



A Study Of Legal Aid In Current Scenario

Mr. ShashiKant^{1*}, Prof.(Dr.) Reena Jaiswal²

^{1*}Tewari Research scholar, Invertis University, Bareilly

²Dean, Invertis University, Bareilly

***Corresponding Author: Mr. ShashiKant**

Tewari Research scholar, Invertis University, Bareilly

Article History Received date- 27 February 2024 Published date - 10 march 2024. CC License CC-BY-NC-SA 4.0	Legal aid plays a pivotal role in ensuring access to justice, particularly for economically disadvantaged individuals. In India, the right to free legal aid is enshrined in Article 39A of the Constitution and institutionalized through the Legal Services Authorities Act, 1987. However, despite these legislative frameworks, India's legal aid system faces numerous challenges. This paper examines the shortcomings of legal aid, drawing on statistical data, expert observations, and relevant case law, the study underscores the urgent need for reforms to enhance the effectiveness of legal aid services. The research aims to identify systemic barriers and propose recommendations for improving access to legal aid in India. The primary objective of this research is to analyze the effectiveness of India's legal aid system and identify key shortcomings that hinder access to justice for marginalized communities. The study seeks to explore the gaps between the legal framework and its implementation. Keywords: Legal aid, access to justice, Article 39A, Legal Services Authorities Act, India, underfunding, bureaucratic inefficiency, gender bias, social discrimination, marginalized communities, legal reforms.
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Introduction

Legal aid plays a crucial role in ensuring access to justice for those who cannot afford legal representation. In India, the right to free legal aid is guaranteed under **Article 39A** of the Constitution, which directs the state to provide legal assistance to economically weaker sections of society. The **Legal Services Authorities Act, 1987**, was enacted to institutionalize this right by establishing national, state, and district legal services authorities. Despite these legislative frameworks, the legal aid system in India faces significant shortcomings, preventing it from effectively serving its intended purpose. Despite the constitutional mandate and legislative framework in place, India's legal aid system continues to fall short of its intended goals. Inadequate funding, lack of awareness, inefficiency, and the poor quality of legal representation are some of the major obstacles that prevent effective access to justice for marginalized and economically disadvantaged communities. Additionally, the system is overburdened and suffers from inherent gender and social biases, which further exacerbates the problem.

Shortcomings of Legal Aid in India

Legal aid is essential to ensure equal access to justice, especially for those who cannot afford legal representation. Despite India's constitutional and legislative framework that guarantees free legal aid through Article 39A and the Legal Services Authorities Act, 1987, several shortcomings hinder its effectiveness. These issues range from inadequate funding and lack of awareness to bureaucratic inefficiency and systemic bias. This section discusses these shortcomings in detail, backed by statistical data and expert observations.

1. Underfunding

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One of the most significant challenges confronting India's legal aid system is the severe lack of financial resources. The funds allocated for legal aid services are grossly inadequate to meet the needs of the millions of people who are eligible for free legal assistance. According to the **National Legal Services Authority (NALSA)** report of 2019, the total budget for legal aid across the country amounted to merely ₹6 crore (approximately \$800,000), a paltry amount considering India's large population and the high levels of poverty.

This underfunding has had a cascading effect on the quality and reach of legal aid services. Many state legal services authorities are unable to adequately compensate legal aid lawyers or provide necessary resources such as legal libraries, training, and technological tools. The distribution of these limited funds is also highly uneven, with some states receiving significantly more resources than others, exacerbating regional disparities in access to legal aid.

2. Lack of Awareness

One of the less discussed but equally crucial issues is the pervasive lack of awareness about the availability of legal aid. A **2016 survey conducted by the Commonwealth Human Rights Initiative (CHRI)** revealed that **nearly 80% of rural Indians** were unaware of their right to free legal aid. This lack of awareness means that large segments of the population—especially those living in rural and remote areas—are not accessing the services they are entitled to under the law.

The efforts to raise awareness about legal aid through campaigns and educational programs have been insufficient and ineffective. Although legal aid clinics and public awareness drives have been set up in various parts of the country, they are often concentrated in urban areas, leaving rural populations underserved. This disparity in outreach has led to an urban-rural divide, with rural and marginalized communities facing even greater barriers in accessing justice.

3. Inefficiency and Bureaucratic Delays

Bureaucratic inefficiency is another major hindrance to the proper functioning of India's legal aid system. The process of applying for legal aid is often cumbersome, requiring applicants to navigate a complex web of paperwork and approval processes. This discourages many potential beneficiaries from seeking the assistance they need.

