary extended article 39A in its interpretation to embrace civil matters, also recognizing the need for legal aid to make justice possible in non-criminal cases, such as family disputes, labour matters, and tendency cases.

The Indian judiciary has filled this lacuna well, as it has developed new meanings for Article 39A and changed the scope of the provision. The case of Suk Das vs Union Territory of Arunachal Pradesh [(1986) 2 SCC 401] <sup>10</sup> is a landmark judgement by the Supreme Court of India on the Fundamental Right to free legal aid under Article 21 of the Indian Constitution. The court stated

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<sup>7</sup> INDIA CONST. art. 14.

<sup>8</sup> INDIA CONST. art. 21.

<sup>9</sup> INDIA CONST. art. 39(a).

<sup>10</sup> Suk Das v. Union Territory of Arunachal Pradesh, (1986) 2 SCC 401.

that there is a necessity for legal awareness of the rights of poor people who have no knowledge of their rights. In addition, Justice Krishna Iyer stated that courts have an implied obligation to provide representation to persons who do not have access to public representation, emphasizing the obligation of the court and judiciary to enforce justice.

## **2.5. IDENTIFIED BARRIERS**

- i. Lack of Awareness: A large pool of possible beneficiaries is unaware of their rights under Article 39A
- ii. Bureaucratic Delays: Unnecessary procedural hurdles and delays often thwart the process of timely access to justice.
- iii. Funding Problems: The lack of funding and staff at legal aid offices has had pandemic proportions on legal aid outreach.
- iv. Shortage of women paralegals: In sensitive rape cases it was seen that some areas had less women paralegals available.
- v. Lack of monitoring: It becomes difficult for the victims to access legal aid.

## **2.6. CHALLENGES IN ACCESSING JUSTICE**

Although there are some essential systemic foundations, the challenges are still significant. These systemic challenges are relevant and structural social challenges impede access to justice, often in a vacuum of public awareness of their legal rights, available resources, bureaucracy inefficiencies, and so on. Inadequate outreach in underprivileged populations and unavailable support systems for legal aid bar them from accessing it.

- i. Inadequate funding: The base funding guidelines restrict the ability to employ qualified lawyers, and the lack of funds makes it difficult to provide adequate support services.
- ii. Overburdened lawyers: With so many more clients and so few lawyers, lawyers have no choice but to take on too many cases, resulting in diminished representation quality.
- iii. Lack of public awareness: Many eligible individuals remain unaware of their right to legal aid, which delays justice.

## **2.7. EXPANDING LEGAL AID BEYOND CRIMINAL CASES**

The most significant judicial developments have come about in the guise of expanding legal aid. In *Ashok Kumar Vs. Union of India* (1999)<sup>11</sup> held that legal assistance should not be restricted only to criminal cases but should be extended to civil cases where non-provision of aid would lead to a denial of justice. The court said that legal assistance should be made available in all those cases where a person's fundamental rights are at stake, and all the more so if that person is incapable of paying for representation.

## **2.8. LEGAL AID IN PUBLIC INTEREST LITIGATION (PIL)**

This growth of PIL in India further emphasises the aspect of accessible justice. PIL became an avenue to seek redress for those who cannot pursue it themselves. When such communities are deprived of the possibility of receiving justice, PIL has acted as a strong tool to implement their constitutional rights.

# **3. CHALLENGES TO ACCESSING JUSTICE: SYSTEMIC BARRIERS**

Despite the constitutional and legal frameworks in place, significant challenges persist in effectively implementing accessible and impartial justice in India. These challenges can be broadly categorised as:

## **3.1. LACK OF AWARENESS**

Lack of Awareness among the general public, particularly in rural, remote areas, of their legal rights and free legal aid can be one significant barrier to accessing justice. In many places, people do not know where and how to find free legal assistance. It is for this reason that such campaigns are essential to fill this gap.

## **3.2. RESOURCE CONSTRAINTS AND BUREAUCRATIC INEFFICIENCIES**

Resource inadequacies are another significant impediment. The government funds legal aid, but its resources are often insufficient or inequitably allocated. Bureaucratic inefficiency at various points in the legal aid system further contributes to delays and inadequate service delivery. Legal aid authorities are typically understaffed, and the quality of legal representation available to marginalised communities is suboptimal because of a lack of appropriately trained professionals.

