



“BRIDGING THE JUSTICE GAP: THE EVOLUTION AND EFFECTIVENESS OF FREE LEGAL AID IN INDIA”

Subashna Tamang

Assistant Professor of Law, Surendranath Law College.

ABSTRACT:

Access to justice is the cornerstone of a democratic legal system and the concept of free legal aid in India represents a vital step towards realizing constitutional mandate rooted in Articles 14 and 39A of the Constitution. The evolution of legal aid reflects India's commitment to ensuring that economic or social disadvantage does not bar citizens from the courts. The journey of legal aid can be traced from early judicial pronouncements recognizing the right to legal representation as part of fair procedure to the institutionalization of mechanisms under the Legal Services Authorities Act, 1987. Despite these developments, the effectiveness of free legal aid remains contested, given persistent gaps in awareness, resource allocation, institutional efficiency and quality of representation. This paper critically examines the historical evolution of free legal aid in India, analyses its constitutional and statutory framework, evaluates judicial approaches and assesses its practical functioning. The paper argues that bridging the justice gap requires a multi-dimensional approach strengthening institutions, enhancing legal literacy, empowering paralegal networks and embracing technology to fulfill the constitutional promise of equal justice for all.



KEYWORDS: Equal Justice, Free Legal Aid, Legal System, Legal Literacy, Legal Awareness..

1. INTRODUCTION

Access to justice is the foundation of the rule of law and in a democratic polity like India, it is the bedrock upon which equality and fairness must rest. Justice V.R. Krishna Iyer rightly observed that “law without access is meaningless, for law is only as good as its ability to reach the people it is meant to serve.”¹ The framers of the Indian Constitution envisaged a legal order in which justice would not remain a privilege of the wealthy but would also extend to the marginalized, the poor and the vulnerable.

Article 14 guarantees equality before law and equal protection of laws, but in practice, the indigent often faces insurmountable barriers in accessing courts. Recognizing this, the Constitution (Forty-Second Amendment) Act, 1976 introduced Article 39A, which directs the State to provide free legal aid to ensure that opportunities for securing justice are not denied due to economic or other disabilities.² Although located in the Directive Principles, the judiciary has elevated this mandate to a justiciable obligation linking it with the right to life and personal liberty under Article 21.³

¹ Iyer V.R. Krishna., *Law, Justice and the Poor*, New Delhi (1980) at 12.

² The Constitution of India, art. 39A (inserted by the Constitution (42nd Amendment) Act, 1976).

³ *Hussainara Khatoon v. State of Bihar*, (1979) 3 SCC 532.

The movement towards institutionalizing free legal aid culminated in the Legal Services Authorities Act, 1987, establishing a nationwide network of authorities and Lok Adalat. However, despite constitutional and statutory guarantees, the effectiveness of legal aid delivery remains questionable. Persistent deficiencies in quality of representation, lack of awareness, and structural inequalities hamper the realization of the promise of equal justice for all.

This paper seeks to trace the historical evolution of free legal aid in India, analyse its constitutional and statutory foundations, examine judicial interpretations and critically evaluate its functioning through institutions like NALSA and Lok Adalat. It advances policy recommendations to strengthen legal aid delivery, emphasizing the role of technology, legal literacy and socio-economic empowerment in bridging the justice gap.

2. HISTORICAL EVOLUTION OF LEGAL AID IN INDIA

The origins of the legal aid movement in India may be traced back to the colonial period, when access to courts was largely confined to those with financial resources and social standing. Legal representation was seen as a luxury, inaccessible to the vast majority of Indians. Post-independence, the aspiration of a welfare state and the adoption of a written Constitution with a justiciable Bill of Rights transformed the discourse.

The 14th Report of the Law Commission of India (1958), chaired by M.C. Setalvad, was the first comprehensive attempt to articulate the necessity of state-sponsored legal aid. The report emphasized that without legal aid, the promise of Article 14 would be rendered illusory, particularly for weaker sections of society.⁴

In the 1960s and 1970s, several state governments began experimenting with legal aid schemes. The Government of Gujarat initiated one of the earliest institutional frameworks, which later served as a model for other states.⁵ The turning point came in the late 1970s when Justice P.N. Bhagwati, as a judge of the Supreme Court, took a keen interest in institutionalizing legal aid. The Committee for Implementing Legal Aid Schemes (CILAS) was constituted in 1980 under his chairmanship, providing guidelines for setting up legal aid boards across states.⁶

Judicial activism during this period also played a decisive role. In *Hussainara Khatoon v. State of Bihar*, the Supreme Court recognized free legal aid as an essential component of Article 21 which guarantee of fair trial.⁷ The Court observed that the State is constitutionally bound to provide free legal services to an accused who cannot afford legal representation. Similarly, in *Khatri v. State of Bihar (Bhagalpur Blinding Case)*, the Court reiterated that legal aid must be provided at the very first stage of production before a magistrate, not merely at the trial.⁸

These developments culminated in the enactment of the Legal Services Authorities Act, 1987, which institutionalized legal aid delivery by creating national, state, and district legal services authorities. The Act also recognized Lok Adalats as an alternative mechanism to provide speedy and inexpensive justice.⁹

Thus, the historical trajectory of legal aid in India demonstrates a gradual but determined shift from judicially driven initiatives and state-level experiments to a comprehensive statutory framework. While the Constitution laid the normative foundation, and judicial decisions expanded its scope, legislative action provided the necessary institutional structure.