Once an application for legal aid is filed, there are often significant delays in the appointment of legal aid lawyers. These delays prolong legal proceedings, particularly for those who are most in need of speedy justice, such as undertrial prisoners. According to data from the **National Judicial Data Grid (NJDG)**, **approximately 4.7 million cases** were pending in district and subordinate courts as of 2022. A large proportion of these cases involved individuals who could not afford private legal representation, and the delays were partly attributed to the slow appointment of legal aid lawyers. Moreover, once appointed, legal aid lawyers are often unable to give their full attention to cases due to a backlog of clients. This results in poor case management and extended court proceedings, further denying justice to those who need it most.

4. Poor Quality of Legal Aid Lawyers

The low remuneration offered to legal aid lawyers directly impacts the quality of legal representation provided. NALSA's 2020 guidelines stipulate that legal aid lawyers are to be paid **between ₹500 and ₹1,500 per case**, an amount that is considered inadequate by many legal professionals. This has led to a situation where many competent lawyers are reluctant to take on legal aid cases, leaving the system to be staffed by inexperienced or less committed lawyers.

As a result, the individuals who most need effective legal representation—those from economically disadvantaged backgrounds—often receive substandard service. The quality of legal aid varies widely across the country, with some lawyers being inexperienced, overburdened, or simply indifferent to their clients' plight.

Justice P.N. Bhagwati, a former Chief Justice of India and a champion of public interest litigation, once remarked, **"Legal aid, as presently available in India, is a farce, not reaching the people for whom it is intended."** His observation continues to ring true today as the legal aid system remains plagued by inefficiency and poor service delivery.

5. Overburdened System

Another critical shortcoming of the legal aid system is that legal aid lawyers are often overburdened with multiple cases, limiting their ability to provide adequate time and attention to each client. A **2017 NALSA report** revealed that **more than 60% of legal aid lawyers handled over 30 cases at any given time**, which adversely affected the quality of legal representation. This overwhelming caseload leads to hasty and ineffective defense strategies, ultimately denying justice to the very individuals legal aid is meant to serve.

Overburdened legal aid lawyers also struggle to appear in court on time, prepare for cases adequately, or even communicate effectively with their clients. This contributes to further delays in the judicial process, worsening the already significant backlog of cases in Indian courts.

6. Gender Bias and Social Discrimination

The legal aid system also suffers from inherent gender and social biases. Women, particularly those from marginalized communities, face additional challenges in accessing legal aid. A **2018 report by the Legal Services India Foundation** indicated that only **25% of legal aid beneficiaries** were women. This reflects a systemic gender bias that discourages women, especially those from rural and economically disadvantaged backgrounds, from seeking legal assistance.

The situation is even more dire for marginalized communities such as Dalits, Adivasis, and religious minorities. Social and cultural barriers often prevent members of these communities from accessing legal services. For instance, Dalits in

certain areas may be denied entry to legal aid clinics due to prevailing caste-based discrimination, further marginalizing them in their pursuit of justice.

To rectify these shortcomings, there is a pressing need for systemic reforms. These include increased funding for legal aid services, enhanced awareness programs, the recruitment and proper training of legal aid lawyers, and mechanisms to monitor the quality of legal aid services. Only by addressing these issues can the legal aid system in India evolve into a robust mechanism that genuinely ensures justice for all, regardless of economic or social status.

Relevant Provisions of Law

Legal aid in India is not merely a statutory right but also a constitutional imperative. Several provisions in the Constitution and legislative enactments underscore the state's duty to provide free legal aid to its citizens, ensuring equal access to justice. Among these, **Article 39A of the Constitution** and the **Legal Services Authorities Act, 1987** are paramount. This section examines these provisions in detail, supported by relevant case laws and observations (obiter dicta) of eminent jurists.

1. Article 39A of the Constitution of India

Article 39A of the **Constitution of India** forms the bedrock of legal aid in the country. It falls under the **Directive Principles of State Policy**, which, though not enforceable by law, provides significant guidance for legislative and executive actions. Article 39A directs the state to ensure that "justice is not denied to any citizen by reason of economic or other disabilities." This provision explicitly mandates free legal aid for citizens who cannot afford legal representation, and it emphasizes that access to justice should be equal for all.

The interpretation of Article 39A has been expansive in judicial pronouncements. In the landmark case of **Hussainara Khatoon v. State of Bihar (1979)**, the Supreme Court underscored the importance of free legal aid as part of the right to a fair trial. The court, led by **Justice P.N. Bhagwati**, held that "*legal aid to a poor accused who is unable to engage a lawyer for himself is a constitutional necessity, not only by virtue of Article 39A but also Article 21 of the Constitution.*" The court ruled that speedy trial and free legal aid are essential components of the **right to life and personal liberty** under Article 21. This judgment was significant in linking Article 39A with Article 21, thus making legal aid an enforceable right.

