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## ENSURING EGALITARIAN JUSTICE: THE UNIFIED FRAMEWORK OF LEGAL AID IN INDIA

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### ABSTRACT

Legal-aid is an arrangement of free legal services for those who are poor or else needy and cannot afford the services or for those who cannot approach the court. As India is a democratic country, based on the Rule of Law, where safeguarding human rights and assuring the dignity of the individual is the responsibility of the State. The provisions contained in Part III and Part IV of the Indian Constitution amply reflect the concern of the State for the development of the individual and welfare of the society.

The Indian Constitution imposes an obligation on the State under Article 39A to provide free access to the legal services. The services should be without any discrimination on account of economic or other disabilities, by suitable legislation or schemes or in any other way, to make sure that opportunities for securing justice are not denied to any citizen.

To grant a statutory basis to legal services in India, the Parliament enacted legislation in the year 1987, to be referred to as the Legal Services Authorities Act, 1987. The Act provides for the setting up of statutory legal services authorities at the National, State, and District levels to provide effective monitoring of legal aid programmes and the rules that framed for them by the Central and State Governments respectively. The Act also provides provisions for Lok Adalat to ensure that the activism of the legal system promotes justice based on equal opportunity.

This paper focuses on the efforts of the Government to provide free legal aid and services to the needy citizens of India without any kind of discrimination and suggests a way that how it can more easily be reached to the needy.

**Keywords:** Legal Aid, Legal Service Authorities, Lok Adalat, Constitution of India, Central Government, State Government.

## 1. Introduction:

The roots of legal aid to the destitute may be traced to the Latin Maxim '*audi alteram partem*', which means "*hear the other side*," which is a well-settled principle of natural justice. Even in the prehistoric era, when there were no written laws or courts, the headman would listen to both sides before passing judgment. In modern societies, this principle of natural justice forms the varied basis of the rule of law to make the latter a living reality.

As India is a democratic country based on the Rule of Law, safeguarding human rights, and ensuring the dignity of the individual are the responsibility of the state. The provisions contained in Part III and Part IV of the Indian Constitution amply reflect the concern of the state for the development of the individual and the welfare of society. As a result, there was a serious concern in the whole nation including among administrators, legislators and also executives about the denial of access justice by the indigent people who can't afford or approach the rightful place. Recognizing this growing concern, the Government of India, through the Ministry of Law, Justice and Company Affairs, referred the matter to the Law Commission of India for an in-depth examination. Consequently, the Law Commission, under the Chairmanship of Justice P. B. Gajendragadkar, took up the issue and submitted its *14th Report in 1958* titled "*Reform of Judicial Administration*." The Commission emphasized that legal aid is not a matter of charity but a constitutional obligation of the State, flowing directly from the Directive Principles of State Policy, particularly Article 39A, which later came to be inserted by the *42nd Constitutional Amendment, 1976*, to make free legal aid a constitutional mandate.

This initiative marked the formal beginning of institutional concern in India for providing free and competent legal services to the poor and disadvantaged sections of society, ensuring that justice is accessible to all, irrespective of economic status.<sup>1</sup>

## 2. Meaning and Concept of Legal Aid and Legal Services:

Legal services or aid is the term for free legal aid given by the state to underprivileged citizens so they can exercise their legal rights in any court or tribunal. Legal services are such arrangements in society that the machinery of the administration of justice becomes

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<sup>1</sup> Dr. N. V. Paranjape, "*Public Interest Litigation, Legal Aid & Services, Lok-Adalats & Para-Legal Services*" (1<sup>st</sup> Edition, Central Law Agency 2006).

easily accessible for the poor and needy who cannot afford the services or for those who cannot approach the court. The object of legal aid is to ensure that the opportunities for securing justice are not denied to any person because of poverty, illiteracy, etc.<sup>2</sup>

Some of the jurists considered legal service as legal assistance to the needy. According to Pollock<sup>3</sup> *“Legal Aid is an instrument by which the poor can impose his right.”* Justice Aiyer<sup>4</sup> rightly said that *“legal service is not a charity to the poor but is a paramount duty of the State.”* In Criminal cases, legal services are a fundamental right of an accused<sup>5</sup>.

