



BRIDGING BARRIERS: THE TRANSFORMATIVE ROLE OF LEGAL AID IN ENSURING JUSTICE FOR ALL

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ABSTRACT

Legal aid is the cornerstone of an equitable justice system, ensuring that individuals with limited resources get access to legal support and advice. It also serves as an essential tool for upholding the rule of law and fostering the public's trust in a judicial system. Through empowering vulnerable populations to exercise their legal rights, legal aid mitigates power imbalances, strengthens democracy and fosters social cohesion, thereby playing an important role in creating a more just and inclusive society. The central theme of this article revolves around the vital role that legal aid plays in addressing barriers to justice. It explores relevant laws that help in governing legal aid delving into challenges faced by individuals while accessing justice and highlighting how certain innovative solutions, such as digital legal aid platforms and community-based legal services, which have been implemented globally have helped the access to justice and also improved efficiency. It highlights the need for a stronger legal aid system in India, as it can help protect human rights, promote social stability, and aid in the preservation of democratic principles.

Keywords: Legal Aid, Justice, Human Rights, Law.

INTRODUCTION

Legal Aid refers to free distribution or affordable legal help to people from disadvantaged sections of society, who may not have the means to take recourse to legal measures. Thereby, it ensures that everyone, and especially those from poor and disadvantaged backgrounds, has a fair chance to understand and protect their rights in the justice system. Legal aid includes services in both civil and criminal matters, enabling individuals to navigate legal processes,

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protect their rights, and seek remedies under the law. Globally, an estimated 5 billion people, which amounts to nearly two-thirds of the world's population are lacking in access to legal aid, according to the World Justice Project report. This staggering statistic highlights the issue of disparity in the ability to access justice, particularly among marginalized and low-income communities. In *Hussainara Khatoon v. State of Bihar*,¹ the apex court highlighted the horrifying reality of undertrial prisoners stuck in jail due to the lack of awareness about free legal aid. The judgment stated that access to legal aid is not charity but a constitutional right, and thereby essential for ensuring justice under **Article 21 of the Indian Constitution**.² Justice P.N. Bhagwati emphasized that poor and illiterate individuals should have the ability to access the courts for justice, despite their poverty, which often acts as an obstacle in obtaining justice. This justice gap, between those who can access legal resources and those who cannot, is not a problem specific to India, but a global concern. Factors such as poverty, illiteracy, and systemic discrimination worsen this gap, leaving a population without recourse to justice. In such a scenario, legal aid emerges as a transformative solution, helping to reduce this division by providing equitable access to the legal system. This article explores the historical development of legal aid, its importance, and the obstacles it encounters. It also showcases success stories, creative strategies, and practical suggestions to enhance legal aid systems. We also examine how legal aid serves not merely as a service but as a crucial pathway to universal justice.

HISTORICAL BACKGROUND

Historically, legal aid has evolved as a means to ensure that everyone has access to legal help, especially those who cannot afford it. In Europe, access to legal services was restricted to the wealthy or those with higher social status in the earlier times. During the medieval period, legal representation was possible after getting patronage from wealthy individuals or religious institutions. With the gradual progression of new thoughts in the Renaissance period, ideas of justice too began to get formalized with the rise of common law, particularly in England. The modern idea of legal aid emerged in the 19th century during industrialization and urbanization. New York in the United States of America, founded in 1876 became the first city that initially offered services to immigrants. The following 20th century witnessed a formalization of the

¹ *Hussainara Khatoon & Ors. v. Home Sec'y, State of Bihar*, (1979) AIR 1369 (SC)

² Constitution of India, Art. 21; see *Khatri v. State of Bihar*, (1981) 1 S.C.C.

legal aid system, especially after two world wars. The Legal Services Corporation was created in 1974.³

In India, legal aid has its roots in ancient systems like the *Dharmashastras*.⁴ The Manu Smriti is one of the key texts within the dharmashastras tradition which emphasizes the importance of fairness in the legal system. The Arthashastra, written by Kautilya, also talks about the role that a government must play in ensuring that justice is fair to everyone, with the state playing an important role in protecting people's rights. Therefore, these early principles form the philosophical underpinnings of modern legal aid systems.

