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LEGAL AID TO POOR AND WEAKER SECTIONS

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ABSTRACT

Legal aid may be interpreted as providing impoverished people with free legal representation in any judicial procedure before a court, tribunal, or other body. It aims to provide free legal aid to those in need who are unable to exercise their legal rights. Legal assistance, according to Justice P.N. Bhagwati, refers to a social structure that makes the systems of administration of justice readily reachable and accessible to people who need to use them to enforce the legal rights that have been granted to them. He is correct when he says that those who are poor and ignorant should be allowed to approach the courts and that their circumstances shouldn't prevent them from doing so. India's constitution places a high value on the rule of law. It is viewed as a component of both natural justice and the Constitution's fundamental framework in India. Free legal representation for the weak and impoverished has long been considered an essential component of the rule of law. This project main aim is to study the Legal aid to poor and weaker section and its provisions. And this project mainly focuses on the idea of legal aid.

SYNOPSIS**Objective**

To give a clear idea on the Legal Aid to poor and Weaker Sections, sociological aspect of it, legal aspects relating to it.

Significance

This project explains in detail the concept of Legal Aid to poor and Weaker Sections,

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sociological aspect of it, legal aspects relating to it.

Scope

Scope is restricted to the Legal Aid to poor and Weaker Sections, sociological aspect of it, legal aspects relating to it in India.

Literature Review:

- PROVIDING LEGAL AID: SOME UNTRIED MEANS by Supriyo Routh at Journal of the Indian Law Institute.

This journal is referred by me to include the importance and provisions of legal aid in India in this project

- Legal Aid in India by G. O. Koppell at Journal of the Indian Law Institute.

This journal is referred by me to include the history of legal aid.

Type of Research: This is a doctrinal type of research. Its descriptive and explanatory in nature.

Research Question

Whether the poor and weaker section of people able to get legal aid or not?

INTRODUCTION

The maintenance of the rule of law, which is essential for the survival of an ordered society, depends on providing legal assistance to the poor and vulnerable.

Poor uneducated guy is denied equal access to justice up until and until he receives legal assistance. The court has recently shown a keen interest in providing legal assistance to the disadvantaged as a step toward having the legal system serve the underprivileged and the destitute. The Indian Constitution guarantees an impartial and independent judiciary, and courts are empowered to uphold the constitution and defend peoples' rights regardless of their socioeconomic circumstances. The constitution mandates that the judiciary has a responsibility to defend the rights of the underprivileged as well as the rights of society as a whole since the goal of the constitution is to deliver justice for everyone and because the directive principles are an essential component of the constitution. Through its substantial

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judicial interventions, the judiciary has forced and directed the legislature to create the necessary laws to deliver justice to the doorsteps of the most vulnerable members of society. One illustrative example of how the Indian court has acted as the forerunner of Indian people's rights, particularly those of the poor, is public interest litigation. It inspired those with a sense of responsibility to work for the poor's justice. The Supreme Court significantly loosened the rules as a result. Along with judicial activism and public interest litigation, the court system is being changed in an effort to make justice more accessible and affordable. One such change is the introduction of the Lok Adalat system, which strives to provide quick justice and free legal representation to the poor. The value of free legal aid in a constitutional democracy like India, where a sizable section of the populace has yet to benefit from constitutional guarantees that even the most basic fundamental rights be upheld for them.²

CONCEPT OF LEGAL AID

The legal aid means making arrangements in society so that the missionary of administering justice is easily accessible and not out of reach of those who must use it to enforce the rights granted to them by law. The poor and illiterate should be able to approach the courts, and their ignorance and poverty should not be a barrier in the way of their obtaining justice for them. The impoverished and ignorant who lack access to the courts should have access to legal help. To request and use legal assistance, one need not be a litigant. Legal aid suggests that providing free legal assistance is unquestionably advantageous to the poor and was established with the most altruistic of intentions. Legal aid may be interpreted to entail providing impoverished people with free legal representation throughout all judicial procedures. Magna Carta's seven hundred-year-old clarion appeal, "To no one will we sell, to no one will we withhold or delay the right to justice," embodies the idea of legal help. Only after the Committee for Legal Aid pointed out the colonial legacy of the Indian legal system and claimed that the shadow of law created by the British to suit their convenience has resulted in an insensitive system, particularly towards the socio-economic problems of the masses it set out to govern and regulate, has the Indian legislature included the concept of legal aid in the form of Article 39A into our constitutional framework. Therefore, legal aid is neither a gift nor a reward; rather, it is a need.

