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Legal Aid to the Poor should not be Poor Legal Aid': Realizing Article 21's Promise of Fair Procedure

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ABSTRACT

In India, legal aid evolved from weal measure to abecedarian right under Composition 21². In Maneka Gandhi (1978), Composition 21 expanded from narrow to "fair, just, reasonable" procedure³. Courts were suitable to interpret the right to free legal aid as a necessary element of a fair trial thanks to this reinterpretation⁴. 42nd Amendment (1976) introduced Composition 39A, calling free legal aid to insure justice access anyhow of profitable/ social walls⁵. Landmark cases (Hoskot 1978, Hussainara 1979, Khatri 1981, Suk Das 1986) established State's duty to give legal aid to penurious indicted under Composition 21 fair procedure⁶. These cases exposed Systemic shafts, like dragged undertrial detention and unrepresented trials, were exposed by these cases⁷. 1987 Legal Services Authorities Act established NALSA to institutionalize free legal aid⁸. Legal aid as abecedarian right realizes indigenous equivalency, guarding marginalized from legal rejection⁹.

I. ARTICLE 21 AND THE CONCEPT OF FAIR PROCEDURE

Based on the concept of fair procedure, Article 21 developed from a limited procedural provision to the foundation of a substantive right to legal aid. The Supreme Court adopted a strictly textual interpretation of Article 21 in early cases like A.K. Gopalan v. State of Madras: if a law was passed by the legislature and the State complied with its procedures, Article 21 was deemed satisfied.¹⁰ Courts did not consider whether the process was harsh, arbitrary, or biased under this method, which treated Article 21 as essentially immune from Articles 14 and 19.¹¹

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² India Const. art. 21; Hussainara Khatoon (I) v. State of Bihar, (1980) 1 S.C.C. 81 (India)

³ Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248, ¶ 77 (India)

⁴ M.H. Hoskot v. State of Maharashtra, (1978) 3 S.C.C. 544 (India)

⁵ India Const. art. 39A; The Constitution (Forty-second Amendment) Act, 1976 (India)

⁶ M.H. Hoskot v. State of Maharashtra, (1978) 3 S.C.C. 544; Hussainara Khatoon (I) v. State of Bihar, (1980) 1 S.C.C. 81; Khatri (II) v. State of Bihar, (1981) 1 S.C.C. 627; Suk Das v. Union Territory of Arunachal Pradesh, (1986) 2 S.C.C. 401 (India)

⁷ Hussainara Khatoon (I) v. State of Bihar, (1980) 1 S.C.C. 81

⁸ Legal Services Authorities Act, No. 39 of 1987, India Code (1987)

⁹ India Const. arts. 14, 21, 39A; 1 D.D. Basu, Introduction to the Constitution of India 187 (26th ed. 2019)

¹⁰ A.K. Gopalan v. State of Madras, A.I.R. 1950 S.C. 27 (India)

¹¹ Id. at ¶ 24

In *Maneka Gandhi v. Union of India*, where the government had seized the petitioner's passport without sufficient justification or a fair hearing, this formal reading was categorically rejected¹². Whether such conduct might be justified under Article 21 was the central question. According to the Supreme Court, "procedure established by law" must be "right, just, and fair" and in line with natural justice principles; it cannot be arbitrary, fantastical, or oppressive¹³. The "golden triangle" link between Articles 14, 19, and 21 was established by the Court's subsequent ruling that any regulation affecting personal liberty must also meet the requirements of Article 14 regarding non-arbitrariness and Article 19 regarding reasonableness.¹⁴

Following the acceptance of this fairness concept, it became feasible to contend that some protections are logically implied in Article 21 since the method would not pass the fairness test without them¹⁵. One such protection is the right to legal counsel. The repercussions for an accused person are severe, including loss of liberty, social disgrace, and occasionally even death. Criminal prosecutions require intricate criminal law, standards of evidence, and technical process. The State's prosecuting apparatus, which is represented by qualified prosecutors, puts an unrepresented person at a significant disadvantage, particularly if they are poor, illiterate, and inexperienced with the legal system¹⁶. In these situations, a system that allows an impoverished accused person to be tried without legal representation cannot legitimately be characterized as "fair, just, and reasonable" under Article 21¹⁷.