Similarly, in **Suk Das v. Union Territory of Arunachal Pradesh (1986)**, the court observed that "*the poor accused cannot be denied the right to legal representation merely because of his inability to afford it*". This judgment reinforced the state's responsibility to provide legal aid to indigent accused persons, emphasizing that legal aid is not charity but a constitutional obligation.

2. Legal Services Authorities Act, 1987

While Article 39A provides a constitutional framework, the **Legal Services Authorities Act, 1987**, was enacted to provide the statutory and institutional structure necessary for the implementation of free legal aid services across India. The Act established a hierarchy of legal services authorities at the central, state, and district levels to ensure that legal aid is effectively provided to the marginalized sections of society.

- **National Legal Services Authority (NALSA):** At the apex of this institutional framework is the National Legal Services Authority (NALSA), which is responsible for laying down policies and principles for making legal services available under the Act. NALSA also ensures that the legal aid schemes are effectively implemented.
- **State and District Legal Services Authorities:** At the state level, **State Legal Services Authorities (SLSAs)** work in coordination with NALSA to provide legal aid. Each state has a Legal Services Authority that implements NALSA's directives and ensures that legal aid reaches those who need it most. Additionally, **District Legal Services Authorities (DLSAs)** operate at the district level to cater to local legal aid needs, ensuring that even the most remote regions have access to legal assistance.

The Act also provides for **Lok Adalats**, which are informal courts designed to provide speedy justice through conciliation and settlement. Lok Adalats are essential in promoting **alternative dispute resolution (ADR)** mechanisms, especially for minor civil and criminal cases, thereby reducing the burden on formal courts.

Important Case Laws Interpreting the Legal Services Authorities Act

The **Legal Services Authorities Act, 1987** has been the subject of numerous judicial interpretations. One of the most significant judgments in this regard is **M.H. Hoskot v. State of Maharashtra (1978)**. Although delivered before the enactment of the Act, this case laid down important principles that later influenced the formulation of the legal aid law. The Supreme Court held that "*legal assistance to the poor is a fundamental right under Article 21*" and that "*the government has an obligation to provide free legal services to those who cannot afford legal representation.*"

In **Khatri II v. State of Bihar (1981)**, the Supreme Court reiterated its stance on legal aid, observing that "*free legal services to an indigent accused is an inalienable element of fair procedure*". The court also pointed out the need for the state to ensure that legal aid is provided promptly, especially in cases where the accused is in judicial custody. The court's observation in this case highlights the operational inefficiencies that often delay the provision of legal aid and hamper justice delivery.

Justice **V.R. Krishna Iyer**, in many of his judgments and writings, emphasized the importance of legal aid. In his essay, "*Human Rights and the Frontiers of Legal Aid*," he remarked, "*a legal system that does not provide free legal services to*

the poor is a system that mocks the constitutional pledge of equality before the law." His observations continue to resonate as the legal aid system in India struggles to meet its objectives.

Obligations under the Legal Services Authorities Act

The **Legal Services Authorities Act** obliges the state to provide free legal services to various eligible groups. According to the Act, the following categories of individuals are entitled to free legal aid:

- Individuals belonging to the **Scheduled Castes** or **Scheduled Tribes**.
- Victims of **trafficking** in human beings or **begar** (forced labor).
- Women and children.
- Persons with disabilities.
- Individuals in custody, including those in protective homes or psychiatric hospitals.
- Individuals with an annual income below a certain threshold (as prescribed by the central or state government).

The Act also empowers legal services authorities to organize **legal awareness camps** to educate people, especially in rural areas, about their right to legal aid. Despite these provisions, the implementation of the Act has often been criticized for being inconsistent and inefficient. While the institutional framework exists, the actual delivery of legal aid services remains uneven, as highlighted in numerous reports by civil society organizations and judicial observations.

Judicial Observations and Obiter Dicta

In several cases, the judiciary has emphasized the need to strengthen the legal aid system to fulfill the promises of justice for all. **Justice Bhagwati** in **Suk Das** remarked, "*The right to free legal aid is one of the essential safeguards enshrined in our Constitution, and any failure to provide it would result in a violation of the right to a fair trial.*" Similarly, **Justice Krishna Iyer** noted that "*justice should not become the monopoly of the rich, and the state must step in to provide competent legal representation to the indigent.*"

These judicial pronouncements underline that legal aid is not a matter of charity but a constitutional right integral to a fair and just legal system. The provisions under Article 39A and the Legal Services Authorities Act, 1987, must be implemented robustly to ensure that the most vulnerable sections of society have real access to justice.

Article 39A and the **Legal Services Authorities Act, 1987**, form the cornerstone of India's legal aid framework. While the legislation and constitutional mandate exist, much needs to be done to bridge the gap between the law and its implementation. The judiciary has continuously stressed the importance of legal aid, and the state's obligation to uphold it remains as crucial as ever for ensuring equal access to justice for all.