The ancestors of the legal profession had it right when they said that providing legal advice

² Jagat Narain, LEGAL AID—litigational or educational: an indian experiment, Journal of the Indian Law

needed careful planning and solid execution. A fresh approach to this socioeconomic notion is required since the typical legal service program, which is primarily court or litigation centered, cannot meet the unique needs and special issues of the poor. According to the Supreme Court, without a national legal service program that offers free legal services to the poor, it is not feasible to ensure their constitutional and statutory rights, protect them from injustice, or convey the advantages of the legal system to them. The Legal Services Authority Act of 1987 was passed as a result of this pressure.³

HISTORY OF LEGAL AID IN INDIA

After taking office, the government started making preparations for providing free legal aid to deserving people in order to implement the basic fundamental rights of citizens and to carry out the constitution's mandate of the right to life and liberty, especially for the nation's poor and needy citizens. Discussions about this topic took place in various conferences of law ministers and law commissions, but no compelling proposal was made. Before the nation gained its independence, the state of Bombay Legal assistance Society was established, which accepted the suggestion of the Indian government in response to Lord Rushcliffe's report on legal assistance and advice in England and Wales. This was a significant step in this direction. The establishment of the Bombay Committee in 1949 under the leadership of Mr. N.H. Bhagwati, as well as state government initiatives, such as the legal aid committees formed in UP in 1952 and 1954, kicked off the post-independence legal aid growth. The government first believed that providing legal help to the poor was the whole state's responsibility, and states needed to make such financial allocations. Again in January, the federal government asked the state governments to increase the scope of its legal aid to the underprivileged. Even while some private groups tried to take the initiative in this way, they were limited by a lack of funding and were unable to do anything. The Law Commission, which addressed the problem of legal aid in its 14th report, was aware that unless arrangements are established to assist the underprivileged in paying court costs, legal counsel fees, and other incidental costs of litigation, he is denied an equitable chance to obtain justice. However, a review of the CILAS's operation revealed deficiencies, leading to the belief that it would be desirable to establish statutory legal services authorities at the national, state, and

³ Upendra Baxi, Legal Assistance to the Poor: A Critique of the Expert Committee Report, Economic and Political Weekly, Vol. 10, No. 27 (Jul. 5, 1975), pp. 1005-1013.

district levels to provide oversight of the legal aid programs. With this attempt and objective in mind, as well as to accommodate for the composition of such statutory legal services authorities through funding of their operations.

The "Legal Service Authorities Act" was approved in order to provide legislative bases for legal assistance programs throughout the country and create a unified design.⁴

IMPORTANCE OF LEGAL AID IN INDIA

Legal assistance is essential in India because it ensures that all individuals, especially those who may lack the financial means to retain legal counsel, have access to justice. The following important elements will help you understand the significance of legal assistance in India:

1. Access to Justice

Legal aid makes ensuring that everyone, even the socially and economically disadvantaged, has access to legal counsel and support. By bridging the wealth and poverty divide, it guarantees that everyone has access to justice and a fair trial.

2. Upholding Human Rights

Legal assistance is essential for defending human rights and making sure they are not trampled upon or jeopardized. It gives people the ability to seek justice for social injustices, discrimination, and human rights breaches.

3. Empowerment of Marginalized Groups

India is a diversified nation with many vulnerable populations and marginalized communities. By giving them the tools to defend their rights and combat exploitation, legal assistance empowers various groups, including women, children, Dalits, tribal communities, and people with disabilities.

4. Legal Literacy

Public awareness and legal literacy are two more benefits of legal assistance programs. Legal assistance contributes to the development of a knowledgeable and empowered society by educating individuals about their rights and the legal remedies that are accessible to them.

5. Reducing Court Backlog

⁴ G. O. Koppell, Legal Aid in India, Journal of the Indian Law Institute, Vol. 8, No. 2 (APRIL-JUNE 1966), pp. 224-251

Helping the poor get legal representation may speed up the legal procedure and ease the strain on the already overburdened court system. As a result, issues may be resolved more quickly and the backlog of cases pending in Indian courts may be reduced.

6. Promoting Social Justice

By guaranteeing that everyone, regardless of socioeconomic situation, has access to the legal system's advantages, legal aid strengthens the concepts of social justice. It contributes to the creation of a society that is more just.

7. Strengthening the Rule of Law

By encouraging adherence to legal processes, supporting fair trials, and making sure that no one is denied justice due to a lack of resources, legal aid helps to strengthen the rule of law.

8. Conflict settlement

Legal assistance may help with non-adversarial conflict settlement techniques like mediation and conciliation, relieving pressure on the formal court system.