In the post-*Maneka* line of cases, the Supreme Court started to explain this connection between legal representation and fair procedure. The Court concluded in *M.H. Hoskot v. State of Maharashtra* that legal aid is required for the appellate process to be successful and that a prisoner's statutory right to appeal is meaningless if he has the resources to get the trial record or hire lawyers. It regarded an impoverished prisoner's right to legal representation as an extension of Article 21's guarantee of individual liberty. Using *Maneka Gandhi's* fairness language to directly link legal aid to Article 21, the Court ruled in the *Hussainara Khatoon* series concerning undertrial prisoners in Bihar that providing free legal services to an accused who cannot afford a lawyer is an essential component of "reasonable, fair, and just" procedure under Article 21.

Additionally, the passage clarifies that the fairness criterion of Article 21 has both positive and

¹² *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248

¹³ *Id.* at 280 (Bhagwati, J.)

¹⁴ *Id.* at ¶¶ 53-57

¹⁵ *M.H. Hoskot v. State of Maharashtra*, (1978) 3 S.C.C. 544, 547

¹⁶ *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 S.C.C. 81, 91

¹⁷ *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 S.C.C. 81, 91

negative aspects. Negatively, it forbids practices that are repressive or facially arbitrary, such as torture-induced confessions or covert trials. Positively, it requires the State to provide the facilities and protections required to make the process truly equitable, and legal assistance is a perfect example of this positive aspect. It is not enough for the State to abstain from blatantly unfair actions; it also needs to make sure that those accused who are impoverished may effectively defend themselves with expert help. Later rulings like *Khatri v. State of Bihar* and *Suk Das v. Union Territory of Arunachal Pradesh*, where the Court held that the State is constitutionally required to provide legal aid at various stages of the criminal process and that failure to do so may vitiate the trial, are supported by this positive-duty reasoning.

II. ARTICLE 39A AND THE CONSTITUTIONAL COMMITMENT TO LEGAL AID

Article 39A specifically addresses that equality and liberty remain meaningless if impoverished individuals cannot access the legal system.¹⁸ Inserted by the **Forty-Second Amendment**, it requires the State to ensure the legal system promotes justice on equal opportunity and provides free legal aid so no one is denied justice due to economic disadvantage.¹⁹ This embodies constitutional commitment to substantive access to justice.²⁰

Despite being a Directive Principle in Part IV, Article 39A is more than just a catchphrase. Together, the Directive Principles outline the Constitution's social and economic vision, envisioning a society characterized by fairness, the reduction of inequality, and sufficient means of subsistence for all. By concentrating on the institutional operation of the judicial system and how its funding and structure may either increase or decrease inequality, Article 39A aligns with this objective. Article 39A aims to address this structural bias and further the egalitarian goals stated in the Preamble by requiring free legal aid for those with economic or other disabilities. If legal aid is essentially only available to those with money, the system is biased in favor of the wealthy.

Despite being a Directive Principle, Article 39A carries substantial legal weight. The Supreme Court interprets fundamental rights and Directive Principles harmoniously.²¹ Article 39A shapes Article 21 interpretation: disregarding the constitutional mandate for free legal aid yields an insufficient reading of life and personal liberty rights.²² The Court consistently rules out free legal representation for indigent defendants is essential to Article 21's "reasonable, fair and just"

¹⁸ India Const. art. 39A

¹⁹ The Constitution (Forty-second Amendment) Act, 1976 (India)

²⁰ 42nd Law Comm. Rep.: Legal Aid to the Poor 5 (1969)

²¹ *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 S.C.C. 81, 91

²² *Id*

procedure.²³

Additionally, Article 39A has had tangible institutional and legislative repercussions. Most people agree that the primary statutory tool for carrying out its duty is the Legal Services Authorities Act, 1987²⁴. The preamble and scheme of the Act expressly pledge to provide weaker segments of society with adequate legal services, so they are not deprived of the chance to get justice due to financial or other impediments.²⁵ Article 39A's objective is institutionally embodied in the network of national, state, and district legal services bodies established by this law. Using Article 39A as a constitutional framework, their efforts—which include setting up Lok Adalats, conducting legal literacy programs, and offering free legal representation—are all aimed at improving the accessibility and equity of the judicial system.

The interaction between Article 39A and Article 21 is particularly significant at the doctrinal level. While Article 21 provides the enforceable foundation by stating that no one may be deprived of liberty unless via a system that is fundamentally fair, Article 39A gives the normative direction—justice based on equal opportunity and free legal assistance for those who cannot afford it. The Supreme Court has transformed what started out as a policy direction into a justiciable right to legal assistance in serious criminal cases by interpreting these clauses collectively. Article 39A is a key illustration of the strategy of extending basic rights while taking Directive Principles into account, which has become a defining feature of Indian constitutional theory.