THE IMPORTANCE OF LEGAL AID

According to the reports of the **United Nations Development Programme (UNDP)**, globally there are nearly 1.4 billion people who are unable to get the fair legal help they need to protect their rights effectively.⁴ These individuals cannot even afford the costs of legal representation or court fees. According to a report by *Daksh, a Bengaluru-based civil society organization*, nearly 82% of people have no help but they have to represent themselves in court⁵. This often happens because they cannot afford a lawyer, owing to the costs involved. The stress of standing alone in a courtroom, navigating complex laws without guidance, all because justice is too expensive for many is a difficult scenario, but is the harsh reality and highlights how financial struggles keep so many people away from getting justice. According to data by the *National Judicial Data Grid (NJDG)*, there are 4.5 crore cases in India who have not yet got justice because of financial constraints⁶. In these scenarios, legal aid can play a transformative role in addressing the problem and helping people claim their rights under the Legal Services Authority Act, 1987.⁷ For instance, in *Bachao Andolan v. Union of India & Others (2023)*, the Supreme Court pointed out the transformative potential of legal aid by protecting the rights of trafficked and exploited children and directing legal services authorities to ensure specialized assistance. There is no doubt that legal aid is like the oxygen of the legal system, breathing

³ Legal Services Corporation Act of 1974, Pub. L. No. 93-355, 88 Stat. 378 (1974).

⁴ Karuna Mantena, Access to Justice in Ancient and Medieval India 6 (2022), available at <https://www.hpnlu.ac.in/PDF/44173a0a-a3b1-4936-b95d-0a7326cbf536.pdf> (last visited Dec. 13, 2024)

⁴ United Nations Development Programme, Global Study on Legal Aid 5 (2016), available at https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global_Study_on_Legal_Aid_FINAL.pdf

⁵ Daksh, Access to Justice Survey 2017, available at <https://www.dakshindia.org/access-to-justice-survey/>

⁶ National Judicial Data Grid, Pendency of Cases in India (2023), available at <https://ecommitteesci.gov.in/service/national-judicial-data-grid/>

⁷ Legal Services Authorities Act, 1987, No. 39 of 1987, Acts of Parliament (India).

fairness and equality into the legal system, without which many people would suffocate under the weight of inequality and inaccessibility.

LEGAL FRAMEWORK

*Article 39A*⁸ pertains to Equal Justice and Free Legal Aid. It falls under the Directive Principles of State Policy. Under it, states are directed to provide free legal help to everyone who cannot afford it themselves for any reason, either owing to financial or other difficulties. The Legal Services Authorities Act of 1987 established a tiered structure of institutions, including the National Legal Services Authority (NALSA), State Legal Services Authorities (SALSA), and District Legal Services Authorities (DLSA), aimed at providing legal aid to economically weaker sections (EWS) and marginalized communities. Furthermore, **Article 14**⁹ also ensures equality before the law and equal protection under the law, and legal remedies can be accessed by anyone. During the **1970s** and **early 1980s** period, **Public Interest Litigations (PIL)** were first recognized for addressing the systematic injustice and expanded its reach by allowing access to courts for marginalized groups. In **Bandhua Mukti Morcha v. Union of India (1984)**, the Supreme Court expanded PIL's scope to protect bonded labourer's rights under Articles 21 and 23, ordering their release and transforming judicial intervention into a tool for social justice, dignity, and equality while addressing systemic human rights violations. The Sustainable Development Goal 16 (SDG 16) of the United Nations¹⁰ lays the foundation for global peace, justice, and institutional integrity, with the aim of reducing violence, ensuring equal access to justice, combating corruption, and promoting participatory governance. In the same way, **Legal Aid South Africa (LASA)** was established under the **Legal Aid Act 2014**, and the **Justice for All Program (Philippines)** was implemented by **USAID** in collaboration with local legal organizations to uphold justice, promote human rights, and ensure peace and security. The collective efforts of such government frameworks, community-based solutions, and technological innovation reinforce the idea that everyone should have the right to fair legal help by dismantling barriers to justice and ensuring equitable legal support for marginalized populations.

⁸ Constitution of India, Art. 39A

⁹ Constitution of India, Art. 14.

¹⁰ United Nations, Sustainable Development Goals: Goal 16 - Peace, Justice and Strong Institutions (2015), <https://www.un.org/sustainabledevelopment/peace-justice/>