But, Section 2(1) (c) of the Legal Service Act, 1987<sup>6</sup>, defines the legal service as follows: -

*“Legal service” includes the furnishing of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and to advising on any legal matter.”*

On analysis of this definition, we will find that there are three basic things in the definition, which are the following<sup>7</sup>: -

- (a) Legal services are furnished in conducting legal proceedings
- (b) Legal proceedings may be furnished before any court, tribunals, or any other authority.
- (c) Legal service includes legal advice also.

### 3. Kinds of Legal Services:

Legal service means all essential services in the field of law that are provided to those who are entitled to get them under the Act, and that includes pre-litigation legal services as well as post-litigation legal services.

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<sup>2</sup> Dr. S.R. Myneni, *“Public Interest Lawyering, Legal Aid and Para Legal Services”* (2<sup>nd</sup> Edition, Asia Law House 2007).

<sup>3</sup> Pollock, *The English Legal Aid System* (Oriental Longman Ltd., New Delhi 1974) 1.

<sup>4</sup> *M.M Hoskot vs. State of Maharastra*, AIR 1978 SC 1548.

<sup>5</sup> *Sukhdas vs. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991.

<sup>6</sup> It was enforced on November 9, 1996 with some amendments made by the Legal Services Authorities (Amendment) Act, 1994.

<sup>7</sup> Dr. S.S. Sharma, *“Legal Services, Public Interest Litigations & Para- Legal Services”* (2<sup>nd</sup> Edition, Central Law Agency 2006).

Therefore, Legal Services are of two types i.e., pre-litigation legal services, and post-litigation legal services.

### ***3.1.Pre-Litigation Legal Service:***

Pre-litigation legal services is a formal process involving several steps before litigation. It provides an easier way to settle disputes at the convenience to the parties. Pre-litigation services include legal education, legal advice, legal awareness, pre-litigation settlement, etc. To render pre-litigation services, the voluntary organizations have been encouraged and boosted by financial support from the state. Legal aid clinics have been established in law colleges and law faculties in universities. The clinics have done commendable work in creating legal awareness among the rural masses of society. Through legal advice, the parties are being saved from unnecessary hurdles and difficulties arising from litigation<sup>8</sup>.

In pre-litigation services, there will be a minimum financial burden on the state. Once litigation is started, minimum procedures are required to be followed, and it is not in the hands of the judge to dispose of the case at his whims. Therefore, priority is given to the pre-litigation legal service programmes that will help decrease the arrears of cases in court. Due to this reason, Lok Adalats have become very popular these days<sup>9</sup>.

### ***3.2.Post- Litigation Legal Services:***

Post-litigation services are to provide free legal services to poor and socially backward people. Conventionally, legal aid has been provided at the post-litigation stage, this means that post-litigation legal services are those kinds of services that are being provided only when the person has already filed the case before the proper forum. Post-litigation services include the appointment of a lawyer for the indigent, reimbursement of the processing fee, witnesses' expenditures, court fees, etc. by the state. Post-litigation legal services are only available to those who qualify. The eligibility criteria have been laid down in the Legal Service Authority Act and other rules and regulations made under it. They keep a panel of lawyers who are interested in rendering their

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

services to the needy <sup>10</sup>.

#### **4. Need For Free Legal Aid in India:**

Though destitute and illiterate, India is a democratic country. People's knowledge of their legal and constitutional rights is significantly low. Even if they do learn about their rights, their lack of knowledge and financial means makes it impossible for them to access the judicial system for justice. Our legal system is unorganized, diffused, and scattered. There is a huge gap between the written words in the Constitution and their applications. The idea of access and availability of the legal system, equal opportunities, the rule of law, and a fair trial as guaranteed in our constitution and other constitutional provisions are almost hypothetical. The reason is that the powerful inmates are opulent and can easily appoint an expert lawyer and can enjoy all kinds of legal support and priority in getting bail, whereas the poor and contactless people are unable to arrange the same.