III. EARLY JUDICIAL RECOGNITION OF THE RIGHT TO LEGAL AID

It took several rulings in which judges addressed specific instances of unfairness connected to a lack of representation for the judiciary to acknowledge legal assistance as a fundamental requirement. Courts had already started to recognize that unrepresented accused people are seriously disadvantaged in the criminal process before legal aid was specifically framed as a fundamental right. The early stages of judicial recognition can be seen as a time when concepts about justice, fairness, and the State's role in supporting impoverished litigants were gradually taking shape. The Supreme Court's acknowledgment in *M.H. Hoskot v. State of Maharashtra*²⁶ that the right to appeal, even granted by law, cannot be meaningful unless the appellant knows the procedure and has some aid in navigating it, was one of the first significant moves in this direction. In that instance, the Court took into consideration a prisoner who wanted to appeal

²³ Legal Services Authorities Act, No. 39 of 1987, Preamble

²⁴ Legal Services Authorities Act, No. 39 of 1987, §§ 2, 12

²⁵ Legal Services Authority Act, 1987*, Blog.iPleaders.in (June 1, 2022)

²⁶ *M.H. Hoskot v. State of Maharashtra*, (1978) 3 S.C.C. 544

but lacked the resources to acquire the required paperwork or hire an attorney²⁷. The Court reasoned that if the law grants a right of appeal, the State cannot make that right illusory by refusing to make it easier for those who are impoverished to exercise that right. The Court framed the issue under Article 21, concluding that the right to life and personal liberty includes the right to pursue legal remedies through fair procedures, and that legal aid is frequently indispensable for this purpose²⁸. It emphasized that a person in prison faces distinct barriers to physical confinement, lack of legal knowledge, and dependence on authorities for information and materials so that without assistance, the prisoner's "right" to appeal exists only in theory.

In the criminal justice system, where the majority of accused come from economically disadvantaged groups and many are illiterate or semi-literate, this argument demonstrated an increasing judicial sensitivity to the reality of poverty and marginalization. Courts started to discuss a welfare-state obligation to help the poor access justice, anchoring this obligation in Article 21 and the Directive Principle in Article 39A rather than merely benevolence, as the idea that such individuals can protect themselves simply by being informed of their rights on paper became increasingly untenable. The judiciary was turning a moral and social concern into a constitutional requirement by connecting legal assistance to the protection of individual liberty and to the State's obligation under Article 39A to avoid denial of justice on economic grounds. The early cases also demonstrated a conflict between formal legal categories and substantive fairness: judges realized that formal compliance was insufficient if the accused was not given a meaningful chance to comprehend and challenge the case. Traditionally, courts had been satisfied to guarantee procedural regularity—charges framed, accused present, evidence recorded. This acknowledgment set the stage for later rulings that specifically declared that trials held without providing impoverished defendants with legal aid are unconstitutional. The innovation in these rulings was the Court's willingness to look past the obvious and consider whether the accused actually had a fair chance.

The Court's consideration of the notion that financial limitations cannot be used as an excuse for refusing legal aid in serious cases was another crucial component of early judicial recognition. The reasoning was implicit even before this was explicitly stated in subsequent rulings: if the Constitution mandates that deprivation of liberty only take place through a fair, just, and reasonable procedure, and if legal aid is required for fairness in the case of an impoverished accused, then the State cannot avoid its obligation by claiming budgetary difficulties, as that would prioritize financial concerns over fundamental rights. Later, the Court

²⁷ Id. at 548

²⁸ Id. [M.H. Hoskot v. State of Maharashtra, (1978) 3 S.C.C. 544]

clarified this implicit reasoning in cases like *Hussainara Khatoon and Khatri*, holding that the State cannot avoid its constitutional obligation to provide legal aid by claiming financial or administrative incapacity and that the right to free legal services is a crucial part of a "reasonable, fair, and just" procedure under Article 21. As socially conscious attorneys and organizations brought systemic issues affecting undertrial inmates, bonded laborers, and other vulnerable groups to the court, the early recognition of the significance of legal aid also coincided with the growth of public interest litigation, demonstrating that lack of representation was a structural aspect of how the criminal justice system functioned for the poor rather than a collection of isolated incidents. Legal assistance evolved from sporadic judicial compassion to a topic of constitutional doctrine because of the Court's encouragement to consider rights and duties that apply to entire classes of people. The Court began to articulate legal assistance as a necessary condition for the effective enjoyment of the right to life and personal liberty through decisions like *M.H. Hoskot* and the groundwork they laid. This led to stronger formulations in *Hussainara Khatoon, Khatri, and Suk Das*, where legal aid was explicitly declared a fundamental right and the State's obligation to provide it was given sharp, enforceable contours. In summary, the early judicial recognition of the right to legal aid under Article 21 involved a slow but significant change in how courts viewed poverty, procedure, and justice.