9. Government Accountability

Legal assistance gives individuals the power to hold the government responsible for its deeds, upholding transparency, and contesting choices that can negatively impact people's rights and welfare.

In India, legal assistance is crucial for ensuring justice for the weak and underprivileged as well as for fostering a fair and equitable society where the rule of law is upheld. In order for the nation to fulfill the promise of "justice for all" outlined in the constitution, efforts to develop and enlarge legal assistance programs are essential.⁵

PROVISIONS PROVIDING FOR LEGAL AID

According to the Indian Constitution, both equality before the law and the rule of law are guaranteed. The Preamble of the Indian Constitution seeks to provide social, economic, and political justice for all of the country's residents. In order to enhance the welfare of the people, the government is required under Article 38(1) of the Indian Constitution to protect social order, including justice. After considering the aforementioned information, the Indian

⁵ G. O. Koppell, Legal Aid in India, Journal of the Indian Law Institute, Vol. 8, No. 2 (APRIL-JUNE 1966), pp. 224-251

Parliament passed Article 39(A), which grants everyone a constitutional right to free legal representation. Anyone in need of legal representation is guaranteed under both Articles 21 and 14. If the accused individual is unable to pay for their own legal representation, the State must. In addition, courts must provide legal aid. The Legal Services Authorities Act was enacted by the parliament in 1987 as a result of everything mentioned above. On November 9th, 1995, it entered into force with the goal of establishing a uniform national network for the provision of expert and cost-free legal services to the less fortunate sections of society.⁶

ISSUES AND CHALLENGES

There is still a post that has to be filled despite several law rules, committees, and agencies. Because they cannot afford to engage an attorney to represent them, many individuals today continue to put up with injustice. One of the primary reasons there are now so many cases ongoing in court is the inability of innocent persons who were found guilty of crimes to defend themselves. It is tough to provide legal aid services due to a number of difficulties and problems.

1. A LACK OF LEGAL EDUCATION AND AWARENESS AMONG THE PUBLIC

These legal assistance programs are designed for the underprivileged and uneducated, with illiteracy being the main issue. They don't have a legal education, thus they aren't aware of their fundamental legal rights. The choices for legal assistance that are accessible to people are often unknown. As a consequence, the legal aid movement has not achieved its goals since few people are aware of organizations like Lok Adalat, Legal Aid, etc.

2. THE ABSENCE OF SUPPORT FROM ATTORNEYS, LAWYERS, ETC

Most attorneys and advocates these days are hesitant to take part in such social activities since they all want to be paid fairly for their services. The administration of justice is hampered by a lack of competent legal representation, despite the fact that there are relatively few attorneys who provide these services.

3. INABILITY TO LOK ADALATS

Lok Adalats have less legal powers than civil courts. First, there aren't enough effective

⁶ Supriyo Routh, PROVIDING LEGAL AID: SOME UNTRIED MEANS, Journal of the Indian Law Institute, Vol. 50, No. 3 (JULY-SEPTEMBER 2008), pp. 375-390

methods. The parties cannot then be forced to appear for the proceedings. The outcome is often delayed when one of the parties does not show up for the hearing.

4. USE OF PAEA-LEGAL VOLUNTEERS IS UNDERUTILIZED

These paralegal volunteers' main duties include spreading the word about legal aid programs and camps and reaching out to the weaker and more disadvantaged sections of society. But these volunteer paralegals are not adequately vetted, controlled, or trained. These volunteers are also negligible when compared to the whole population.⁷

WHO ARE ELIGIBLE TO GET FREE LEGAL AID

Anyone who is a member of

1. a scheduled caste or tribe, a victim of a natural disaster, an industrial worker, a child, a person who is insane, a person who is disabled, a person who is in custody, or
2. a person whose annual income is less than Rs 1 lakh is all eligible for free legal aid.
3. a begging or human trafficking victim;
4. those who are physically or intellectually impaired;
5. A girl or a child; an unreasonable longing;
6. A victim of a major disaster, racial unrest, caste-based violence, a flood, a drought, an earthquake, an industrial tragedy, or similar circumstance.
7. An industrial worker;
9. Being under investigation for a crime that carries a risk of prison time (Khatri II v. State of Bihar, (1981) 1SCC); 8. Being kept in custody, including protective custody; and
10. Unable to retain counsel and get legal aid because of circumstances like poverty, indigence, or isolation;
11. In matters of vital public concern; In certain circumstances judged deserving of legal assistance.