So, it is necessary to provide impoverished illiterate people with legal information and legal education on their basic rights, which should start at the grassroots level of the country. As a result, it became imperative that every citizen should have effective access to justice through the provision of free and competent legal services. According to former Chief Justice of India PN Bhagwati, legal aid is an instrument that can establish arrangements in society so that the machinery of administration of justice becomes freely available and is not out of reach of those who need to use it to enforce their rights.

#### **5. Pre-Statutory Roots: The Historical Trajectory of Legal Assistance in India**

In the year of 1949, by taking inspiration from the Rushcliffe Committee Report of England, the Bombay Government set up a committee known as the “Bombay Committee” on legal aid and advice, under the chairmanship of Mr. Justice Natwarlal. H. Bhagwati, the then Judge of the High Court. The committee took cognizance of the issues of existing poverty and took measures to provide legal aid to the needy. The committee also proposed that the state is duty-bound and under obligation to take care of the welfare of the individual in his jurisdiction. In the year of 1950, the Government of West Bengal set up a committee known as the “Bengal Committee” to discuss various ways to implement legal

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<sup>10</sup> Ibid.

aid.

Because legal Aid is one of the subjects of the state list under Schedule VII of the Indian Constitution, the Central Government directed state governments to legislate for its implementation between 1952 and 1956, but the state governments did not have sufficient funds to do so.

Then in the year of 1958, the matter was recognized, and the 14<sup>th</sup> Law Commission Report<sup>11</sup>, headed by Mr. MC Setalvad, suggested legal aid and said that not only States owed a duty to provide free legal aid to persons of limited means, but also the members of the legal fraternity were bound for the same, and there should be access to justice. Similarly, the International Commission by Jurists Committee on Judicial and Legal Profession under the Rule of Law stated in 1959 that under the rule of law, the state bears the responsibility of providing free legal aid to limited persons such as women, children, poor people, and so on.

Therefore, the necessity for implementing the legal aid scheme was taken up for consideration in the Third All India Lawyers Conference held in 1962, and it was suggested that the responsibility for implementing the legal aid scheme should be shared by both the state government and the central government, and they should allocate the requisite funds for this purpose.

Furthermore, an Expert Committee chaired by Krishna Iyer stated in 1973 that legal aid is not a matter of charity but an essential tenet of the legal system. As a result, in 1976 Article 39A of the Indian Constitution<sup>12</sup> was enacted wherein the state was under the obligation to provide legal aid to the weaker sections of the society based on equality through appropriate legislation or schemes, or in any other way for securing justice<sup>13</sup>. Article 14 and Article 22(1) of the Indian Constitution impose an obligation upon the State to ensure equality before the law and to establish a legal system that promotes justice based on equal opportunity for all citizens. In furtherance of this constitutional mandate, a national-level committee known as the Committee for Implementing Legal Aid Schemes (CILAS) was

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<sup>11</sup> This Report was related to Reform of Judicial Administration in India and was submitted in two volumes consisting of 1282 pages.

<sup>12</sup> Article 39A inserted by the Constitution 42<sup>nd</sup> (Amendment) Act, 1976. This came into force w.e.f. January 3, 1977.

<sup>13</sup> The Constitution 42<sup>nd</sup> (Amendment) Act, 1976.

constituted in 1980 under the Chairmanship of Hon'ble Mr. Justice P. N. Bhagwati. The primary objective of CILAS was to supervise, coordinate, and monitor legal aid programmes across the country, thereby ensuring that the benefits of justice reached the underprivileged and marginalized sections of society.