IV. LANDMARK EXPANSION THROUGH PUBLIC INTEREST LITIGATION

Public interest litigations (PILs) that exposed structural inequalities in the criminal justice system, notably affecting undertrial inmates, led to the most significant extension of the constitutional right to legal assistance under Article 21. PIL made it possible for attorneys and activists to petition the Supreme Court on behalf of those who were unable to do so on their own, such as impoverished inmates who had been incarcerated for years. This shifted the focus from specific complaints to systemic issues caused by a lack of representation. The Court came to view legal assistance as not only desirable but also legally necessary for fair procedure under Article 21 after being confronted with patterns of neglect and denial of rights.

This change is best exemplified by the *Hussainara Khatoon* series of instances.²⁹ There, the Court examined the plight of thousands of undertrial prisoners in Bihar, many detained longer than the maximum sentence prescribed for their alleged offences, and was appalled that individuals accused of petty crimes had been incarcerated for years simply because their trials never took place and no one pursued their cases³⁰. The Court made a clear connection between

²⁹ *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 S.C.C. 81

³⁰ *Id.* ¶¶ 10-15

this situation with the lack of legal representation: these inmates remained invisible to the system in the absence of attorneys to request bail, contest unlawful detention, or demand prompt trials. The Supreme Court ruled in its rulings that the right to a prompt trial is a fundamental component of the right to life and personal liberty under Article 21 and that "reasonable, fair, and just" procedures must include free legal services at state expense for those who cannot afford an attorney³¹. It emphasized that this obligation is a constitutional duty under Article 21 read with Article 39A, and that refusing to provide legal aid to an impoverished accused person amounts to a violation of Article 21. As a result, many undertrial inmates were released, and substantial changes were made to both legal aid and prison administration.

This body of law was subsequently expanded in *Khatri v. State of Bihar*, which resulted from the Bhagalpur blinding occurrences. In that instance, a number of impoverished inmates who were purportedly blinded while in police custody did not have access to legal counsel at critical junctures.³² Building on *Hussainara*, the Court determined that the right to free legal representation is implicit in Article 21 and emerges not only during the trial but also as soon as the accused appears before a magistrate. This is because early decisions regarding bail, remand, and investigative measures have a significant impact on an individual's freedom³³. The Court categorically rejected financial constraints as a justification, stating that the State's obligation to provide legal aid under Article 21 cannot be measured or limited by monetary considerations.³⁴

To ensure that the constitutional duty is attached from the initial interaction with the criminal justice system and persists throughout the process, *Khatri* expanded the temporal scope of legal help. To bridge the gap between theory and practice, PIL also permitted the Court to issue systemic directives, such as establishing or bolstering prison legal aid cells, allocating counsel to undertrials, keeping an eye on cases involving impoverished accused, and requesting compliance reports. All things considered, these PIL-driven rulings solidified legal aid as a fundamental element of the fair procedure mandated by Article 21 and laid the foundation for subsequent jurisprudence on guaranteeing that accused individuals are aware of and able to exercise this right, transforming it from an abstract principle into a tangible constitutional tool to address systemic injustice.

³¹ *Id.* at 91

³² *Khatri (II) v. State of Bihar*, (1981) 1 S.C.C. 627

³³ *Id.* ¶ 12

³⁴ *Khatri (II) v. State of Bihar*, (1981) 1 S.C.C. 627

V. SUK DAS AND THE DUTY TO INFORM THE ACCUSED

A crucial ruling in the development of the constitutional right to legal assistance under Article 21 is *Suk Das v. Union Territory of Arunachal Pradesh*, which tackles the real issue that many impoverished defendants are unaware that they are entitled to free state-funded counsel.³⁵ *Suk Das* concentrated on the fact that an unrepresented person cannot be assumed to know or assert this right, particularly in remote and low-literacy areas. Previous cases have already acknowledged that free legal assistance at State cost for those who cannot afford a lawyer is a fundamental right implicit in Article 21. The entitlement to legal help is just theoretical in the absence of clear information from the court.