Conclusion:

Despite the robust constitutional and legislative frameworks designed to ensure legal aid in India, significant challenges persist, hindering effective access to justice for the underprivileged. Article 39A of the Constitution, combined with the Legal Services Authorities Act, 1987, establishes the state's responsibility to provide free legal aid to economically weaker sections. However, the legal aid system continues to fall short due to chronic underfunding, lack of awareness, systemic inefficiency, poor quality of legal representation, and inherent gender and social biases. These barriers disproportionately affect marginalized communities, particularly women, Dalits, Adivasis, and religious minorities, perpetuating inequalities in the justice system.

The gap between the promises of legal aid and its actual delivery reflects broader structural problems in India's justice system. While legal provisions exist, their implementation is inconsistent and often fails to reach those most in need. Without a fundamental overhaul, the legal aid system risks becoming a hollow gesture rather than an effective mechanism for ensuring justice. To truly realize the vision of equal access to justice for all, several critical reforms are necessary.

Suggestions for Reform:

1. **Increased Funding and Resource Allocation:** A more equitable distribution of resources is also crucial. Legal aid should be prioritized in rural and remote areas where access to legal services is most limited. The government should adopt a needs-based approach to allocate funds, ensuring that states and districts with larger economically disadvantaged populations receive adequate resources.
2. **Raising Awareness:** Public awareness drives should not be limited to urban centers. By organizing legal aid camps in rural areas, the government can bridge the urban-rural divide and ensure that the most vulnerable populations are informed of their rights.
3. **Streamlining the Legal Aid Application Process:** Legal services authorities should adopt a client-centric approach by ensuring that the process of applying for legal aid is straightforward and efficient. This includes reducing approval times for legal aid applications and ensuring that lawyers are assigned promptly to cases, particularly in urgent matters such as those involving undertrial prisoners.
4. **Enhancing the Quality of Legal Representation:** Legal aid lawyers in India are often poorly paid and overburdened, leading to substandard representation. Improving the quality of legal representation requires not only better remuneration but also rigorous training programs to enhance lawyers' skills in dealing with complex cases. The National Legal Services Authority (NALSA) should collaborate with law schools, bar associations, and legal training institutions to offer specialized training to legal aid lawyers. Furthermore, performance evaluations should

be introduced to ensure that legal aid lawyers meet professional standards. Periodic reviews of legal aid cases, client feedback mechanisms, and monitoring by independent bodies can help maintain accountability and improve the quality of legal aid services.

5. **Reducing the Burden on Legal Aid Lawyers:** Many legal aid lawyers in India are overwhelmed by large caseloads, limiting the time and attention they can devote to each case. To address this, the government should consider hiring additional legal aid lawyers and paralegals to assist in handling the growing backlog of cases. Additionally, promoting alternative dispute resolution (ADR) mechanisms, such as Lok Adalats and mediation, can alleviate the pressure on legal aid lawyers by diverting minor civil and criminal cases from the formal court system. By resolving cases through ADR, the legal aid system can reduce delays and provide faster, more efficient justice, particularly in matters where litigation may not be necessary.
6. **Addressing Gender and Social Bias:** Women and marginalized communities, such as Dalits, Adivasis, and religious minorities, face additional barriers in accessing legal aid. The legal aid system must be reformed to ensure that these vulnerable groups receive the support they need. Gender-sensitization programs for legal aid lawyers, judges, and court staff should be made mandatory to address the systemic biases that women face. Additionally, special legal aid cells for women, minorities, and marginalized communities should be established at district and state levels to ensure their legal needs are addressed. These cells should be staffed by lawyers who are trained in dealing with cases involving gender, caste, and religious discrimination.
7. **Monitoring and Accountability Mechanisms:** The lack of effective monitoring mechanisms has allowed inefficiencies and poor service delivery to persist in India's legal aid system. Regular audits of legal services authorities, both at the state and district levels, are essential to identify gaps in service provision and ensure accountability. The judiciary should also play an active role in overseeing the functioning of legal aid services, particularly in cases involving vulnerable individuals. Establishing an independent oversight body to evaluate the performance of legal services authorities and legal aid lawyers can help ensure that the system functions more effectively. Such a body could provide recommendations for improvement and address complaints from beneficiaries regarding poor legal representation.

While India's legal aid system is founded on a strong constitutional and legislative framework, its effectiveness remains compromised by systemic challenges. To ensure that the promise of equal access to justice is fulfilled, comprehensive reforms are required, focusing on increased funding, awareness, simplification of processes, improved quality of representation, and addressing gender and social biases. Only by tackling these critical issues can the legal aid system in India become a true vehicle for delivering justice to the most vulnerable sections of society.

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