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# Is Free Legal Aid Available and Beneficial for the Targeted Community?

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## ABSTRACT

*Justice is the rationale behind any judgment. To achieve this result, citizens must raise their voices towards wrongdoing. The initial stage of accessing our judiciary involves various expenses and other proceedings such as lawyer fees, stamp duty, etc. Poor and deprived sections of society may not be able to run behind a case. Hiring a lawyer for a daily wage worker is beyond his dreams. He might not spend money or a day for a judiciary proceeding as he is trying to meet ends for livelihood. The option left for such people is to let go of justice and keep their stomachs filled. That's why our framers consider free legal aid a constitutional right. This concept of free legal aid shatters the distinction between rich and poor. It develops a sense of unity as anyone can now approach the judiciary without hesitation or inhibitions. Our Constitution's preamble pronounces that every citizen must be entitled to social, economic, and political justice. Express legal provisions must rectify any hindrance or barrier to this right. Article 39 A of the Indian Constitution instructs the state to ensure that the legal system provides justice through legal aid to every citizen who faces economic and other disabilities. Therefore, the Legal Service Authorities Act, 1987 defines and gives an in-depth understanding of the purpose of free legal aid.*

*Any system of law will have loopholes as well as deficiencies in working. These deficiencies may be purposefully created, nor have they occurred while implementing provisions. The benefits of various legal aid schemes are reaped by people who deserve them. Still, at the same time, another section of deserving citizens is rejected when corrupted minds are dominant in society. Our paper aims to analyse whether poor and backward classes of the society identify their right and how beneficial that is for them.*

**Keywords:** *Legal Authority, Justice, Free legal aid, Constitution, Poor*

## I. INTRODUCTION

Legal aid in India is the function of the Legal service authorities of each state. Each state also has different legal service authorities in each district. This feature of legal service authority itself is to spread its wings and capture and attract larger crowds towards the existence of such

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a service provided by the Constitution and thereby for being an aid for the deserving citizens. Legal aid is a fundamental right of a citizen to be a part of an impartial justice delivery system. Legal aid allows one to stand with dignity and get legal knowledge, advice, education, and exercise the right imparted as an Indian citizen. The preamble that indicates the principles of the Indian Constitution gives the state the power to implement justice in whatever way available or possible for the issue put forward in the court. The Human Rights court in Europe recognises the need for an equal platform for each individual who looks forward to obtaining justice. Various international conventions in the US dealing with civil and political rights provide legal backup in criminal matters, whereas legal aid is offered only to India's civil cases.

## II. HOW DOES LEGAL AID WORK IN INDIA?

Article 39 A of the Indian Constitution specifies that the state must provide justice through an equal opportunity for all its citizens by providing free legal aid for financially and physically weak individuals. Article 14 states that every citizen be treated with equality, and legal aid schemes strive to remove inequalities between people who want to uphold justice. Article 21 mentions about fundamental rights of an individual, and legal aid is one of them. Section 304 of CPC talks about the court's power to provide the accused with an advocate if the party is incapable of doing so. According to Order 13 Rule 17 of CPC, the court can exempt a needy person from paying court fees if he is incapable of procuring legal aid services. So free legal aid is called a constitutional right.

The Act that governs legal aid and appoints various authorities is **The Legal Services Authorities Act, 1987 (herein referred to as Act)**. Section 12 of the Act specifies the different classes of citizens entitled to free legal service. They include members of scheduled tribes and caste, disabled persons, women, children, victims of human trafficking, beggar, drought, flood, mass disasters, ethnic violence, industrial disaster, etc. Legal aid is provided for poor people mainly. So, the income of the citizen who has applied is also considered. People with less than 9000 rupees or higher prescribed by the State government are entitled to legal aid in a court other than the supreme court. In the Supreme court case, the annual income must be less than 12000 or higher as prescribed by the central Government.

The court ordered the Government to invent legal aid schemes to deliver justice for people who cannot afford the judicial process and cost.<sup>3</sup> The National Legal Service Authority (NALSA) is the central Authority instituted under Section 3. The role of Patron-in-chief is of the Chief

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<sup>3</sup> *Hussainara Kathoon v. Home Secretary, State of Bihar*, 1979 AIR 1369

Justice. Section 3A of the Act constitutes Supreme Legal Service Authority, and a sitting judge of Supreme Court is elected as chairman. Section 4 specifies the functions and powers of the central Authority, NALSA. Section 6 constitutes State Legal Service Authority (**SLSA**), and the Chief Justice of the High Court is the Patron-in-chief. State authorities' function is mentioned in Section 7 of the Act. Section 8A of the Act constitutes High Court Legal Service Authority, and a sitting judge of High Court is elected as chairman.