Despite being impoverished and unable to pay for legal representation, the accused in *Suk Das* was tried and found guilty without legal representation, and the trial court failed to notify him of his entitlement to free legal assistance.³⁶ When the case reached the Supreme Court, the central question was whether such a trial could be called fair and valid under Article 21. The Court ruled that it could not and reiterated that the necessity of "reasonable, fair, and just" procedure under Article 21 implies that an impoverished accused person has a basic right to receive legal aid at state cost. It went on to say that any conviction that results from failing to communicate this right to the accused and giving them no chance to use it is invalid since it amounts to a rejection of the right itself.³⁷

Suk Das's fundamental thesis is that rights meant to safeguard disadvantaged groups cannot be effective if the recipients are not aware of them. The Court acknowledged that it is impractical to expect an impoverished accused individual to voluntarily seek legal help because they are likely to be frightened by the courtroom and inexperienced with legal procedures. As a result, the Court established an affirmative responsibility on trial judges to guarantee that, in cases where legal assistance is needed, counsel is provided promptly and to clearly and simply advise the accused that the State will provide a free lawyer if they cannot afford one. This highlights the need for judges to actively seek representation rather than stay passive and transfers some of the burden of upholding the right from legal services organizations to the courts.

The ruling also influences the law of counsel waiver. According to *Suk Das*, a legitimate renunciation of the right to legal assistance cannot be assumed; silence or failing to request legal representation cannot be interpreted as permission to go unrepresented unless the accused has

³⁵ *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 S.C.C. 401

³⁶ *Id.*, ¶¶ 10-15

³⁷ *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 S.C.C. 401

been made fully aware of the right and voluntarily chooses to forgo it.³⁸ More generally, the Court links legal aid to democratic participation, the rule of law, and human dignity by ruling that a trial carried out without informing an impoverished accused of their right to free legal aid is unconstitutional. The Court insists that rights be realized in the courtroom if Article 21's guarantee of fair and just procedure is to be upheld.

VI. CONSOLIDATION OF LEGAL AIS AS A FUNDAMENTAL RIGHT

According to M.H. Hoskot, Hussainara Khatoon, Khatri, and Suk Das, Indian courts started to view legal assistance not as a discretionary social measure but as a basic right implied in Article 21³⁹. Since Article 21 permits the deprivation of life or personal liberty only through such a procedure, the Supreme Court has repeatedly described free legal services to impoverished accused as an essential component of "reasonable, fair, and just" procedure.⁴⁰ As a result, legal aid has become part of the constitutional minimum that the State must guarantee before restricting liberty. This signaled a conceptual change from charity to entitlement, with legal assistance being read into "procedure established by law" alongside rights like a prompt trial and acceptable jail conditions.

Later rulings took the right's existence as established and concentrated on its application and scope after this logic was established. Courts emphasized that the right applies from the initial appearance before a magistrate through remand, trial, appeal, and revision, and that it is activated whenever an accused person faces the possibility of incarceration and cannot afford legal representation, not only in capital or very serious cases. Because judgments at every level have a substantial impact on liberty, not having legal representation might result in unfair conclusions; as a result, Article 21's protection encompasses the whole criminal process. A fair-minded prosecutor cannot replace a defense attorney committed to the accused's interests, according to commentators and judges who referred to legal assistance as part of the "basic infrastructure" of a just adversarial system.

Lower courts' practices were impacted by this consolidation; they increasingly invoked Supreme Court decisions to demand that unrepresented impoverished defendants be given legal representation, and they issued directives urging magistrates to confirm representation and get legal assistance attorneys where necessary. Simultaneously, courts refused to allow resource limitations to weaken constitutional norms, consistently ruling that administrative or financial challenges cannot be used as an excuse for not providing legal assistance where Article 21

³⁸ Suk Das v. Union Territory of Arunachal Pradesh, (1986) 2 S.C.C. 401

³⁹ Khatri (II) v. State of Bihar, (1981) 1 S.C.C. 627 .

⁴⁰ Khatri (II) v. State of Bihar, (1981) 1 S.C.C. 627

mandates it. Lastly, they emphasized that legal assistance is a "gateway" right since, in the absence of it, other Article 21 guarantees—such as a prompt trial and protection against cruel detention—may be meaningless, highlighting a comprehensive concern with the whole experience of running afoul of the law.⁴¹

VII. INTERACTION WITH THE LEGAL SERVICES AUTHORITIES ACT 1987

A legislative structure designed to carry out the State's duties in practice has emerged with the constitutional recognition of legal aid under Article 21, most notably through the Legal Services Authorities Act, 1987. This Act is the primary legislative tool that converts the judicially recognized right under Article 21 and the mandate of Article 39A into an institutional framework for legal services⁴². It demonstrates how legislative arrangements impact the realization of constitutional rights and how constitutional norms influence legislative design.