⁴ Law Commission of India, 14th Report on Reform of Judicial Administration, 1958.

⁵ G. Bhatia, “Legal Aid in India: A Historical Overview”, 17 *JILI* 201(1975).

⁶ Government of India, Report: Committee for Implementing Legal Aid Schemes (CILAS), (1980).

⁷ (1979) 3 SCC 532.

⁸ (1981) 1 SCC 627.

⁹ The Legal Services Authorities Act, 1987.

3. CONSTITUTIONAL FOUNDATIONS OF FREE LEGAL AID

The constitutional foundation of free legal aid in India is anchored in the fundamental rights and directive principles of state policy, which together create a framework that obligates the State to secure justice for all, irrespective of social or economic status. The principle of equality before law, enshrined in Article 14, ensures that no individual shall be denied equal protection of the laws.¹⁰ This guarantee is not confined to formal equality but extends to substantive equality, meaning that structural barriers such as poverty, illiteracy or marginalization should not prevent citizens from accessing justice. Legal aid thus emerges as a constitutional imperative to give real content to the principle of equality.

While the framers of the Constitution did not explicitly incorporate the right to legal aid in 1950, the seeds of the idea were implicit in their vision of a welfare-oriented State. The Preamble promises justice, social, economic, and political and these ideals guided the later judicial and legislative evolution of free legal services.¹¹ The courts, interpreting fundamental rights in a purposive manner, consistently expanded the horizon of justice to include legal aid as an integral component.

Interplay Between Fundamental Rights and Directive Principles

The jurisprudence of free legal aid demonstrates the functional integration of fundamental rights and directive principles. While Article 14 and Article 21 create enforceable obligations on the State to ensure fair and equal justice, Article 39A provides a constitutional roadmap for legislative and institutional action.¹² The courts have repeatedly emphasized that without legal aid, the promise of equality before law and fair trial remains an illusion for the poor and marginalized.

The constitutional foundation of free legal aid in India is therefore, not a singular provision but a carefully woven fabric of fundamental rights and directive principles. Articles 14 and 21 guarantee equality and fair procedure, while Article 39A mandates the State to institutionalize legal aid.¹³ Judicial interpretation has ensured that legal aid is recognized as a fundamental right rather than a statutory concession, thereby embedding it in the core of India's constitutional democracy. The combined effect of these provisions and judicial activism has transformed legal aid from a mere aspiration into a constitutional mandate aimed at bridging the justice gap in Indian society.

4. STATUTORY FRAMEWORK: THE LEGAL SERVICES AUTHORITIES ACT, 1987

The constitutional mandate under Article 39A found concrete legislative expression in the Legal Services Authorities Act, 1987, as this statute represents a milestone in the institutionalization of free legal aid in India.¹⁴ While the judiciary had already expanded the scope of Articles 14 and 21 to recognize legal aid as a fundamental right, the Legal Services Authorities Act provided a nationwide, organized structure for delivering free legal services.¹⁵

Background

The need for a comprehensive legal aid statute was felt strongly after the 1970s, when several state-level legal aid programs were launched under the guidance of eminent judges and advocates. The Committee for Implementing Legal Aid Schemes (CILAS), set up in 1980 under Justice P.N. Bhagwati, pioneered model schemes that later formed the backbone of the statutory framework. Recognizing the limitations of ad hoc programs, Parliament enacted the Legal Services Authorities Act in 1987 and was brought into force in 1995 after amendments to strengthen its provisions.¹⁶

¹⁰ The Constitution of India, art. 14.

¹¹ The Constitution of India, Preamble.

¹² The Constitution of India, art 39A.

¹³ The Constitution of India.

¹⁴ *Supra* note 9 at 4.

¹⁵ *Ibid.*

¹⁶ *Supra* note 6 at 3.

Objectives and Scope

The Legal Services Authorities Act seeks to give effect to Article 39A by providing free and competent legal services to weaker sections of society, ensuring that opportunities for securing justice are not denied on the basis of economic or other disabilities.¹⁷ The Act defines "legal service" broadly to include not only representation before a court but also legal advice, drafting of documents, and assistance in legal proceedings.¹⁸ This expansive definition reflects a recognition that access to justice goes beyond courtroom litigation.

