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The Economic Dimensions of Justice: Legal Aid Services in India

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ABSTRACT

Legal intervention serves as an essential mechanism for combating poverty by breaking down systemic obstacles and fostering fair access to resources and justice. This paper investigates the economic features of legal assistance, with an emphasis on how it promotes economic and social growth. The paper focuses on how legal aid programs lower financial obstacles to justice, reduce disparities, and promote the economic empowerment of disadvantaged people. It examines the effectiveness of government expenditure on legal aid programs, including resource allocation, funding systems, and the effects on beneficiaries' lives. Furthermore, the article emphasizes the indirect economic benefits of legal aid. Employing qualitative methodologies, the study includes policy assessments and analysis of budgetary documents to determine the effectiveness of legal frameworks in tackling systemic poverty. It gathers secondary data from various sources, such as government reports, academic research, international development studies, databases from organizations like the World Bank and UNDP (including human rights indicators), legal datasets, and publications from both governmental and non-governmental entities. The primary areas of investigation encompass access to justice and the economic benefits of legal aid services in India. The study emphasizes the significance of public interest litigation, legal aid initiatives, and rights-based advocacy in empowering disadvantaged groups and mitigating socio-economic disparities. By exploring different jurisdictions and the existing policy landscape, the research identifies best practices and highlights deficiencies within current legal systems. The results illustrate the potential of legal interventions to promote social justice and inclusivity, providing recommendations for the incorporation of legal strategies into poverty alleviation efforts. This study adds to the expanding dialogue on rights-based development approaches and underscores the transformative capacity of law in the fight against poverty.

Keywords: *Economic benefits, empowerment, government expenditure, justice, legal aid.*

I. INTRODUCTION

The United Nations Development Program (UNDP) acknowledges that access to justice is a fundamental human right. It emphasizes the importance of achieving national equity in the

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accessibility of justice. This necessitates the provision of legal aid, as artificial barriers stemming from economic and social disparities persist globally. Legal aid is a crucial component of access to justice, promoting inclusivity and ensuring that the poorer and marginalized members of society are not excluded from receiving equal and fair treatment. Human rights should not be obstructed by artificial barriers related to social or economic status. Access to justice is a fundamental aspect of the welfare services provided by a welfare state to its citizens, reinforcing the principle of the "rule of law." The concept of welfare services is broad and all-encompassing, incorporating various governmental mechanisms that ensure every individual benefits from economic growth. These services include legal aid, education, housing, clean water and sanitation, healthcare, and job opportunities. India's vision as a welfare state highlights the government's role in delivering welfare services. Legal aid plays a vital role in enhancing the accessibility and affordability of these services by legally enforcing their provision. The necessity of involving the State as a key stakeholder in welfare services arises from issues such as income inequality, lack of education, social stratification, inadequate healthcare, unemployment, regional disparities, and large populations of vulnerable groups. These challenges create an artificial divide between the affluent and the disadvantaged. Therefore, the establishment of an entity dedicated to promoting overall distributive efficiency and justice is essential. The State serves as a neutral stakeholder, facilitating inclusive development.

(A) Objective of Study and Research Method

The present study aims to: -

1. Investigate the role of legal aid services in enhancing the economic well-being of marginalized communities in India by tackling social and economic disparities.
2. Evaluate the effectiveness of government funding, resource allocation, and financial oversight in the provision of legal aid services.
3. Analyze the wider economic advantages of legal aid, such as conflict resolution, safeguarding livelihoods, and alleviating poverty.

The study employs secondary sources of data and follows a descriptive and analytical approach to understand the economic dimensions of legal aid services. The study thoroughly follows analysis of budgetary allocations, per capita spending, and the cost-benefit ratio of legal aid services.

II. LEGAL FRAMEWORK

Legal aid is defined as support provided to economically disadvantaged, backward, or underprivileged members of society in order to assure access to justice. It includes the presence of governmental and non-governmental bodies that cover the costs of litigation for the members of society. It also entailed the hiring of legal consultants, advocates, and lawyers. This is a fundamental right.

(A) Constitutional Provisions –

The Preamble of the Indian Constitution edifies the objective to ensure “JUSTICE, social, economic and political”² and “EQUALITY of status and of opportunity.”³ This founding faith of the Constitution is the genesis of provisions on legal aid. These articles embody the essence of equitable distribution of legal rights by guaranteeing legal aid.