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<sup>11</sup> *Ashok Kumar Tripathi v. Union of India*, (1999) 3 SCC 217.

### 3.3. STRUCTURAL INEQUALITIES

This is another factor with substantial civil and social inequality that severely handicaps the right to access to justice. The marginalised groups of Dalits, Adivasis, women and people experiencing poverty are exposed to systemic discrimination that inhibits their access to legal aid and justice too. In addition, caste, gender and religious biases may even degrade the quality of judicial service, making it biased or leading to the case not being fairly decided.

## 4. CASE STUDIES AND BEST PRACTICES

To ascertain how the effectiveness of legal aid could be improved, the paper will consider case studies from different states in India that have established successful legal aid programs.

### 4.1. COMPARISON WITH OTHER LEGAL AID SYSTEMS

Legal aid in India is primarily regulated through Article 22(1)<sup>12</sup> and Article 39-A<sup>13</sup> of the Indian Constitution, which give the right to free legal aid to individuals unable to afford it. "The Legal Services Authorities Act of 1987 operationalises this right through the National Legal Services Authority (NALSA)". Legal aid to all the citizens of India, free of charge, is brought under the umbrella of Article 39A of the Constitution. Under the Legal Services Authorities Act, 1987, the National Legal Services Authority (NALSA) was established to oversee the function of the State Legal Services Authorities at the State level, District Legal Services Authorities at the district level, and Lok Adalats at the grassroots level.<sup>14</sup> Legal aid in India encompasses legal advice, representation, and alternative dispute resolution mechanisms. It caters to low-income groups, women, children, SCs, STs, and other marginalised sections. But despite these opportunities, the system suffers from a lack of awareness, under-availability of funds, and poor remuneration for lawyers, which induces delays and inefficiency in delivery.

By contrast, the United States Supreme Court established legal assistance for crimes after its landmark *Gideon vs. Wainwright*<sup>15</sup> ruling but it does not constitutionally provide legal aid in civil cases. Most nonprofit organisations that administer legal assistance in civil matters are funded through government grants and private donations. The system of public defenders for criminal

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<sup>12</sup> INDIA CONST. art. 22, cl. 1.

<sup>13</sup> INDIA CONST. art. 39(a).

<sup>14</sup> Padmaja Jayaraman, Explainer: How to access free legal aid in Chennai, CITIZEN MATTERS (Aug. 8, 2022), <https://citizenmatters.in/free-legal-aid-chennai-dlsa-tnslsa-justice-women-children/?cv=1> (last visited May 19, 2025).

<sup>15</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963).



cases is woefully underfunded, meaning that defences are often overburdened with clients, and the quality of representation usually suffers.

In the United Kingdom, legal aid is provided for both civil and criminal cases through the Legal Aid Agency, which has seen significant reductions under the "Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)".<sup>16</sup> This has diminished accessibility, particularly to middle-income groups. Such budgetary reductions have been condemned for locking out numerous people who need the services of lawyers.

Canada's legal aid system is provincial, and its provision is covered through government-funded clinics and private lawyers who offer pro bono services. Legal aid is effective in urban areas but systematic and equitable access is lacking in other geographic regions substantially for Indian rural and Indigenous populations. In contrast, bifurcation of legal aid can be found in the constitutional mandate in South Africa, where the right to legal aid is entrenched in the Constitution and is provided through a national body called Legal Aid South Africa. Legal Aid South Africa deals directly with statutory discrimination and focuses directly on socio-economic rights and issues arising from them related to accommodation and health care.

In order to compare legal aid systems, it also beneficial to learn from how those systems operate, whether they face challenges and also importantly learn what best practices may be relevant for application in India. For example, South Africa through its examinations of socio-economic rights could be used, adapted and utilized in India, particularly as it relates to housing and livelihood issues. Dependency on pro bono services can be taken from Canada as a model to develop a larger network of volunteer lawyers in India. Decent funding and better training for legal aid lawyers would ensure better representation as seen in the UK, whereas raising more awareness and infrastructure improvement are also in the cards to make India's legal aid system reach those most in need and bring the full constitutional promise of justice for all.

