
THE IMPERATIVE ROLE OF LEGAL AID SERVICES IN PRIORITISING EQUITABLE ACCESS TO JUSTICE FOR ALL

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ABSTRACT

The persons or individuals who are in a difficult situation or disadvantaged position could only get relief through the help of Legal Aid Services but also various other modes to unlock the legal treasury for them. This was absolutely imperative in nature to provide them with the amenities or instruments or elements through which or which might act as a bridge to touch the surface of the side where they could get the required equitable justice via Legal Aid Services of this country. This could act as a catalytic agent in the legal reaction and getting them proper justice by reducing the gap or distance between the both things. It does not discriminate people on any basis or goes biased but tries to sort out the problems of the people. The constitution of India has provided various kinds of provisions which provides for the means of getting equal access to justice. We should not be in a myth that Legal Aid services are only for the advantaged and over-privileged persons. Everyone irrespective of religion, race, caste, gender, language, rich or poor, etc should get the opportunity of getting a representation in the courtroom to get a swift and smooth justice. Those people should be exposed to proper equity, fairness in trial, quality representation and even getting the benefits of Article 14 of the constitution of India. This way we could build a strong society where underprivileged or marginalized people would also get the chance and break the boundaries and get proper access to justice without falling pray to any fraudsters and enable the us to uphold their legal rights also.

Introduction

There are many difficulties that people face and in different aspects but in the legal aspects it's the getting of equal and fair justice, and getting adequate representation in the courtroom proceedings. Legal remedies are something which should be always available for every aggrieved persons and must even be free of cost. Legal rights are not only to be given but also to be protected and enforced in a court of law. The gap can only be bridged if those people get the opportunity to reach the area where they could get equal and fair justice. This is one of the demands which people make to the government and society.

Access to justice and related provisions

Article 39-A deals with the provision for equal justice and free legal aid. In this provision, it has been provided that the state shall secure that the operation of legal system must be such that it promotes justice, on the basis of equal opportunity and must also provide free legal aid, through implementation of the suitable legislation or any scheme by the government of India. This article has been incorporated by the constitution makers at the time of making the constitution of our country. It is also to ensure that opportunities for securing justice are not denied to any citizen by reason of any economic or other disabilities. The term "other disabilities" could also include physical disabilities also for the person who seek to get the fair trials.

The government must pass such types of legislation which would promote equal and fair opportunity of getting a representation. The government must also try to implement those schemes which could be able to give the legal remedies for the individual or aggrieved person. It would be very good for both the government and the common people, if they could establish a network of legal aid services and promote the idea of access to justice through mutual cooperation between them. The evolution of the interpretation of the Article 21 of the Constitution of India which deals with protection of life and liberty has a close nexus with the shifting process of DPSP or the Directive Principles of State Policy towards the (Part 3) Fundamental Rights which has been incorporated by the constitution makers at the time of making the constitution. It is not only the sole duty of central government to implement this one but also the duty of the state government to ensure the free legal aid campaigns and legal aid centres, for the betterment of the people and the society. The legal representation which would be provided to the party must be competent enough and should be proper, as it's going to be very essential for him. It not only increases the chance of getting a reasonable solution

but also enhances the judicial outcomes or getting a suitable judgment. The DPSP provides for the rules and guidelines which is to be followed by the state.¹

At the international forum

There are various treaties in the international arena where the right to get legal aid services are also found, which means that it is not only limited to the territory or boundary of our country because it could not be limited by territorial limitation. It could also go international since it is required by everyone irrespective of country. Legal aid is also provided by the United Nations as *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice System* which has been adopted by the General assembly in 2012. *The United Nations Development Programme* and *The United Nations Office on Drugs and Crime*, both of these provide legal aid globally to ensure that people are properly represented at stages of the proceedings whether civil or criminal. Therefore, it is clear and transparent that in any case legal aid services have acted as a way of bridging the gap between the two things (aggrieved person and fair trial). Article 7 and Article 8 of the *Universal Declaration of Human Rights, 1948* has also provided for the legal aid and described or shown it as a human right. Article 6 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms* has also provided for the importance of legal aid for the poor or marginalized communities.²