- i. **Article 14:** “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”⁴ This provision ensures that to secure equal treatment a person shall be legally represented, irrespective of the artificial footings of income or status.
- ii. **Article 21:** “No person shall be deprived of his life or personal liberty except according to procedure established by law.”⁵ This dictum necessitates that every individual shall be conferred with the right to represent oneself before the court of life.
- iii. **Article 22(1):** “No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.”⁶ Hence, every individual has a right to be equally represented.
- iv. **Article 39A:** “The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”⁷ This article was added by the Constitution (Forty-Second Amendment) Act, 1976.⁸ Its incorporation as a “Directive Principle of State Policy under Part-IV,

² Constitution of India, pmbl.

³ Ibid.

⁴ Constitution of India art. 14.

⁵ Constitution of India art. 21.

⁶ Constitution of India art. 22, cl. 1.

⁷ Constitution of India art. 39A.

⁸ India Const. amend. XLII (42nd), 1976.

Constitution of India”⁹ reflects that the state is vested with the prerogative to enhance distributive justice of legal rights.

(B) Legislative Provision –

Statutory enactment helps strengthen the backbone of legal aid. It ensures that the prerogative conferred upon the state is manifested. The obligatory nature of the statute in its jurisdiction ensures that the right to legal aid is not just a black-and-white statement, but also a living reality. The Legal Services Authority Act, 1987¹⁰, was enacted by the Parliament to further the cause of legal aid and social justice incorporated in Article 39A. The Act came into force on 9th September, 1995¹¹, after undergoing certain amendments.

- i. The objective of the Act is to provide free and competent legal services¹² to the underprivileged sections of society to ensure equitable access to justice, transcending the artificial barriers of social or economic inequalities. The act offers legal aid, legal advice, legal representation, legal awareness and literacy, and access to Lok Adalat.
- ii. Sections 3-5¹³ of the Act delineate the constitution and jurisdiction of the National Legal Services Authority (NLSA), and the Supreme Court Legal Services Committee (SCLSC). The NLSA was first constituted on 5th December, 1995. It is the central authority which creates and superintends guidelines, schemes, and policy frameworks to advance the cause of social justice. It commands the fund allocation of the State Legal Services Authority and the District Legal Services Authority. It promotes Alternative Dispute Resolution Mechanisms like Arbitration, Mediation and Conciliation. It organizes legal camps to spread legal literacy and awareness. It also coordinates with other governmental and non-governmental organizations dispensing legal aid services.
- iii. Sections 6-8¹⁴ provide for the constitution and functioning of the State Legal Services Authority, and the High Court Legal Services Committee. Their functions and powers are similar to the NLSA and the SCLSC but limited to the territory of the given state. Section 10¹⁵ and Section 11A¹⁶ further extend provisions for the establishment of the District Legal Services Authority and the Taluka Legal Services Committee.

⁹ India Const. pt. IV.

¹⁰ Legal Services Authorities Act, No. 39 of 1987 (India).

¹¹ Ibid.

¹² Ibid.

¹³ Legal Services Authorities Act, No. 39 of 1987, §§ 3-5 (India).

¹⁴ Legal Services Authorities Act, No. 39 of 1987, §§ 6-8 (India).

¹⁵ Legal Services Authorities Act, No. 39 of 1987, § 10 (India).

¹⁶ Legal Services Authorities Act, No. 39 of 1987, § 11A (India).

- iv. Section 12¹⁷ of the Act enlists the various categories of persons entitled to claim legal aid under the provisions of this Act.
- a) “a member of a Scheduled Caste or Scheduled Tribe;
 - b) a victim of trafficking in human beings or begar as referred to in article 23 of the Constitution;
 - c) a woman or a child;
 - d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
 - e) a person under circumstances of underserved want such as being a victim of a mass disaster, ethnic, violence, caste atrocity, flood, drought, earthquake, or industrial disaster; or
 - f) an industrial workman; or
 - g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956), or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 1986), or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987 (14 of 1987); or
 - h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.”¹⁸
- v. Sections 19-22E¹⁹ encompass provisions which support Lok Adalat and other non-adversarial modes of dispute resolution. These alternatives to the formal courtroom systems are comparatively more accessible, victim-friendly, and speedy. The provision of Lok Adalat helps reduce the burden of cases and ensures efficiency.

These governmental authorities work in synergy with non-governmental organizations to

¹⁷ Legal Services Authorities Act, No. 39 of 1987, § 12 (India).

¹⁸ Ibid.