## **4.2. HUSSAINARA KHATOON VS STATE OF BIHAR**

In *Hussainara Khatoon vs. state of Bihar*<sup>17</sup>, a case was initiated through a series of writ petitions filed by a journalist, "Kapila Hingorani", who was also an Indian lawyer and regarded as "Mother of Public Interest Litigation", on behalf of undertrial prisoners in Bihar. Many prisoners were languishing in jails for periods far exceeding the maximum sentence period prescribed for the offences they were accused of. These undertrials were unable to secure legal representation due to

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<sup>16</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012, c. 10 (U.K.).

<sup>17</sup> *Hussainara Khatoon v. State of Bihar*, (1979) 3 SCC 100.

poverty and illiteracy. In this case, undertrial prisoners' right to life and personal liberty under Article 21 was violated, and the denial of access to legal aid and a lack of a speedy trial were fundamental components of justice.

In this case, arguments for detaining individuals for an indefinite period without trial violated Article 14 (Right to Equality)<sup>18</sup> and Article 21<sup>19</sup>. The absence of legal representation and delays in the criminal justice process were tantamount to a denial of justice. In defence, the state argued that systemic inefficiencies and a lack of resources caused delays, but could not justify the prolonged detention of undertrial prisoners.

The Division Bench, which included Justices P.N. Bhagwati and D.A. Desai, rendered the decision. The court deemed the claims in the report (published article) and writ accurate, as the respondent did not appear despite the notice. Additionally, men, women, and children were all given immediate bail. The court also mandated that the state government and the high court compile and submit a list of all outstanding cases. Additionally, the court mandated that undertrial inmates accused of offences subject to bail be given free legal assistance.

As stated explicitly in Article 21, the rights to life and liberty must be upheld at all levels. Additionally, it aids in striking a balance between fundamental standards and prompt justice.

#### **4.3. TAMIL NADU: INTEGRATION OF TECHNOLOGY IN LEGAL AID**

Tamil Nadu has effectively utilised technology to bridge the gap in legal aid services by opening legal aid centres with online bases for legal counselling and support.<sup>20</sup> The integration of mobile-technology-based initiatives by the state towards integrating legal aid services has successfully reached marginalised groups living in remote regions. Tamil Nadu has embraced technological advancements to improve legal aid services like Digital Archives for storing files and data, IT security Audit of all government department websites and IT applications to protect against defacement and hacking, and ensure online legal aid's integrity and reliability.

#### **4.4. RAJASTHAN: COMMUNITY-BASED LEGAL AID INITIATIVES**

Successful community-based legal aid models in Rajasthan have empowered local communities to seek justice. Grassroots legal aid programs have enabled trained paralegals to assist people in understanding the workings of the law and provide them with legal advice at the grassroots level. Efforts have been made in Rajasthan to reach the tribal population through focused campaigns.

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<sup>18</sup> INDIA CONST. art. 14.

<sup>19</sup> INDIA CONST. art. 21.

<sup>20</sup> NALSA, *supra* note 3.

Workshops and materials in local dialects ensure that tribal individuals know their rights and how to seek legal assistance. In Jharkhand, women and children have formed the specific focus areas, with particular programs being conducted to address domestic violence, child marriage, and trafficking. The support base has expanded through tie-ups with NGOs and helpline numbers for women and children.

#### **4.5. MAHARASHTRA: TECHNOLOGY UTILIZATION**

States like Maharashtra have implemented mobile apps for legal aid services, enhancing accessibility for rural populations. For the prisoners at the Thane Central Jail, a mobile legal aid clinic was launched, which will enable them to communicate with their families and legal representatives more efficiently through an e-interview system. The vehicle is an initiative set up by the District Legal Services Authority (DLSA) with social organization Dard Se Humdard Tak<sup>21</sup> set up a facility which will operate through a vehicle and this initiative aims to address seeks provide an important service in the jam-packed prison system, which can lead to long delays for inmates needing to visit their families or speak to their lawyers through traditional interview means. Despite all these facilities the prisoners or their families who are not well versed with the technology are still not familiar with such facilities or services that they can avail and this creates a massive gap between the availability and actual applicability of the services or rights. The best way to cover this gap is by taking organizing a campaign with help of local NGOs or advocates that are allowed inside to prison to provide information to the prisoners in their local language and by creating a list of prisoners with help of the jail authorities that don't have a legal representative so that such legal aid volunteers can reach out to them or connect with them so that the justice can be achieved.