CHALLENGES FACES

Access to legal aid is a universal problem, owing to different kinds of challenges in various countries. One such challenge to legal aid is in the form of awareness gaps as many citizens are still unaware of their right to free legal aid. The Legal Service Corporation in the U.S. found that 92% of low-income Americans got no help with their civil legal problems in 2022¹¹. Another limitation is in the form of limited resources, and funding for legal aid, which has constantly been falling. In Australia, commonwealth funding for legal aid decreased from 34% of total funding in 2011-2012 to 28% in 2021-2022. In rural America, 94% of the legal problems faced by low-income people are left unsolved due to barriers like a lack of legal professionals and inadequate infrastructure. All these challenges underscore the importance of enhanced funding, outreach programs, and targeted policies to bridge the justice gap and ensure equitable access to legal services. In *Suk Das v. Union Territory of Arunachal Pradesh*,¹² the Supreme Court ruled that a conviction without legal assistance is invalid, as denying legal aid violates Article 21 and the right to a fair trial. The case underscores the critical role of legal aid in ensuring justice and highlights systemic gaps when access to counsel is denied, reinforcing the need for universal legal aid, particularly for marginalized communities. In the *Steven Avery Case (USA) Case*¹³; Steven Avery's 1985 wrongful conviction for sexual assault, leading to 18 years of imprisonment, highlighted flaws in legal representation and systemic biases. Addressing such issues is essential for advancing social equity and economic progress. It will also contribute towards the empowerment of marginalized groups.

INNOVATIONS IN LEGAL AID

Innovations like **AI-powered legal chatbots**, online dispute resolution platforms (e.g., Modria, eBay Resolution Centre), **virtual legal clinics**, document automation, and mobile apps are revolutionizing legal aid, making it more accessible, affordable, and efficient. Platforms like **DoNotPay**¹⁴ use artificial intelligence to provide instant legal guidance for issues such as parking tickets, consumer complaints or tenant rights. These tools provide 24/7 legal advice without a lawyer. Document automation simplifies legal forms through interview-style questionnaires, enabling users to draft documents like wills or lease agreements. ODR

¹¹ The Justice Gap: The Unmet Civil Legal Needs of Low-Income

Americans (2022), <https://www.lsc.gov/media-center/publications/justice-gap-report-2022>

¹² *Suk Das & Anr vs Union Territory Of Arunachal Pradesh* on 10 March, 1986 (2) SCC 401

¹³ Innocence Project, Steven Avery (May 18, 2023), <https://innocenceproject.org/cases/steven-avery/>

¹⁴ DoNotPay, "The World's First Robot Lawyer," available at <https://donotpay.com>

platforms allow online dispute resolution, saving time and money by reducing court appearances. Video conferencing tools like Rocket Lawyer, LegalZoom, Avvo, and JustAnswer connect clients with legal aid attorneys remotely, eliminating travel and reaching rural or underserved areas. Mobile apps like **Nyaya Bandhu, developed by the Ministry of Law and Justice in India**¹⁵ are some excellent examples of how technology is reshaping legal aid. These apps connect individuals in need of legal assistance with pro bono lawyers, streamlining access to free legal support. Nyaya Bandhu being a government initiative, is linked to the Department of Justice, ensuring transparency and authenticity in services. It is designed in such a manner that it overcomes language and literacy barriers. Global initiatives like India's **E-Courts Project**, Kenya's **My Justice App**, Canada's **Legal Aid Ontario**, UAE's **Smart Dubai Court**, and Pakistan's **Asaan Insaf Portal** Technology are playing an increasingly vital role in streamlining legal processes, reducing barriers, and enhancing transparency in justice delivery. The third phase of India's E-courts initiative focuses on a fully paperless virtual judicial system. With over 7.8 million virtual hearings during the COVID-19 pandemic, the platform demonstrated its potential to address systemic inefficiencies. These efforts highlight that digital transformation in the judiciary can make justice more inclusive, efficient, and equitable globally.

THE HUMAN ELEMENT

A crucial role is played by the communities in promoting access to justice, especially for those who are not able to access legal systems are Non-Governmental Organisations. Some notable NGOs like Legal Aid Society (LAS), Human Rights Law Network (HRLN), Asha Kiran, and Centre for Law and Policy Research (CLPR), are on the path of fighting at the local level and helping fill an important legal gap. The Legal Aid Society provides free legal assistance by providing legal aid clinics and community welfare programs for marginalized communities, especially in rural and undeveloped areas. Similarly, *Asha Kiran*,¹⁶ India provides legal aid and counselling to people and communities, focusing on women, children, and people with disabilities. Mobile legal aid services are one of its notable approaches to reaching remote and underserved communities, ensuring equal access to justice and legal support. These NGOs' ideas align with the National Legal Services Authority of India's (NALSA) mission which is

¹⁵ Ministry of Law and Justice, Government of India, "Nyaya Bandhu (Pro Bono Legal Services)," available at <https://legalaffairs.gov.in/nyaya-bandhu>

¹⁶ Asha Kiran India, "Legal Aid and Counseling for Marginalized Communities," available at <https://www.ashakiranindia.org>.

to bridge the justice gap through community-focused legal aid. The works of these NGOs clearly reflect the highlights of the case *National Legal Services Authority v. Union of India*,¹⁷ where active measures were taken to extend legal aid to marginalized communities, including transgender.