¹⁹ Legal Services Authorities Act, No. 39 of 1987, §§ 19-22E (India).

resolve a streamlined mechanism of legal aid available across India.

(C) Other Public Policy Instruments –

The Government acknowledges the need for equitable access to justice through other public policy instruments like welfare programs and schemes. These instruments enforce resource optimization which imports access to justice.

- i. **Legal Aid Clinics**: It encompasses specialized centers of law which tender legal aid, legal awareness, and legal literacy. They are usually set in distressed areas which are heavily populated by the disadvantaged sections of society. Presently, even law schools institutionalize these centers for community benefit.
- ii. **Tele-Law Scheme**²⁰: It is a legal program synthesized by the Government in 2017 through Common Service Centers. It connected a panel of lawyers through an e-interface to the disadvantaged sections of society for seeking legal advice and assistance.
- iii. **Prisoners' Rights Initiative**²¹: It includes a plethora of initiatives undertaken by governmental and non-governmental authorities to observe the enforcement of human rights and fundamental rights which are conferred on prisoners of offences.
- iv. **One Stop Centre Scheme**²²: It is also known as Sakshi Mission. It was launched on 1st April, 2015. The objective of this scheme is to extend assistance to women who have been subjected to violence. It does not demarcate any category of women who may avail of the safeguards of this scheme. Its application is not restricted by age, marital status, class, education status, race, or any other artificial distinctions.
- v. **Integrated Child Protection Scheme**²³: This scheme aims to provide care and protection to children who have been subjected to abuse. It encompasses a variety of rights including access to juvenile justice.

III. WELFARE SERVICES

The paradigm of welfare services which are extended to Indian society is vast and holistic. Since the government of India dispenses the role of a welfare state, it is obligated to ensure that every individual benefits from the growth and development of the economy. The necessity of

²⁰ Tele-Law, Ministry of Law and Justice, Government of India, <https://doj.gov.in/tele-law/> (last visited on 01-09-2024).

²¹ Prisoners' Rights Initiative, National Human Rights Commission, <https://www.nhrc.nic.in/> (last visited on 03-09-2024).

²² One Stop Centre Scheme, Ministry of Women and Child Development, <https://www.myscheme.gov.in/schemes/osc> (last visited on 03-09-2024).

²³ Integrated Child Protection Scheme, Ministry of Women and Child Development, <https://cara.wcd.gov.in/PDF/revised ICPS scheme.pdf> (last visited on 03-09-2024).

government interventions is based on a basket of factors like income inequalities, lack of education, social stratification, poor healthcare services, unemployment, regional disparities, large populations of vulnerable groups, etc. Welfare services ensure the best possible parity between individuals the society to ensure equitable conditions for the development of personalities. Legal aid is a component of welfare services which seeks to restore equitable distribution of legal rights.

This section encompasses the welfare services contributing to enriched access to justice and assisting the distributive justice of legal rights. These schemes act as alternatives to enforcement of legal rights through courts of law. They rather ensure the subscription of these rights through affirmative government interventions.

(A) Beti Bachao, Beti Padhao Scheme²⁴ –

This scheme is central in shaping the concept of gender justice in India. It recognizes the legal rights of the girl child and prohibits sex-based violation of child rights. It promotes the upkeeping of the rights of girls, transcending any gender-based obstacles.

(B) Deen Dayal Antyodaya Yojana - National Urban Livelihoods Mission²⁵ –

It seeks to improve urban livelihood conditions. It aims at streamlining the wages, employment benefits and other incidental claims arising out of employment. It defines legal recourses for disputes arising out of exploitative employment practices. Hence, it seeks to ensure the efficient distribution of legal rights in the employment sphere.

(C) Pradhan Mantri Awas Yojana²⁶ –

This scheme aims at securing the right to shelter of vulnerable communities. It is a safeguard against eviction, title dispute, infringement of land rights, exorbitant home loans, etc. It ensures distributive justice of shelter as a central legal right, irrespective of economic or social disparities.

(D) Mid-Day Meal Scheme²⁷ –

Under this scheme, children from economically weaker sections of society are provided nutritious meals on school premises. It is a corrective measure to upkeep school attendance and

²⁴ Beti Bachao Beti Padhao, Ministry of Women and Child Development, https://www.pmindia.gov.in/en/government_tr_rec/beti-bachao-beti-padhao-caring-for-the-girl-child/ (last visited on 03-09-2024).