Such examples showcase the immense potential of innovative, community-based approaches to amplifying legal aid's reach and effectiveness. Mobile clinics, prison outreach, and targeted programs for marginalised groups demonstrate that legal assistance works best when responsive to local needs, delivered with sympathy, and well-supported by robust partnerships.

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<sup>21</sup> Staff Reporter, *Mobile Legal Aid Clinic Set Up for Prisoners in Thane Central Jail*, THE HINDU (Nov. 19, 2024), <https://www.thehindu.com/news/national/maharashtra/mobile-legal-aid-clinic-set-up-for-prisoners-in-thane-central-jail/article68731468.ece>. (last visited Nov. 20, 2024).

## **4.6. STRENGTHENING LEGAL AID DELIVERY: RECOMMENDATIONS**

Further strengthening the provision of legal aid in India is proposed based on the following suggestions by this paper

- i. **Public Awareness Campaigns:** Increase public education to make people aware of their rights, which should be accessed with legal aid services provided.
- ii. **Technological Innovations:** Expansion of digital platforms for legal aid services, enabling people to access legal assistance through mobile phones and online portals. Use of technology can have a far-reaching impact on speeding access to justice for all. Having mobile applications in vernacular language made for legal aid services will make it easy for people to avail themselves of their rights, and technology will make it easier to file online complaints and track the status of their cases. Using the technology will make a substantial positive impact on enhancing access to justice.
- iii. **Partnership with Civil Society Organizations:** There is greater interaction between the government, professions, and NGOs in service provision to the locality and empowerment of marginalised groups. Many law universities have legal aid cells where law students arrange campaigns and street plays to promote and spread awareness regarding legal aid.
- iv. **Training and Capacity Building:** Investment in training lawyers and paralegals, especially in rural areas, will enhance the supply of quality legal services. A rigorous and transparent selection process for the empanelment of lawyers should be followed, along with enhanced training. Timely payments should be provided for such empanelled advocates to keep them motivated. Hence, they work hard to ensure the clients allotted to them receive proper service and justice.

Bridging the justice gap is a key element to accessing, equity and responsiveness in legal systems for all, and particularly for the marginalised and vulnerable. Systematic inequities in many societies are exemplified by a justice gap: socio-economic barriers leave many unable to access legal supports to defend themselves and their rights, while ignorance and institutional inefficacies cannot assure effective quality services. Closing the justice gap aligns with upholding the rule of law and advancing social justice and human rights.

One of the ways to bridge the gap is to expand the reach of legal aid services. For example, mobile legal clinics, as in some states in Delhi, have proven effective in taking legal aid straight to underserved areas. Such clinics are effective in rural areas, where courts and legal services are not

geographically accessible. Similarly, village-level legal aid clinics in Tamil Nadu are one type of localised and community-based justice system where dispute resolution becomes relatively easy through mediation and negotiation, thus overwhelming the formal courts as much as possible.

Legal awareness is another important strategy. Many citizens do not know their rights or that legal services exist, increasing the justice gap. Targeted awareness campaigns can address this by empowering people to claim their rights. Initiatives conducted in local dialect and with culturally sensitive approaches help the most marginalized sections of society navigate the legal system.

Technology also presents excellent opportunities for filling the justice gap. Digital portals can make legal information more accessible, connect people with lawyers and help manage cases digitally. India has initiated efforts in that direction through e-courts and online dispute resolution systems. However, it is equally essential to ensure digital inclusion so that those without access to technology or digital literacy are not left behind,

The justice gap is most acute among vulnerable sections like women, children, prisoners and the poor. Specific schemes are required for their needs. For instance, ensuring legal representation within time for undertrial prisoners in Kerala deals with their right to a fair trial. Similar is the case with Jharkhand, which focused on tackling domestic violence and child marriage through specific legal aid schemes, which in turn made a practical difference.

Collaboration represents another crucial element in bridging the justice gap: State authorities and NGOs, academic and civil society, collaborating to join forces and scale up their efforts and resources. Such collaboration can also ensure innovation through a pro bono network, legal aid helplines or community-based justice mechanisms.

Finally, systemic reform is in order. Dealing with judicial delays, ensuring adequate funding for legal aid programs, and fair remuneration for legal aid lawyers form the foundation. There also needs to be a shift in mindset, from viewing legal aid as a charitable service to it being a right that forms part of the justice system.