The National Legal Services Authority, which sets rules and guidelines and creates efficient and cost-effective legal services programs, is at the top of the multi-tier organization established by the Act⁴³. District Legal Services Authorities and Taluk Legal Services Committees manage local delivery, while State Legal Services Authorities function at the state level. "Legal service" is a wide term that encompasses court representation, legal advice, document preparation, and settlement help through Lok Adalats and other procedures⁴⁴. The Act concretizes the idea of targeting those most likely to be denied justice due to economic or social disadvantage by listing specific categories entitled to free legal services, including women, children, Scheduled Castes and Scheduled Tribes, victims of trafficking and beggary, people with disabilities, and people in custody⁴⁵.

From the standpoint of Article 21, the Act offers the means by which the fundamental right to legal aid can be realized: legal services authorities are expected to identify such individuals, appoint qualified attorneys, and collaborate with courts and prisons when courts rule that impoverished accused have a constitutional right to State-funded counsel. Courts have emphasized that these agencies' obligations are not only administrative or discretionary because their activity implements a fundamental right; failings in the distribution of legal assistance might amount to breaches of Article 21, not just bureaucratic errors. As a result, judicial rulings have looked at cases in which eligible defendants were left without legal representation,

⁴¹ Suk Das v. Union Territory of Arunachal Pradesh, (1986) 2 S.C.C. 401

⁴² Legal Services Authorities Act, No. 39 of 1987, §§ 2 (1) (a), 12

⁴³ Id. § 6

⁴⁴ Id. § 2 (c)

⁴⁵ Id. § 12

examining whether local authorities were notified, whether prompt action was taken, and whether systemic barriers prevented the appointment of counsel. They have also issued directives to enhance coordination, keep panels up to date, and make frequent jail visits.

Through the establishment of Lok Adalats, which provide speedier, less formal, and less costly dispute resolution and whose rulings are regarded as civil court judgments, the Act also interacts with Article 21. Lok Adalats assist the Article 21-linked goal that justice is not effectively denied through long or excessively costly procedures by improving access to court for many impoverished litigants, particularly in civil issues. This legislative process is strongly linked to the right to legal help since legal-aid attorneys frequently assist parties in Lok Adalats.

Political will and sufficient funds are necessary for efficient execution, which creates tensions. Legal services authorities often have tight budgets, which makes outreach and quality monitoring difficult. The Supreme Court has repeatedly ruled that the State must give legal aid financing priority when making budgetary decisions because financial limitations cannot be used as an excuse for not providing legal help when Article 21 mandates it. Courts and pundits have emphasized that the simple designation of a lawyer is insufficient due to quality concerns; aid must be effective. This has led to requests for improved supervision, frequent review, and training of panel attorneys. Overall, the relationship between Article 21 and the Legal Services Authorities Act demonstrates the mutual reinforcement of constitutional rights and statutory schemes: Article 21 provides the normative standards and judicial oversight required to guarantee that legal aid becomes a lived reality rather than a hollow promise, while the Act provides the organizational framework for legal aid.

VIII. QUALITY OF LEGAL AID AND THE “POOR LEGAL AID” PROBLEM

Courts caution "legal aid to the poor should not be poor legal aid" since inadequate assistance renders Article 21 guarantee meaningless⁴⁶ Structural causes: low honoraria, prioritization of paying clients, insufficient screening/training⁴⁷. Judicial statements link Article 21 to "competent" assistance: meeting clients, case analysis, cross-examination, reasoned arguments⁴⁸. Institutional reform needed: stricter empanelment, training, monitoring, realistic incentives⁴⁹.

⁴⁶ Hussainara Khatoon (I) v. State of Bihar, (1980) 1 S.C.C. 81

⁴⁷ Challenges and Solutions to Free Legal Aid*, Blog.iPleaders.in (Nov. 28, 2020)

⁴⁸ India Const. art. 21

⁴⁹ Yasho Jain, *Legal Aid in India: Current Scenario*, CNLU L. Rev. (2025)

IX. PRACTICAL CHALLENGES IN IMPLEMENTING THE ARTICLE 21 RIGHT

Free legal assistance is clearly recognized by judges as a basic right implied in Article 21, yet there are a number of practical barriers to its execution that prevent many impoverished and marginalized persons from actually receiving it. Lack of awareness is a major issue: undertrial inmates, daily wage laborers, rural inhabitants, and underprivileged populations frequently believe that attorneys are always too expensive and are unaware that they are entitled to free legal aid⁵⁰. People who are illiterate or inexperienced with legal terminology may not be able to comprehend information concerning legal help, even if it is presented in courts or jails.