Along with the High Court Chief Justice, the state government selects District Legal Service Authority (**DLSA**), and the chairman shall be the district judge. Section 10 specifies the functions of DLSA. The state authority forms the Taluk Legal service for each or group of Taluk or Mandal's. The senior civil judge shall be the ex-officio chairman, and Section 11B specifies their functions. This Act also talks regarding Lok Adalat appointments, permanent Lok Adalat, the cognisance of cases, and their powers, procedures, and awards. Lok Adalat's and Permanent Lok Adalat are game-changer plans brought out by NALSA. The advantages from it outshine the disadvantages. In simple words, Lok Adalat would mean a court where both the parties negotiate with each other in a court officer's presence. The presiding officer must be a serving or retired judicial officer. This method of solving conflicts has found significance in modern times due to the increasing number of undisposed cases and the judicial process's time.

***Various free legal aid services include:***

- the appearance of advocates on behalf of the party during legal proceedings,
- preparation of pleadings appeal memorial, paper book including printing and translation of legal documents,
- drafting of legal documents, special leave petition, etc., rendering services in the course of legal proceedings
- providing expert legal advice on any legal matter.

***The procedure to be followed for acquiring free legal aid is:<sup>4</sup>***

- The citizen must check whether he is eligible to apply for legal assistance. Eligibility is given under Section 12 of the Act.
- The eligible candidate must apply, and the summary of the grievance is written in the

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<sup>4</sup> Aarefa Johari, *How well do India's free legal aid services work? Not nearly well enough*, SCROLL.IN (May 19, 2018, 9:00 AM), <https://scroll.in/article/877225/how-well-do-indias-free-legal-aid-services-work-not-nearly-well-enough>

local or English language.

- An affidavit stating his eligibility must also be attached.
- After applying, the trustees' board would investigate the application and the facts and then revert within eight weeks of receipt of the application.
- If found satisfying, then free legal aid is given.

### III. IS LEGAL SERVICE BENEFICIAL?

Nearly 33 % of people in India are illiterate<sup>5</sup>, and 22% are in poverty<sup>6</sup>; it is very valid to say that the awareness about the free legal aid service has not fully achieved its goal. This Constitution feature is not public, just as everyone knows that not wearing a helmet will attract fine. Poor people would come to know about it once they approached the judiciary. But the standard behaviour among the poor is that they ignore and let go of any wrongdoings, wondering how to manage finance once they start a fight against it. They don't even ask any legal experts about legal opinion too. The mindset instilled in them is to get wages and meet ends. Any deviation from this, be it a lunch from a luxury hotel or involved in a legal fight, would make them think thrice before spending. This attitude itself is the downfall of legal aid services. Maximum coverage from different activities is to be advertised to reach a large crowd. The deserving people who approach legal service authority will never regret as they will be helped in attaining justice, thereby exercising their judicial right. If anyone entitled to free legal aid is invalidated, then the aggrieved party can challenge this decision. The state cannot deny the constitutional right of speedy trials because it has a shortage of funds. The Government may have various expenditures as a priority, but legal provisions do not permit any government to violate constitutional rights on a financial basis.<sup>7</sup>

However beneficial it is to the applicants; the authorities are not receiving the support they expect. Legal councils and panellists are insufficiently paid or funded, making them sluggish to work and undermining them wholeheartedly for the poor applicants. The payment required for a decent living may not be received, thereby lowering the standards of the system, and the purpose of establishing legal authorities and the Act is undermined.

### IV. HOW HAS COVID-19 AFFECTED LEGAL AID

COVID-19 is a deadly virus that has overturned the world as a whole. Each of us on Earth was

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<sup>5</sup> Know India, *Literacy*, <https://knowindia.india.gov.in/profile/literacy.php>

<sup>6</sup> Dr. Seema Gaur and Dr. N Srinivasa Rao, *Poverty Measurement in India: A Status Update*, Working Paper No. 1/2020, Ministry of Rural Development, 7 (2020)

<sup>7</sup> *Rhem v. Malcolm*, 377 F. Supp. 995 (1974)

affected by this pandemic. Tensions on Earth would negatively affect every field of career or work. Legal aid has been similarly affected by COVID-19. Legal Authority lacks awareness, and due to this catastrophe, all the available interactive sessions with the poor are eliminated. As courts have gone virtual, legal authorities cannot operate online or virtual as most of their clients are poor, illiterate citizens who have not even used a smartphone in their life.<sup>8</sup>

But DLSA, SLSA, and NLSA offer various services during COVID-19, such as:

- Legal authorities together help provide food and transportation to people around the country. Masks are being given for free.
- Due to increased domestic violence during the lockdown, legal aid through on-stop centres is set up, and dial numbers are publicised for receiving complaints from women and children who are assaulted.