Bridging the justice gap means designing a system that provides legal outcomes and fairness, inclusion and dignity for all. This can be done by focusing on accessibility and awareness, innovation and systemic reform to ensure no one is left behind.

## **5. HUMAN RIGHTS AND LEGAL AID**

At this point, legal aid intersecting human rights is essential to underscore the role of access to justice in protecting and upholding fundamental human rights. Legal assistance can form a bridge,

ensuring that marginalised sections exercise their rights effectively, thus ensuring justice reaches all people, regardless of socio-economic status. This relevance is particularly poignant in India, a country where systemic inequities frequently prevent vulnerable groups from exercising their rights.

“Access to legal aid is a human right that is enshrined under Article 14 of the International Covenant on Civil and Political Rights (ICCPR)”<sup>22</sup>, highlighting equality and the right to legal assistance in criminal proceedings. Similarly, the Universal Declaration of Human Rights (UDHR) under Article 10 guarantees the right to a fair hearing <sup>23</sup>, which is contingent upon the availability of legal representation. These international frameworks align with Article 39A of the Indian Constitution, which calls for free legal aid to deliver justice and reach everyone.

Legal aid is useful for many human rights. For example, it is a prime mover for rescuing the rights of undertrial prisoners by ensuring that they are not arrested or detained without jurisdiction or denied fair representation. It also protects jurisdiction from being denied fair representation. It also protects socio-economic rights like housing, education, and healthcare.

In gender-based violence or discrimination, legal aid unlocks justice for the victim and, by doing so, it reinforces a woman's right to equality and dignity. The intersection is further evident in the efforts of legal aid initiatives that particularly target marginalised communities. Initiatives that particularly target marginalised communities. Initiatives by such programs for tribals, women, children and agricultural workers address systemic barriers to realising their rights. One such specific example would be legal aid programs on child marriage and trafficking in Jharkhand; these programs directly address the human rights concerns of children and women. In Kerala's state prisons, legal aid cells also respond to those human rights issues by providing legal representation and preventing the unfair application of due process.

However, integrating this intersection is not without drawbacks. Limited capacity, lack of awareness and systematic delays, undermine the effectiveness of legal aid in implementing human rights. Realizing legal aid as its own totality will require a complete re-envisioning of the services offered; and a significant transition to human rights perspective. By driving community participation, holding accountability, and prevailing legal aid as part of larger human rights discourse, a more equitable and inclusive form of justice can emerge.

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<sup>22</sup> International Covenant on Civil and Political Rights art. 14, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>23</sup> Universal Declaration of Human Rights art. 10, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948).

Finally, the intersection of legal aid and human rights highlights the foundational principle that justice is a precondition for enjoying all other rights. Ensuring access to justice for all contributes to a society's even more important objective, where respect, protection, and observance of human rights come naturally.

## **6. JUDICIAL REFORMS**

Judicial reforms are pivotal in enhancing justice by making the legal system more accessible, efficient and equitable. A robust judiciary that upholds the rule of law is central to a functioning democracy. Still, systemic challenges such as judicial delay, inadequate infrastructure and unequal access to justice regularly undermine it. Targeted reforms can do much to advance the delivery of justice.

One of the most significant challenges in the future is the caseload in Indian courts and how it is hampering the timely delivery of justice. Recent estimates suggest that tens of millions of cases are pending in different courts at various levels of the judiciary, often delaying disputes for years or even decades. Judicial capacity needs to be increased by appointing more judges and specialised courts, and improving case management systems. The concept of fast-track courts and alternative dispute resolution through mediation and arbitration has significantly reduced pendency in the long run. It should be taken to a broader extent.

Technology plays a transformative role in judicial reforms. Digitisation of court records, the introduction of e-courts, and filing systems online have already set efficiency paradigms in some places. However, these initiatives need to be scaled up and made inclusive. For example, it is essential to ensure that access to digital tools and internet connectivity reaches rural populations. ODR providers can also provide faster and cheaper methods to resolve disputes that can relieve a part of the burden on traditional courts.