The right is further undermined by systemic pressures inside the criminal justice system. Due to overcrowding in police stations, magistrate courts, and prisons, magistrates may interpret the need to advise accused individuals about legal assistance as a short formality without verifying comprehension⁵¹. Prison officials are obliged to help undertrials get in touch with legal aid attorneys, but they frequently lack the necessary training, clear procedures, or incentives to make this job a priority. Another layer is created by resource constraints: legal aid organizations require funding to maintain lawyer panels, conduct legal literacy programs, visit prisons, and work with courts⁵². However, limited funds restrict coverage, monitoring, and outreach, particularly in rural, hilly, and tribal areas where there are few practicing advocates, and travel is challenging.

Even when each institution has a nominal role, the chain frequently breaks at some point due to coordination gaps between police, courts, jails, and legal aid institutions, leaving accused people functionally unrepresented despite a constitutional right. Despite broad eligibility, studies on undertrials show that only a tiny percentage use free legal aid, which reflects deficiencies in knowledge and coordination⁵³. Lastly, societal hierarchy and mistrust exacerbate these issues: many impoverished defendants from communities that experience systematic discrimination feel frightened in court and may harbor suspicion. state-appointed attorneys, believing them to be sympathetic to the government or uninterested in their cases. In addition to doctrinal clarity, overcoming these obstacles calls for ongoing funding for legal awareness initiatives, improved incentives and training for officials and attorneys, improved inter-institutional coordination, and a shift in the justice system's culture to show that legal aid attorneys are independent professionals dedicated to protecting their clients' rights.

⁵⁰ Legal Services Authorities Act, No. 39 of 1987

⁵¹ *Khatri (II) v. State of Bihar*, (1981) 1 S.C.C. 627

⁵² Jain, *supra* note 48

⁵³ Jain, *supra* note 48

X. CIVIL LEGAL AID AND THE BROADER SCOPE OF ARTICLE 21

Most of the constitutional case law pertaining to Article 21 legal assistance has emerged in criminal cases, when personal liberty is immediately threatened by arrest, custody, and incarceration. Nonetheless, Article 21 has long been interpreted to safeguard a more comprehensive right to live with dignity, which includes family life, livelihood, housing, and health⁵⁴. These interests can be severely impacted by civil problems, such as evictions, welfare benefit denials, labor exploitation, and land disputes; hence, the lack of legal representation in these procedures can be just as detrimental to dignity as in criminal instances⁵⁵.

Extending Article 21-based legal assistance reasoning into civil cases is supported by the wording and structure of the Constitution. Article 39A covers a wide range of topics, including guaranteeing that "the operation of the legal system" advances justice based on equal opportunity and offering free legal aid to ensure that "opportunities for securing justice" are not rejected because of financial or other impairments, without regard to criminal proceedings⁵⁶. The Legal assistance Authorities Act, which was passed to implement Article 39A, specifically permits qualified individuals to receive free legal assistance in both civil and criminal proceedings on the grounds that poverty prevents everyone from using the legal system effectively. If Article 21, read in conjunction with Article 39A, mandates a "fair, just, and reasonable" procedure when fundamental aspects of life and dignity are in jeopardy, then there is a compelling normative case for applying the same reasoning to some civil proceedings, such as those that put people at risk of homelessness, loss of livelihood, or denial of vital social benefits.

The Supreme Court has been hesitant to explicitly declare a broad basic right to civil legal assistance under Article 21, in part because of worries about its scope, the consequences for resources, and establishing moral limits. In civil cases involving survival or basic welfare, such as low-income evictions, termination of low-wage employment, subsistence-benefit disputes, and important family-law matters, where denying legal aid to impoverished parties would be presumptively incompatible with Article 21's fairness and dignity requirements, a plausible path is a targeted approach. The Court's recognition of "access to justice" as a fundamental right under Articles 14 and 21, along with the growing understanding of "life" and "personal liberty," push judges and policymakers to treat civil legal aid for the poor as part of ensuring real, rather than merely formal, enjoyment of Article 21 rights, even in the absence of a formal doctrinal

⁵⁴ India Const. art. 21

⁵⁵ Legal Services Authorities Act, No. 39 of 1987, § 12

⁵⁶ India Const. art. 39A

shift⁵⁷.

XI. NORMATIVE SIGNIFICANCE OF READING LEGAL AID INTO ARTICLE 21

There are significant normative ramifications for Indian constitutional law if Article 21 is interpreted to include a right to legal aid. It represents an interpretation of the Constitution as transformational, with the goal of reorganizing long-standing power dynamics rather than just formally restricting State activity⁵⁸. The Supreme Court acknowledges that rights are real only when individuals have the actual capacity to express and defend them by recognizing legal assistance as part of Article 21. A system that declares rights but prevents the impoverished from exercising them only serves to reinforce existing inequalities. Thus, legal assistance serves as a means of transforming the theoretical assurance of equal protection and access to justice into tangible chances for disadvantaged individuals to challenge the government and influential private players on more equal terms.