²⁵ Deen Dayal Antyodaya Yojana - National Urban Livelihoods Mission, Ministry of Housing and Urban Affairs, <https://nulm.gov.in/> (last visited on 03-09-2024).

²⁶ Pradhan Mantri Awas Yojana, Ministry of Housing and Urban Affairs, <https://pmaymis.gov.in/> (last visited on 03-09-2024).

²⁷ Mid-Day Meal Scheme, Ministry of Human Resource Development, <https://mdm.nic.in/> (last visited on 03-09-2024).

lessen the dropout rate of this strata.

(E) Public Distribution System²⁸ –

This scheme seeks to provide access to the basic basket of cereals and pulses at rationed prices which are primarily consumed in India. These fair-price shops address economic inequalities and ensure food security.

(F) National Social Assistance Program²⁹ –

The objective of this program is to provide safety nets to vulnerable sections like elderly persons, women, disabled persons, widows, etc.; whose economic status falls below the poverty line.

IV. ECONOMIC DIMENSIONS

This section outlines the nature of legal aid in the realm of the study of economics. It is imperative to understand that legal aid is a mechanism to facilitate equitable distribution of legal rights. Hence, the right to justice can be conceptualized as a materialistic service whose consumption is demanded by society.

(A) Public Good –

The consumption of legal aid can be termed as a public good Firstly, legal aid is non-excludable as it is based on transcending economic inequalities and ensuring access to justice for all. Furthermore, legal aid is non-rivalrous. Its use does not diminish the availability of legal representation in the general market.

(B) State Interference –

The market of legal services is driven by profit maximization. This leads to increased costs of legal services. This necessitates the existence of the state as a market player to ensure equitable resource distribution of legal services through legal aid. The provision for legal aid resembles the mechanism of subsidy, ensuring the accessibility and distributive justice of essential goods. Market failure is a primary cause of state interference, which leads to unequal resource distribution due to income inequalities. This further leads to a perpetual cycle of unequal access to resources. This also hinders the awareness of an individual of one's legal rights and causes information asymmetry. This whole nexus leads to the indispensable insemination of poverty

²⁸ Public Distribution System, Department of Food and Public Distribution, <https://dfpd.gov.in/> (last visited on 03-09-2024).

²⁹ National Social Assistance Program, Ministry of Rural Development, <https://nsap.nic.in/> (last visited on 03-09-2024).

in the economy.

(C) Pareto Efficiency –

Modern welfare economics based on Pareto efficiency, idealizes the role of government in resource optimization of scarce resources. This ensures that the government through various public policy instruments proceeds to provide the maximum standard of living to all its citizens.

The concept of Pareto Efficiency involves the reallocation of resources to make someone better off, without making anyone worse off. It is also known as Pareto Improvement or Distributive Justice. This situation is mostly impossible for other commodities, but it can be met in the case of legal aid.

The concept of legal aid involves affirmative measures to make legal aid available to all. It is a public good hence, it is non-rivalrous. Its reallocation shall not snatch away its use from the section of haves. An efficient system of resource optimization can ensure maximum benefits of legal aid. Promotion of Alternative Dispute Resolution (ADR) Mechanisms can keep a check on the burden of cases.

Hence, the redistribution of resources under legal aid can lead to Pareto Improvement if the government makes policies to balance out the demand with public policy instruments.

V. OVERVIEW

This section is based on the findings of the India Justice Report, 2022.³⁰ It offers insights into the working of legal aid in India.

(A) Practical Implications –

An efficient working system of legal aid provides the following benefits to society.

- i. Improved Access to Justice:** The legal services is better optimized amongst all the individuals of society. It bridges the gap between the haves and the have-nots. It tries to reduce income inequalities. It reduces resource monopoly based on economic affluence.
- ii. Reduced Case Backlogs:** Legal aid promotes out-of-court settlements and alternative dispute resolution mechanisms like Lok Adalat, which reduces the burden of cases on the court.
- iii. Protection of Vulnerable Groups:** The provision of legal aid safeguards the rights of vulnerable groups enlisted in Section 12, LSAA, 1987. It ensures that the legal rights of

³⁰ *India Justice Report 2022*, TATA TRUSTS (2022), https://indiajusticereport.org/files/IJR_2022_Full_Report.pdf, (last visited on 03-09-2024).

every individual are enforceable and justiciable.

(B) Challenges –

The mechanism of legal aid is confronted with several obstacles which require inter-disciplinary recourses to offer holistic and permanent solutions.