CASE STUDIES

Legal aid programs have long been a lifeline for marginalized communities, providing not only access to justice but also hope in the face of adversity. In the *Delhi Domestic Working Women's Forum v. Union of India*¹⁹; the need for legal aid for women, especially victims of sexual violence was discussed. The Supreme Court set rules for giving free legal help, counselling and rehabilitation to victims of rape. This case was significant in sensitizing legal aid systems to the needs of women and survivors of violence based on gender. In India, the Criminal Law (Amendment) Act 2013, often referred to as the Nirbhaya Act, is a significant piece of legislation addressing sexual violence against women. It ensures that women, especially those from marginalized backgrounds, have access to justice. In 2022, a NALSA-supported legal aid clinic in Bihar exposed the plight of 15 labourers trapped in bonded labour due to fraudulent debts from a kiln owner. Acting on a complaint, NALSA and district authorities swiftly rescued the workers and arrested the owner under the Bonded Labour System (Abolition) Act. This can be claimed more nicely as one of the survivors said that **“the law gave me rights but legal aid gave me the strength to use them.”** The significance of legal aid extends beyond national boundaries, as demonstrated by the landmark case U.S. *Supreme Court Case Gideon v. Wainwright*¹⁸. This case underscores the universal importance of legal aid as a cornerstone of justice. As Justice Hugo Black wrote in the Gideon ruling, **“Lawyers in criminal courts are necessities, not luxuries.”** This principle also continues to inspire legal aid initiatives worldwide.

RECOMMENDATIONS

Access to justice is a cornerstone of fair and equitable justice, yet it remains inaccessible for many, particularly marginalized communities. Enhancing legal aid requires strengthening schemes, increasing funding, expanding clinics, and promoting local languages. Governments must prioritize budgets, foster public-private partnerships, and involve NGOs and international

¹⁷ National Legal Services Authority v. Union of India, (2014) SCC 5 438. ¹⁹ Delhi Domestic Working Women's Forum v. Union of India, 1995 (1) SCC 14.

¹⁸ Gideon v. Wainwright, 372 U.S. 335 (1963).

donors. Awareness campaigns, especially in rural areas, should include training village leaders, mobile legal clinics, interactive workshops, community radio, and street plays to educate communities about their rights and resources. Using local languages in legal documentation and aid services ensures that justice is accessible to all. Translating key legal documents, conducting court proceedings in local languages and employing interpreters are critical steps. Law schools and legal aid clinics should integrate local language training into their programs. Inspired by cases like the State of *Maharashtra v. Manubhai Pragaji Vashi*, there is a need to establish more legal aid clinics in underserved areas, prioritizing rural and remote communities with mobile clinics for isolated populations. Specialized services and corporate pro bono partnerships can address niche legal issues, while consistent funding and policy mandates ensure sustainability. By fostering innovation, collaboration, and inclusion, we can create a world where everyone, regardless of socioeconomic status, language, or location, has access to necessary legal support. Together, we work towards a world where justice is a fundamental right, not a privilege.

CONCLUSION

This article argues that legal aid is crucial in overcoming financial, social, and systemic barriers, particularly for marginalized communities. By offering affordable or free support, legal aid ensures individuals facing issues like housing disputes, employment discrimination, or family matters have access to justice, regardless of their financial means. Beyond providing assistance, legal aid upholds the broader promise of fairness and equity, serving as a cornerstone for a more just, inclusive, and equitable society. Amongst all the cases referred to in this article, *Khatri v. State of Bihar*¹⁹ highlights how the Supreme Court of India emphasized the importance of legal aid and the state's duty to ensure that legal assistance is provided to those who cannot afford it. In this judgement, the Supreme Court reinforced the principle that "access to justice" is a fundamental right under the Constitution Article 39A. The court decided that the government must provide free legal help to the poor or the ones who lack basic necessities, especially when they face serious charges and their ability to defend themselves is compromised due to financial constraints. **Justice Krishna Iyer**, in his judgement, in such a case highlights that the offering of free legal aid is a fundamental right, essential for the achievement of justice in society. He also mentioned a very visionary quote that "**Access to justice is not a luxury, it is a fundamental right.**" In light of these principles and cases, we

¹⁹ *Khatri v. State of Bihar* (1981). 1981 SCC (1) 627.

are reminded that justice is not an abstract ideal but a collective responsibility. As legal aid continues to serve as a promise of hope and equity, the question remains: What role will you play in ensuring justice for all?