As colleges giving legitimate training and law centres shut down, admittance to online courses and assets ought to be made accessible where conceivable. Preparing on the utilisation of online administrations on reacting to the particular issues that may emerge because of the emergency, remembering how to work with local area based legitimate guide suppliers, ought to be given to understudies and experts—encouraging admittance to helpful equity administrations, like online intervention and elective debate goal, just as admittance to regulatory, lawful administrations, and legal documentation. Admittance to online debate goal systems ought to guarantee that they don't deny survivors of equity and truth and capacity observing worldwide everyday freedoms law. All concerned gatherings have equivalent and safe admittance to online offices and assets. Additionally, supporting distant admittance to lawful administrations, such as authoritative structures or legal official administrations, and admittance to legitimate documentation should likewise be given. For instance, creating conventions for the planning of wills, contracts, and testimonies regarding physical removal will be essential. Drawing in conventional, strict, and local area pioneers in settling questions and strains that might be exacerbated because of COVID-19 can be a powerful supplement to formal equity systems. This incorporates utilising existing local area based early admonition and debate goal components and widening their relevance to the COVID19 circumstance. These activities should align with fundamental liberties norms and guarantee shields are set up if managing ladies and youngsters' savagery casualties. The usage of the ADR mechanism will not constitute an obstacle to access to formal justice. Information on the remote functioning of

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<sup>8</sup> Aviral Agrawal and Priyansh Mishra, *Legal Aid in India Amid the COVID-19 Lockdown*, JURIST, (MAY 2, 2020, 01:12:32AM), <https://www.jurist.org/commentary/2020/05/agrawal-mishra-india-legalaid/>

referral systems should also be disseminated to community leaders.<sup>9</sup>

## V. SUGGESTIONS

1. The prime step that the Legal Service Authority must take is to create awareness. Awareness about the poor's privilege can only attract more eligible clients towards the free legal aid system. The various method for this awareness can be:
  - To reach the target clients that are backward and poor citizens, we have to collaborate with organisations or individuals who have a say or influence the target clients. We have to approach Panchayat as they have records regarding each person in their jurisdiction and refer poor people towards LSA.
  - NGOs, local heads, Self-help groups, ASHA workers act as a carrier of the message.
2. The upcoming lawyers, students of law, PhD pursuers, legal enthusiasts can all play their role in disseminating legal advice to illiterate citizens.
3. Legal aid cells can be set up in every area where people know legal advice like courts, panchayats, law schools, colleges, etc.
4. Notices and pamphlets can be distributed among poor people in their local language. Allocation of funds is required for the same, and support from the Government is needed, which is lacking in the current working of Legal Aid authorities.
5. If we enlighten people without distinguishing between rich and poor or educated or illiterate, we can achieve maximum coverage. Even wealthy or educated people can help the poor by referring them to the legal authorities or informing them about the free legal aid system. For example, a maid working in a wealthy household can be informed about the free legal aid facility available for them by the employer. Word-of-mouth communication is one way of awareness.

## VI. CONCLUSION

Legal aid is an inevitable part of a country. This system may differ from one country to another. In India, free legal aid is given to anyone under the eligibility criteria. A separate Act came into existence that regulates the entire legal aid system. To be called an equal country, every

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<sup>9</sup> MONIDIPA FOUZIDAR, *COVID-19 CREATES NEW DIFFICULTIES ACCESSING LEGAL AID SAFETY NET SCHEME*, THE LAW SOCIETY GAZETTE (1 OCTOBER 2020), [HTTPS://WWW.LAWGAZETTE.CO.UK/NEWS/COVID-19-CREATES-NEW-DIFFICULTIES-ACCESSING-LEGAL-AID-SAFETY-NET-SCHEME/5105832](https://www.lawgazette.co.uk/news/covid-19-creates-new-difficulties-accessing-legal-aid-safety-net-scheme/5105832).ARTICLE#:~:TEXT=COVID%2D19%2DCREATES%2DNEW%2DDIFFICULTIES%2DACCESSING%2DLEGAL%2DAID%2DSAFETY%2DNET%2DSCHEME,-BY%2DMONIDIPA%2DFOUZDER&TEXT=THE%2DGOVERNMENT%2DHAS%2DBEEN%2DURGED,TO%2DPREVENT%2DA%2DSECOND%2DWAVE.

citizen must receive justice, and they shall not be denied justice due to insufficient funds available with them. Legal provisions are highly beneficial to the citizens. However, when the execution part comes in, the Government has not made it famous. People miss out on the legal knowledge regarding the free legal aid feature of the judiciary.

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