Subsequently, in 1987, the Legal Services Authorities Act was enacted to provide a statutory framework for the uniform implementation of legal aid throughout India. The Act envisaged the establishment of statutory legal services authorities at the national, state, and district levels to organize and provide free and competent legal services to the weaker sections of society, as well as to ensure the effective and systematic functioning of legal aid programmes across the nation.

## **6. International Law and Jurisprudence: Global Recognition of the Right to Counsel**

Free legal services are covered by international law, which is reflected in the 1996 International Covenant on Civil and Political Rights (ICCPR) 1966.

By the covenant, everyone has the rights, which are outlined in Article 14(3)(d) guarantees:

*“To be tried in his presence, and to defend himself in person or through legal assistance of his choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it”<sup>14</sup>.*

India became bound to provide free legal services as part of its international obligations after ratifying the International Covenant on Civil and Political Rights (ICCPR) in 1976. Following this ratification, the obligation to ensure access to justice and fair legal representation acquired both domestic and international significance. The Supreme Court of India has consistently adopted an approach of harmonious construction, whereby international legal obligations are read into the domestic legal framework, provided there is no inconsistency between the two. The Court has also recognised that, where possible, Indian law should be interpreted in a manner consistent with the principles of international

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<sup>14</sup> *International Covenant on Civil and Political Rights (ICCPR) 1966.*

law, thereby treating such obligations as an integral part of the law of the land<sup>15</sup>.

A couple of international treaties Like the International Covenant on Economic Social and Cultural Rights (ICESCR), Convention on Elimination of Discrimination Against Women (CEDAW), and International Convention on Elimination of All Forms of Racial Discrimination may be interpreted as explicitly referring to the need for legal services while aiming at effective legal remedy and access to justice.<sup>16</sup>

Several declarations and principles adopted by the United Nations underscore the significance of effective legal remedies, of which free legal services constitute an essential component. For instance, Article 8 of the Universal Declaration of Human Rights (1948) explicitly states:

*“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law.”*

This provision affirms the international recognition of access to justice as a fundamental human right and highlights the responsibility of States to ensure that individuals are not deprived of legal redress due to economic or social constraints.<sup>17</sup>

## **7. Constitutional Foundation and Judicial Expansion of the Right to Legal Aid (Articles 39A and 21)**

The primary objective of any State is to safeguard human rights and ensure the dignity of the individual. It is the responsibility of the State to guarantee that every person enjoys an equal opportunity to be heard and to seek justice. Likewise, the legal system of a democratic nation must preserve peace, uphold social harmony, and ensure the fair administration of justice. The concept of justice embodies what is *fair, reasonable, and just*.<sup>18</sup> The supremacy of law forms the cornerstone of any democracy, as it enables individuals to seek redress for wrongs committed against them. However, in India, access to justice remains a challenge for many, as a significant section of the population cannot

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<sup>15</sup> Raman Mittal & K. V. Sreemithun, “Legal Aid – Catalyst for Social Change”, (Satyam Law International, ISBN: 978-81-921204-2-3).

<sup>16</sup> *Ibid.*

<sup>17</sup> Universal Declaration of Human Rights 1948.

<sup>18</sup> Andrew Higgins, *Legal Aid and Access to Justice in England and India*, National Law School of India Review.



afford to engage legal representation.

The provisions enshrined in Part III and Part IV of the Indian Constitution, together with its Preamble, reflect the State's deep concern for the development of the individual and the welfare of society. The Preamble aims to secure *social, economic, and political justice* for all citizens. In this regard, Article 38(1) places an obligation upon the State to promote a social order that ensures justice and the well-being of the people. Article 21 guarantees that no person shall be deprived of life or personal liberty except according to the procedure established by law. To further the cause of equitable justice, Article 39A<sup>19</sup> was inserted by the 42nd Constitutional Amendment, 1976, making it the duty of the State to provide free legal aid to the weaker sections of society, by suitable legislation or schemes, so that justice is not denied to any citizen due to economic or other disabilities<sup>20</sup>.