APPLICATIONS FOR FREE LEGAL ASSISTANCE MAY BE DENIED WHEN

1. The applicant has sufficient money and can pay a lawyer,

⁷ Legal Aid in India by Arindam datta. Available at: <https://www.legalserviceindia.com/article/1206-Legal-Aid.html>

2. The applicant does not meet any of the eligibility conditions, or
3. The situation is not worthy of legal action.

If the application is refused, the reasons for the rejection must be documented and communicated to the applicant.

The petitioner also has the ability to appeal the refusal to the authority's Chairman.⁸

LEGAL AID TO POOR AND WEAKER SECTIONS

1. Justice Access: The expense of legal services may be prohibitive for many people from low-income families. As a consequence, individuals often discover that they are unable to access the legal system, which results in a lack of representation and rights protection. By providing free or inexpensive legal assistance to people in need, legal aid fills the gap. With the help of legal aid, the underprivileged may now get legal counsel, court representation, and access to other conflict resolution procedures, guaranteeing that everyone, regardless of resources, has access to the judicial system.

2. Defense against exploitation: Due to their precarious socioeconomic circumstances, the poor are especially exposed to exploitation and abuse. In order to protect their rights and dignity and keep them secure from dishonest tactics, legal help is essential. Legal assistance gives the poor the ability to take legal action against criminals and seek redress for the wrongs they have suffered, whether it be in situations of labor exploitation, human rights abuses, or discrimination.

3. Ending the Poverty Cycle: Legal assistance not only resolves urgent legal matters but also helps to end the cycle of poverty. Legal aid helps the poor protect their livelihoods and obtain access to resources that might help them escape poverty by offering legal assistance in cases involving property disputes, inheritance rights, access to necessary services, and social welfare benefits. Additionally, legal aid groups help to raise the socioeconomic standing of the poor in general by fighting against discriminatory practices and promoting better working conditions.

4. Knowledge Assists in Empowerment: Legal assistance goes beyond only provide legal

⁸ Who are Entitled to Free Legal Services? Available at: <https://nalsa.gov.in/services/legal-aid/eligibility#:~:text=It%20states%20that%20those%20persons,eligible%20for%20free%20legal%20aid>

counsel; it also educates low-income people about their rights and obligations, which empowers them. When the underprivileged are aware of their legal rights, they may make educated choices and actively participate in society. Knowledge is a powerful instrument. Legal assistance attorneys often provide courses and programs on legal awareness, giving the underprivileged the skills they need to defend themselves and stand up for their rights.

5. Lowering Incorrect Convictions : A frequent problem that often results in erroneous convictions and disproportionately affects the poor is inadequate legal assistance. Legal assistance is essential in reducing this unfairness because it provides qualified attorneys who can extensively research cases, collect evidence, and guarantee a fair trial. Legal aid groups assist lower the possibility of erroneous convictions and save the innocent from unfair punishment by providing competent counsel.⁹

CASES IN REGARDING FREE LEGAL AID

1. STATE OF HARYANA V. DARSHANA DEVI¹⁰

The Honorable Justice Krishna Iyer ruled in this case that no poor person should be denied access to the justice system just because of the court fee and refusal to apply.

2. KHATRI V. STATE OF BIHAR¹¹

The session judges in this case were required by the honorable justice P.N. Bhagwati to tell the accused of their entitlement to free legal assistance and to let the court know if anyone is unable to afford a lawyer to defend them because of poverty or indigence.

3. SHEELA BARSE V. UNION OF INDIA¹²

The Hon'ble Court in this decision decided that Article 21 of the Indian Constitution's implied guarantee of a quick trial is a basic right guaranteed to every individual.

4. SUK DAS V. UNION TERRITORY OF ARUNACHAL PRADESH¹³

One of Justice P.N. BHAGWATI's historic rulings was this one. He claimed that because there are so many uneducated people in India, they are not aware of their legal rights. Therefore, it is crucial to increase people's knowledge of the law and legal issues; this is why

⁹ 8 Legal Aid in India by Arindam datta. Available at: <https://www.legalserviceindia.com/article/1206-Legal-Aid.html>

¹⁰ STATE OF HARYANA V. DARSHANA DEVI, [1979] INSC 34

¹¹ Khatri v State of Bihar, 1981 SCC (1) 627

¹² Sheela Barse & Anr. Vs Union of India & Ors., 1986 SCC (3) 596

¹³ SUK DAS V UNION TERRITORY OF ARUNACHAL PRADESH, 1986 SCC (2) 401

legal assistance is so crucial.