The judiciary has made it clear that if any person is not getting any affordable legal representation and not in a position to do so, then they can go for free legal aid. It is imperative to provide legal remedies to the aggrieved person so that they could get proper access to justice. New technology has been introduced and new means are now available like the e-LokAdalats, which could be taken up by the aggrieved persons to get representation. Without any access to justice there will be exploitation, people will be rendered unheard, enforce their legal rights, challenge decisions, etc. Assume there is building where the base or foundation is the legal aid and its pillars are made up of equity and fairness. It has the objective that a person should be able to get representation and access to justice regardless of financial situation or economic situation. Section 304 of the Code of Criminal Procedure, 1973 (CrPC) or Section 304 of *The Bharatiya Nyaya Suraksha Sanhita, 2023 (BNSS)* provides that the legal aid to be provided to

¹ G. N. V. S. S. PADMA AASHRITHA, Right to Legal Aid : a fundamental right and DPSP, Legal Service India, (5th December, 2024) <https://www.legalserviceindia.com/legal/article-14072-right-to-legal-aid-a-fundamental-right-and-dpsp.html>

² United Nations Office on Drugs and Crime, <https://www.unodc.org/unodc/es/justice-and-prison-reform/legal-aid.html> (5th December, 2024)

accused at the expenses of State and get an advocate for representation in the trial, to ensure proper legal remedies and equal access to justice.

Importance of Legal Rights

Legal right is very important and essential for the upliftment of dignity of an individual and without which no person could live in society with dignity. It is provided by the *Law of the land*, the constitution of India which contains various provision for the betterment of various underprivileged communities also and contains part 3 Fundamental rights which are enforceable in the court of law. Article 21 also covers various fundamental rights and provides the citizen with personal liberty and dignity, six freedoms are also provided by Article 19 of the constitution of India for the enjoyment by its citizens. The government must always try to protect those rights by implementing the *Directive Principles of State Policy* enshrined in the Part 4 from Article 36 to Article 51 and to promote equal justice to all by establishing legal aid centres. It to to be done for the upliftment of the backward class and marginalized communities of the society. Therefore, legal rights are not only to be given but also to be protected and provided with fair justice for them.³

Impact of Legal Aid services

Legal services authorities act, 1987 was enacted to provide that section of people or marginalized communities for adequate representation and to ensure that no person is denied justice because of economic situation and was implemented throughout the territory of India. It has also provided for the mandatory *Pro Bono* services by the advocates for their adequate representation in the courtroom proceedings. There are also many case laws where it was proved that judiciary has also similarly tried to make an impact on the free legal aid services for equal access to justice in society. It includes *Hussainara khatoon v. Home secretary, State of Bihar* and *khatri v. State of Bihar*. The Pandemic has also made an impact regarding this during the lockdown period where NALSA (National Legal Services Authority) has played a vital role for providing free legal aid to the needy people so that they can get equal access to justice. Poverty has been prevailing in India and India is not a developed country which is the reason that there are many sections of people out there who do not receive adequate legal

³ Richa Goel, Concepts of rights and duties under jurisprudence, Ipleaders Blog, (5th Dec, 2024 11:00A. M), <https://blog.ipleaders.in/concept-of-rights-and-duties-under-jurisprudence/>

remedies to enforce their legal rights.

The lockdown period was compromised of several difficulties but these hurdles were proved nothing in front of determination of the people in giving equal access to justice for the people. Reginald Heber Smith has also mentioned in his book '*Justice and the poor*' that if anyone is denied justice and not given legal aid it would be detrimental to the society, it is very much required by the poor people to protect them from the exploitation by the oppressors and to increase their standard of living in the economic point of view. Now, the fair trial and justice has turned in benefit or privilege by the implementation of the state's policy of providing equal Access to justice, free legal aid and proper representation in the courtroom proceedings. Therefore, there has been significant impact on the lives of the people due to the implementation of the legal aid services and even providing them free of cost so that they are affordable to the marginalized communities also. The Preamble which is the key to the constitution has also provided for the social, economic and political benefit to the people from which the social justice has given the poor people required opportunity to get fair trials and justice.⁴

Conclusion

Equal access to justice can be done by enacting various legislation from the legislature and properly implementing them. It is the duty of the government to be abide by the objectives of those legislation and to see that those provisions are not only written on paper but must be properly implemented with the effort of people. All those points discussed above are for the sole benefit and advantage of the socially and economically poor or marginalized people including aggrieved persons for their representation in the courtroom proceedings, to ensure fair trial and get them the opportunity to represent them and complete the gap between them and the equal justice for all.

⁴ Akarshita Singh, Legal aid in India : current scenario and future challenges, Manupatra, (5th December, 2024), <https://articles.manupatra.com/article-details/Legal-Aid-in-India-current-scenario-and-future-challenges>