Similarly, Articles 14 and 22(1) make it obligatory for the State to ensure equality before the law and to establish a legal system that promotes justice based on equal opportunity for all. Article 39A thus imposes a constitutional duty upon the State to guarantee free access to legal processes without discrimination on grounds of economic or social disadvantage, thereby securing justice for every citizen.

In the landmark judgment of *Hussainara Khattun*<sup>21</sup>, the Hon'ble Supreme Court held that when an accused person is too poor to afford legal representation, it is the responsibility of the State to provide free legal aid. The Court further observed that Article 39A makes free legal services an inalienable element of a fair, reasonable, and just procedure, and that the right to free legal aid is implicit in Article 21.

In *Khatrri Singh Vs. State of Bihar*,<sup>22</sup> the Court reiterated that it is the duty of the State to provide legal assistance to the poor and needy who cannot afford legal representation. The Court emphasized that such rights cannot be denied due to administrative or financial constraints, and that legal aid must be made available to the accused from the very commencement of the trial.

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<sup>19</sup> Constitution 42<sup>nd</sup> (Amendment) Act, 1976 (n 12).

<sup>20</sup> The Constitution 42<sup>nd</sup> (Amendment) Act, 1976.

<sup>21</sup> *Hussainara Khattun & Ors. Vs. Home Secretary, State of Bihar* (1980) 1 SCC 98.

<sup>22</sup> *Khatrri Vs. State of Bihar*, AIR 1981 SC 262.

In *Suk Das Vs. Union Territory of Arunachal Pradesh*,<sup>23</sup> Justice P. N. Bhagwati stressed the importance of legal awareness and legal education for the poor and marginalized sections of society. He observed that ignorance of the law often prevents individuals—both educated and uneducated—from realizing or asserting the rights and entitlements conferred upon them by the legal system.

Articles 21 and 39-A of the Indian Constitution Recognize legal aid as a constitutional right. Supreme Court stated in *Chandra Bhavan Boarding and Lodging, Bangalore and others Vs. State of Mysore*,<sup>24</sup> that Part IV is directive but fundamental for national administration and Part III is essential. The two components are complementary and supplemental to one another, therefore, there is no essential difference between either as such, providing those who are impoverished access to free legal representation has become essential to the administration of justice.

#### **8. Operationalizing Article 39A: The Statutory Mandate of the Legal Services Authorities Act, 1987**

The concept of free legal aid and the promotion of equal justice for all was first advocated by Justice P. N. Bhagwati, and this vision was later incorporated into the Indian Constitution through the 42nd Amendment Act of 1976, which introduced Article 39A. This provision, read in conjunction with Article 21, elevated the right to legal aid to the status of a constitutional guarantee. However, despite its constitutional recognition, the scope and significance of legal aid were not extensively discussed or implemented in practice during the initial years following its incorporation.

To grant a statutory basis to legal services in India, the Parliament enacted legislation in the year 1987, to be referred to as the Legal Services Authorities Act 1987, but it came into force on November 9, 1995. The Act is a nationwide uniform network for providing free and competent services to the weaker sections of society based on equal opportunity and is not denied to any person because of economic or other disabilities. The Act provides for the setting up of statutory legal services authorities at national, state, district, and taluk levels to provide effective monitoring of legal aid programs, and the Central and State

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<sup>23</sup> AIR 1986 SC 991.

<sup>24</sup> AIR 1970 SC 2042.

Governments have framed rules for National and State Authorities, respectively. These authorities have also been stabilized at the level of the Supreme Court and High Court.

This Act discussed the definition of “*legal services*” under section 2(c)<sup>25</sup> as “*rendering services in the conduct or proceeding or advice on a case before any court or tribunal or other authority*”.