Also, how justice is monitored and judged is an important way to strengthen justice. The measures consider reforms in standardising judicial appointments and the accountability of judicial officers, and measures to enhance the equity of access to justice, the system's transparency and fairness. The judiciary needs to be more representative and diverse regarding the Indian population. The reforms should target recruiting judges from different socio-economic and cultural backgrounds. Legal aid systems also have to be strengthened so that the marginalised groups, such as women, children or economically disadvantaged citizens, can navigate the legal system properly.

Judicial infrastructure requires a heavy investment. Most lower courts lack basic facilities, and the unavailability of advanced facilities has restricted their performance. Courtrooms should be

developed with the necessary equipment, working conditions for court staff should improve, and legal aid lawyers must have proper resources for the better functioning of the judiciary.

Judicial reforms can alter how trials, tribunals and other aspects of justice are designed and delivered on the ground and equally allow that justice is seen to be delivered.

The courts are not exempt from systemic failures, it's just that technology can only lessen the burdens to the reliance on justice delivery. The judicial system can integrate technology and enable more inclusive methods of justice delivery.

## 7. JUDICIAL ACTIVISM

Judicial activism is essential to promote justice through interpreting laws and constitutions to deal with contemporary issues and fill gaps left by legislators and the executive. Judicial activism protects fundamental rights, allowing citizens to enjoy their freedom of choice despite popular sentiment or political pressure. Judicial activism plays an important role in dismantling systemic inequality in societies, enabling social reform through laws, and ensuring checks and balances on government power.<sup>24</sup>

Public interest litigation (PIL) expands access and ability to voice injustice for vulnerable members of society. While critics of judicial activism assert judges step on political toes, which they do, judicial activism is often a of necessary checks on governmental power enables the desired social change.

## 8. CONCLUSION

India's journey from constitutional mandates to courtroom realities reflects a commitment to accessible justice for all citizens. While significant progress has been made through provisions like Article 39A and institutions such as NALSA, ongoing challenges necessitate concerted efforts towards reforming delivery systems. By adopting innovative practices and fostering collaboration among various stakeholders, India can move closer to realising its constitutional dream of justice for all, transforming access from a mere formality into a tangible reality for every citizen. Enhancing justice requires a holistic approach prioritising accessibility, equity and efficiency within the legal system. It ensures that justice is not just a theoretical concept but an actual practice for everyone, regardless of socio-economic background. This includes expansion in legal aid services,

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<sup>24</sup> R. S. Suri, *Former CJI Ranjan Gogoi Draws Line Between Judicial Activism and Overreach*, THE INDIAN EXPRESS (Nov. 19, 2024), <https://indianexpress.com/article/india/former-cji-ranjan-gogoi-draws-line-between-judicial-activism-and-overreach-9253752/?form=MG0AV3>.



targeting systemic barriers through technological leverage and enhancing legal awareness among citizens to empower them.

The essence of promoting justice would be the principle of inclusion—no inequality and no exclusion for people with low incomes and the vulnerable. Real reform requires consensual cooperation between all stakeholders, from legal institutions to civil society representatives and from policymakers to regulators and judges. Equally key, though, is dealing with systemic reforms, from judicial delay to adequate financing, leading to greater trustworthiness by being transparent and accountable.

Ultimately, it is about upholding the rule of law and reinforcing faith in the judicial system as a vehicle for fairness and equality. Aligning legal systems with human rights and social equity principles would facilitate a society where justice is accessible, timely and unbiased for all. Enhancing justice in India is about reforming the judiciary and ensuring that justice is accessible, efficient, and inclusive. It requires a comprehensive approach that reduces case backlogs, expands legal aid, integrates technology, and improves public legal education. These are the areas where India can make giant strides towards ensuring that justice is done and seen as such by all citizens, irrespective of their background or status. The ultimate objective is to establish a rule of law where justice is equitable and accessible.

Legal literacy is another area that government initiatives and NGOs must promote. Workshops, educational campaigns, and online tools developed using simple legal jargon accessible to the ordinary person would be ideal. Schools and Colleges can also have basic legal education as part of their education curriculum to make a generation that knows rights and duties and is more legally well-versed. Further integrating technology in judicial process will enhance the process of attaining justice with the help of technology it is far easier to reach out to larger masses than any physical campaign and using technology for maintaining case data helps create data archive for future preferences and usage, website with online portals for case filing should be kept in multiple regional and local languages, so that a person in need can file a case online effectively.