This perspective also demonstrates the interdependence of social-economic and civil-political rights in the Indian system. Directive Principles in Part IV were linked to social and economic objectives, whereas fundamental rights in Part III were generally seen as civil-political. A concept with a clear social-economic content—publicly financed services to assure equitable access to justice—is viewed as necessary to the enjoyment of a fundamental right when legal aid is read into Article 21 using Article 39A as a guide. It results in a more integrated rights perspective, where access to courts and fair procedure are inextricably linked to the basic circumstances that enable them to function.

Normatively, this promotes an idea of the rule of law that is substantive rather than just procedural. Even when only the rich can file lawsuits, a narrow, procedural rule of law may be fulfilled if laws are administered consistently and courts are officially open⁵⁹. A substantive rule of law acknowledges that the law becomes a tool of privilege when only the wealthy can afford to retain qualified attorneys and handle complicated legal processes. The Court makes equal access to legal procedures by a constitutional mandate rather than a discretionary policy decision by mandating the State to offer legal assistance as part of Article 21.

Additionally, this approach strengthens the court system's democratic nature. Elections are simply one aspect of democracy; another is the capacity to contest illegal activity, pursue remedies, and hold authorities responsible in court⁶⁰. Judicial accountability is distorted if

⁵⁷ Procedural Justice and Administrative Legal Aid*, Law Sch. Pol'y Rev. (Feb. 4, 2026)

⁵⁸ 2 H.M. Seervai, *Constitutional Law of India* 446 (4th ed. 1996)

⁵⁹ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248

⁶⁰ *India Const.* art. 21

meaningful court access is dependent on income; recognizing legal assistance as a fundamental right helps democratize the courtroom by guaranteeing that underprivileged and marginalized people are not denied this opportunity to participate.

XII. FUTURE DIRECTIONS AND REFORM MEASURES

Realizing Article 21's legal aid promise requires bridging constitutional doctrine with practical delivery through targeted reforms. Courts emphasize "effective, not formal" assistance, demanding timely counsel appointment, regular attorney-client communication, adequate preparation, and competent trial/appeal representation. Scholars propose performance metrics, regular panel attorney reviews, and sanctions for substandard work to eliminate "poor legal aid." Legal aid works best within comprehensive systems combining representation, legal literacy, ADR, paralegals, NGOs, and law school clinics, enhanced by digital case management databases that improve coordination between courts, prisons, and legal aid bodies while avoiding digital exclusion. Article 21 doctrine should gradually extend to high-stakes civil cases affecting sustenance and dignity—evictions, welfare denial, family law—prioritizing vulnerable parties in life-altering disputes to balance protection needs with resource constraints. Elevating legal aid practice demands recognition, clinical education, pro bono mandates, and mentorship to foster professional public service commitment. Article 21 legal aid remains a powerful equality tool if implemented thoughtfully: prioritizing criminal quality first, then holistic integration, strategic civil expansion, and professional elevation. Gradual, evidence-based growth transforms constitutional vision into lived reality for India's poor.

XIII. CONCLUSION

The change from a limited, text-bound interpretation of "procedure established by law" to a substantive requirement that such procedure be fair, equitable, and reasonable is shown by the development of the right to legal assistance under Article 21. Through rulings like *M.H. Hoskot*, *Hussainara Khatoon*, *Khatri*, and *Suk Das*, the Supreme Court acknowledged that free legal aid is a crucial component of fair procedure in criminal cases involving impoverished accused within this expanded framework, turning legal aid from an aspiration under Article 39A into an enforceable fundamental right. The insistence that the State has a constitutional obligation to provide counsel at its expense, and that trials held in breach of this duty are unconstitutional, reshaped in the relationship between poverty, procedure and justice.

A national institutional structure for implementing this right was subsequently provided by the Legal Services Authorities Act of 1987. However, experience on the ground indicates how much practice still falls short of the constitutional ideal due to gaps in knowledge, resources,

coordination, and quality. The next stage of the doctrine will be shaped by increasing quality requirements and expanding Article 21 legal-aid jurisprudence into civil concerns impacting sustenance and dignity. Normatively, reading legal assistance into Article 21 upholds human dignity, democratic participation in the legal system, and substantive equality by requiring that rights be available to individuals without income or influence.