Section 12 of the Act<sup>26</sup> states the criteria for eligibility to access free legal services as follows:

*“Every person who has to file or defend a case shall be entitled to legal services under this act if that person is-*

- (a) a member of the Schedule Cast or Schedule Tribes;*
- (b) a victim of trafficking in human beings or beggars;<sup>27</sup>*
- (c) a woman or a child;*
- (d) a person with disabilities<sup>28</sup>;*
- (e) a person under circumstances of underserved wants 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<sup>29</sup>;*
- (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*

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<sup>25</sup> Under Chapter IV of the Legal Service Authorities Act, 1987.

<sup>26</sup> Ibid.

<sup>27</sup> as referred to in Article 23 of the Indian Constitution.

<sup>28</sup> A person with a 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).

<sup>29</sup> including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a Juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 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.

*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.”*

Similarly, Section 13 of the Legal Services Authorities Act, 1987 stipulates that any person who fulfils one or more of the criteria specified under Section 12 shall be entitled to receive free legal services from the competent authorities.

The National Legal Services Authority (NALSA) was constituted under the Act with the primary objective of providing free and competent legal services to the weaker sections of society and of organizing Lok Adalats to facilitate the amicable settlement of disputes. NALSA is a statutory body established by the Central Government, with the Chief Justice of India serving as its Patron-in-Chief, and a serving or retired Judge of the Supreme Court appointed as its Executive Chairman. Both are nominated by the President of India in consultation with the Chief Justice of India.

Notably, the composition of NALSA also permits the inclusion of individuals from non-legal and social backgrounds, thereby recognizing the importance of diverse perspectives in the delivery of justice. This inclusive approach ensures that, particularly in matters involving mediation and conciliation, individuals with social experience and community understanding can contribute effectively to achieving fair and amicable resolutions.<sup>30</sup>

NALSA is responsible for monitoring and evaluating the implementation of legal programs, as well as establishing policies, principles, guidelines, and effective and co-effective economic schemes for the State Legal Service Authorities to provide Legal Aid Services under the Act. NALSA focuses on establishing legal service clinics in law institutions, universities, etc., as well as legal aid camps mostly in rural areas and labour colonies.

Supreme Court Legal Service Committee has been constituted under the National Legal Service Authority to administer and implement the legal service programme insofar as it relates to the Supreme Court of India.

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<sup>30</sup><https://www.bbau.ac.in/dept/HR/TM/LL.M.203%20Unit%204.Legal%20Aid.%20LESA%201987.ePathshala.pdf>.

The State Legal Service Authority is constituted in every state to give effect to the policies under the directions of the Central Authority to provide legal services to the people and to conduct Lok Adalats. The chief justice of the high court serves as patron-in- chief and a retired or serving judge of the high court serves as its executive chairman. The committee formed by the state authority is called as “High Court Legal Service Committee.”

Similarly, the District Legal Service Authority is constituted in every district to implement legal aid programs and schemes in the district and a Taluk Legal Service Committee is also constituted to coordinate the activities of legal services in the Taluk and to organise Lok Adalats.

Under this Act free legal services include payment of court fees, processing fees, and all other charges payable or incurred in connection with any legal proceedings; providing the service of lawyers in legal proceedings; obtaining and supplying certified copies of orders and other documents in legal proceedings; preparing an appeal, paper book including printing and translating documents in legal proceedings <sup>31</sup>.

The Act also provides provisions for Lok Adalat to ensure that the operation of the legal system promotes justice based on equal opportunity. Lok Adalats are being organised by the Legal Service Authorities and Committees for the settlement of cases pending before courts under Section-19 of the Legal Service Authorities Act, 1987, and for matters at the pre-litigation stage under the guidance of NALSA.

## **9. Statutory Mechanisms: Bridging the Divide in Civil and Criminal Procedure**

The expansive constitutional principle finds its procedural implementation across the major codes governing civil and criminal litigation.