- i. Lack of Awareness:** The vulnerable sections of society are unaware of the multitude of their legal rights. This unawareness is so deeply entrenched that they may not even recognize a valid infringement of their rights. This causes underutilization of the mechanism.
- ii. Lack of Resources & Infrastructure:** The existing system does not command the required resources and infrastructure to increase the accessibility of legal aid in remote and primitive areas. These places require additional resources to cope with the lack of knowledge, ignorance, primitive living conditions, etc. This has also led to a decrease in the number of paralegal volunteers.
- iii. Limited Legal Literacy:** The potential beneficiaries' lack the knowledge to access and kick in the complex legal procedure. They undermine the value of these resources. Their lack of knowledge results in taboos and apprehensions.

(C) Reforms –

In light of the given challenges, certain reforms are necessary to increase the efficiency of the current legal aid mechanism.

- i. Utilization of Resource Distribution:** The government should focus on optimal utilization of funds. This shall revitalize the infrastructure, and enhance the quality and quantity of legal professionals willing to provide legal aid services.
- ii. Spread Legal Literacy and Awareness:** There is a need to revamp and exponentially conduct legal awareness programs aimed at spreading legal literacy. The objective of legal aid can be fulfilled only when legal aid services are fully utilized.
- iii. Invent Tech-driven Solutions:** It is efficient to come up with technology-driven solutions to increase the efficiency and penetration of legal services. It also reduces the cost of infrastructure.

VI. THE ECONOMICS OF LEGAL AID SERVICES IN INDIA

As per the allocated funds to demand of legal aid services in India, Challenges continue to exist despite ongoing efforts. In the fiscal year 2019-20, the per capita expenditure on legal aid in

India was around Rs. 1.05. A considerable share of these funds is directed towards administrative costs rather than providing direct legal support, highlighting the necessity for more effective resource distribution to enhance the efficacy of legal aid services³¹. Merely about 1% of those eligible take advantage of free legal aid services. This minimal engagement can be attributed to various factors, including a lack of awareness regarding the entitlement to legal aid and skepticism about the quality of the services offered. Although approximately 80% of India's population qualifies for legal aid, the actual usage remains alarmingly low.³² Reports indicate that many law school-based legal aid cells are not effectively operational due to insufficient funding and lack of engagement from experienced practitioners.

Over the past few years, the government has significantly increased its financial support to NALSA. Grants-in-aid were allocated as follows: Rs. 145 crore in 2021-22, Rs. 190 crore in 2022-23, and Rs. 400 crore in 2023-24. For the current financial year 2024-25, Rs. 200 crore have been allocated, with Rs. 83 crore already released as of May 2024³³. In 2021, the government launched the "Designing Innovative Solutions for Holistic Access to Justice in India" (DISHA) scheme, spanning five years (2021-2026) with a total outlay of Rs. 250 crore. This initiative aims to provide accessible and affordable legal services through programs like Tele-Law, Nyaya Bandhu (Pro Bono Legal Services), and legal literacy and awareness campaigns.

VII. CONCLUSION

In India, Legal aid is imperative in promoting distributive justice regardless of economic status. It contributes towards reducing market failures and eradicating socio-economic distinctions. Legal aid services are essential in enhancing economic welfare by enabling marginalized communities to obtain justice, assert their rights, and resolve conflicts that affect their economic well-being. By mitigating economic disparities, overcoming obstacles to justice, and promoting social stability, these services play a significant role in fostering overall economic development. Substantial evidence indicates that a well-supported and effectively administered legal aid system can reduce the macroeconomic burdens linked to unmet legal needs, which may represent as much as 3% of GDP each year. Targeted investments in legal aid infrastructure, prudent resource management, and the adoption of technological advancements can improve the efficiency and accessibility of these services, ensuring they remain a crucial mechanism for economic and social advancement. Currently, there is an ongoing necessity to tackle existing

³¹ https://scroll.in/article/1040169/why-quality-of-free-legal-aid-remains-poor-in-india?utm_source=chatgpt.com

³² https://scroll.in/article/1040169/why-quality-of-free-legal-aid-remains-poor-in-india?utm_source=chatgpt.com

³³ https://pib.gov.in/PressReleasePage.aspx?PRID=2037349&utm_source=chatgpt.com

challenges and pursue reforms aimed at enhancing the system's efficiency, ultimately leading to a more resilient and equitable legal aid framework.

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