5. M.H. HOSKOT V. STATE OF MAHARASHTRA¹⁴

According to Justice Krishna Iyer, who made this statement with great accuracy, "if a prisoner sentenced to imprisonment is practically unable to exercise his constitutional and statutory right of appeal, inclusive of special leave to the supreme court for want of legal assistance, there is implicit in the court under article 21 and 39-A of the constitution, the power to assign counsel for such imprisoned individual for doing complete justice."

SUGGESTIONS

When all those in need and those with low incomes are aware of it and taking use of it as one of their basic rights, the purpose of legal assistance will have been accomplished. To close the gaps in the legal aid system, various modifications must be implemented.

AGENTS OF NGOS

increasing the role of non-governmental organizations in educating the people about their rights and guaranteeing efficient administration of justice.

PROGRAMS FOR LEGAL ASSISTANCE AND LEGAL AWARENESS

To educate the public about people's rights and free legal aid programs for the poor, there should be a massive organization of legal aid camps and Lok Adalats. the establishment of entitlement centers to inform residents of their legal rights and urge them to seek free legal aid by using Lok Adalats, alternative dispute resolution processes, and other channels to settle disagreements.

LEGISLATIVE READING MISSION

There are two-year or five-year programs in place in other industrialized nations to teach their populations about their legal rights. India may potentially launch a five-year education program to inform citizens of their legal and constitutional rights.

BETTER PAY FOR THE ATTORNEYS

Nowadays, finding a good lawyer to represent you might be difficult since they want payment and are not interested in giving you legal advice for free. As a consequence, the

¹⁴ M.H. HOSKOT V. STATE OF MAHARASHTRA, (1978) 3 SCC 544

compensation given to lawyers by the courts or the government should be enhanced for representing or defending the accused without charge.

Feedback strategy

The evaluation of the counsels' work should be done in accordance with the feedback approach, which comprises soliciting input from the general public prior to creating accurate progress reports for each advocate. All of this may be done simply setting up capable monitoring panels.

CONCLUSION

"Without equal access to the law, the system not only robs the poor of their only protection, it places the most potent and ruthless weapon ever invented in the hands of their oppressors," Reginald Heber Smith brilliantly said in his book "justice and the poor."

The government must make the required steps to increase public awareness and educate the populace about their basic rights in order to develop a sustainable legal aid movement in India. The provision of "fair justice to all" should be the only objective of the government. In order to fully execute the Legal Service Authority Act, it is necessary to address the main problem of public ignorance and lack of legal education. If people are knowledgeable and aware of their rights, they will utilize free legal aid services more successfully.

Legal assistance is not a philanthropic service; rather, it is a duty of the state and a right of the people. Legal assistance is meant to provide equitable access to court, guarantee that welfare payments are administered correctly, and end social and structural discrimination against the poor. The Legal Services Authorities Act of 1987, which provides a framework for the free administration of justice, furthers the same objective. The State's main goal ought to be to provide equal justice for all people in light of these ideals. As a result, legal assistance works to guarantee that the constitution's requirements are upheld in text and spirit and that those in society who are oppressed or weaker have equal access to justice.

When we believe that the goals we set are not being met, it is time to put up serious effort to accomplish them. Once the framework is finished, all that is left is the foundation. This right, which is now a fantasy, may become a reality if measures are made to ensure the effective use of legal assistance.

Due to their inefficient application, the vast majority of laws—despite the fact that there have

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been a huge number of laws as judgements and legislation—have turned out to be fictions. Instead of passing new legislation, it is urgently necessary to concentrate on the efficient and thorough execution of current laws in order to turn the country's legal aid system into a reality rather than a pipe dream.

BIBLIOGRAPHY

- Jagat Narain, LEGAL AID—litigational or educational: an indian experiment, Journal of the Indian Law Institute, Vol. 28, No. 1 (January-March 1986).
- Upendra Baxi, Legal Assistance to the Poor: A Critique of the Expert Committee Report, Economic and Political Weekly, Vol. 10, No. 27 (Jul. 5, 1975).
- G. O. Koppell, Legal Aid in India, Journal of the Indian Law Institute, Vol. 8, No. 2 (APRIL-JUNE 1966).
- Supriyo Routh, PROVIDING LEGAL AID: SOME UNTRIED MEANS, Journal of the Indian Law Institute, Vol. 50, No. 3 (JULY-SEPTEMBER 2008).
- Legal Aid in India by Arindam datta. Available at: <https://www.legalserviceindia.com/article/1206-Legal-Aid.html>
- Who are Entitled to Free Legal Services? Available at: <https://nalsa.gov.in/services/legal-aid/eligibility#:~:text=It%20states%20that%20those%20persons,eligible%20for%20free%20legal%20aid.>

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