- ***Civil Procedure: Bridging the Financial Divide (CPC):***

The principle of access to justice, a cornerstone of any democratic society, necessitates legal mechanisms that dismantle financial barriers to litigation. While the Indian Constitution enshrines the right to free legal aid in criminal matters, the civil procedural framework specifically addresses economic disparity through Order 33 of the Code of

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<sup>31</sup> <https://doj.gov.in/access-to-justice-for-the-marginalized/>

Civil Procedure, 1908. This provision allows an indigent person—defined as one lacking sufficient means to pay the required court fee—to institute a suit *in forma pauperis* (in the manner of a poor person). The rules mandate a thorough judicial inquiry into the applicant's financial status and assets, serving as a critical safeguard against misuse. Crucially, the relief granted is not an absolute exemption but a deferral of court fees; should the indigent plaintiff succeed or cease to be indigent during the proceedings, the unpaid fees become a first charge on the suit's subject matter, recoverable by the State. Thus, Order 33 acts as a crucial procedural valve, ensuring that financial vulnerability does not translate into judicial exclusion in civil disputes.<sup>32</sup>.

- ***Criminal Procedure: The Constitutional Imperative (CrPC):***

The right to legal aid is enforced with even greater stringency in the criminal domain, where it is recognized as integral to the fundamental right to life and personal liberty guaranteed under Article 21. The now-repealed Section 304(1) of the Criminal Procedure Code, 1973 (CrPC), was the statutory lynchpin for this guarantee

Section 304(1) Criminal Procedure Code, 1973, provides:

*In a trial before the Court of Session, if the accused has no sufficient means to engage a pleader, the Court should assign a pleader for his defense at the expense of the State.*

The above section further empowers the State Government to extend the application of the provision about any class or trial before other Courts in the State.

- ***The Successor Framework: Continuity in BNSS:***

The non-negotiable duty is seamlessly transitioned into the new procedural framework under Section 341 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The BNSS provision retains the essential safeguard, explicitly applying the mandate for state-funded legal representation to an indigent accused in both trials and appeals, collectively ensuring that whether a citizen faces civil litigation or criminal prosecution, the lack of financial resources does not result in the denial of a fair

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<sup>32</sup> Raman Mittal & K. V. Sreemithun (n 15).

opportunity within the Indian judicial system.

## 10. Conclusion And Suggestions:

The major hurdles to the legal aid movement in India are the ignorance of the law and a lack of awareness related to the legal system, their legal rights, and their legal procedure to solve disputes. A vast Majority of the population is also not aware of their basic rights. This kills the legal system of the country, and the citizens lose faith in the administration of the law of the country.

Therefore, the Indian Constitution has put in place a legal system that protects the rights of everyone and makes sure that the state maintains law and order so that citizens can enjoy peace and security. Legal-aid is regarded as critical to providing access to justice by ensuring equality before the law, the right to counsel, and the right to a fair trial following the 42nd Constitutional Amendment Act with the insertion of Article 39A and the enactment of the Legal Service Authorities Act in 1987. Justice Iyer has devoted tremendous contributions towards the development and incorporation of the concept of legal aid in the Indian legal system. It can be said that the Legal Service Authorities Act 1987, is a golden gift for the general people as on the one hand it provides free legal aid to the needy and promotes speedy disposal of disputes on the other hand, it also helps the judiciary by reducing its workload.

Even after all the efforts of statute and the government to make the concept legally flourish in our country, the goal has not yet been fully achieved. The role of the lawyer is one of the most obvious social deficiencies that emerge in the current scenario. A good lawyer is desperately needed, but they are not always available.<sup>33</sup> Another big issue is that the administration of Justice is adversely affected by the delay, corruption, and expensive litigation. The introduction of Lok Adalat is without a doubt a welcome step in the Justice delivery system, and it serves as a supplementary platform by allowing sincere parties to settle their disputes through conciliation, but it must be updated to reflect changing societies.

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<sup>33</sup> Ranjeeta Kashyap, Research Scholar, "The Dispensation of Legal Aid Services in India Study: A study with Special Reference to Shimla City." <http://shodh.inflibnet.ac.in:8080/jspui/handle/123456789/8395>