Institutional Structure

Key contributions of the Legal Services Authorities Act are the establishment of a tier system institutional framework for legal aid delivery:

- **National Legal Services Authority (NALSA):** Constituted under Section 3, NALSA is responsible for laying down policies and principles, framing effective schemes, and monitoring their implementation nationwide. It also organizes Lok Adalat at the national level and coordinates the activities of State Authorities.¹⁹
- **State Legal Services Authorities (SLSAs):** Constituted under Section 6, SLSAs operate at the state level under the supervision of the respective Chief Justices of High Courts. They are tasked with implementing legal aid programs, conducting awareness campaigns, and organizing Lok Adalat within their jurisdiction.²⁰
- **District and Taluk Legal Services Authorities (DLSAs & TLSAs):** These bodies operate at the grassroots level, ensuring that legal aid reaches rural and marginalized populations. They organize legal literacy camps, maintain legal aid clinics, and provide representation to indigent litigants.²¹ This decentralized structure was designed to ensure both accessibility and accountability, with the Supreme Court and High Courts providing supervisory guidance.

Beneficiaries of Legal Aid

Section 12 of the Act specifies the categories of persons who has to file or defend a case shall be entitled to legal services under this Act if that person is a Members of Scheduled Castes and Scheduled Tribes, Victims of trafficking or beggar, Women and children, Persons with disabilities, a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste, atrocity, flood, drought, earthquake or industrial disaster, an industrial workman, Persons in custody and Individuals with an annual income below the prescribed threshold.²² This enumeration ensures that legal aid targets the most vulnerable sections of society. However, in practice, awareness among potential beneficiaries remains limited, which dilutes the impact of the statutory entitlement.

Role of National Legal Services Authority (NALSA): Vision and Functions

The establishment of the National Legal Services Authority (NALSA) under Section 3 of the Legal Services Authorities Act, 1987, marked a critical step in institutionalizing legal aid in India. NALSA functions as the apex body responsible for laying down policies and principles, monitoring the implementation of legal aid schemes, and coordinating the activities of State and District Legal Services Authorities.²³ It also designs innovative schemes targeted at specific vulnerable groups such as women, children, scheduled castes and tribes, prisoners, and persons with disabilities.²⁴

¹⁷ The Constitution of India, art. 39A.

¹⁸ Legal Services Authorities Act, 1987, s. 2(1)(c).

¹⁹ Legal Services Authorities Act, 1987, s. 3.

²⁰ Legal Services Authorities Act, 1987, s. 6.

²¹ Legal Services Authorities Act, 1987, ss. 9–11A.

²² Legal Services Authorities Act, 1987, s. 12.

²³ Legal Services Authorities Act, 1987, s. 3.

²⁴ NALSA, Schemes and Services (2021), available at: <https://nalsa.gov.in> (last visited on December 10, 2023)

In practice, NALSA has gone beyond mere statutory obligations. Through schemes like the Victim Compensation Scheme (2010), Legal Aid Clinics Scheme (2008), and NALSA (Child Friendly Legal Services) Scheme (2015), it has attempted to address emerging challenges in access to justice.²⁵ These initiatives illustrate how NALSA has moved towards a rights-based, inclusive model of legal services.

Performance and Outreach of NALSA

NALSA's reports reveal the scale of its activities. According to its 2020–21 Annual Report, legal services institutions across India disposed of over 15 lakh cases through Lok Adalats and provided legal aid to more than 12 lakh beneficiaries during that year alone.²⁶ During the COVID-19 pandemic, NALSA set up helplines, online Lok Adalats, and virtual legal awareness programs, demonstrating adaptability to unprecedented challenges.²⁷ While these figures are impressive but quantitative achievements often mask qualitative deficiencies. Beneficiaries frequently complain of lack of follow-up, poorly trained panel lawyers, and a focus on case disposal rather than substantive justice.

Lok Adalat: Concept and Functioning

Lok Adalats, statutorily recognized under Chapter VI of the Legal Services Authorities Act, 1987 (Sections 19–22B), are perhaps the most celebrated innovation in India's legal aid framework. They embody the Gandhian ideal of *nyaya panchayats* and seek to provide inexpensive and speedy justice through compromise and conciliation. Awards passed by Lok Adalats are deemed to be decrees of civil courts and are binding on the parties.²⁸ Importantly, no court fee is payable, and parties are refunded fees already paid if the matter is settled.²⁹

The success of Lok Adalats lies in their ability to resolve a wide range of disputes such as motor accident claims, matrimonial matters, land disputes, and even compoundable criminal cases. The institution of Permanent Lok Adalat under Section 22B further expanded their role, particularly in resolving disputes relating to public utility services such as transport, telecommunication, and electricity.³⁰

Impact of Lok Adalat

According to NALSA's statistics, during the National Lok Adalat held in November 2022, over 58 lakh cases (pending and pre-litigation) were settled across the country in a single day.³¹ Such mass disposals demonstrate the potential of Lok Adalat to ease the burden of regular courts and enhance access to justice.

However, scholars and activists caution against over-reliance on Lok Adalat. Critics argue that the emphasis on compromise sometimes pressures vulnerable litigants into unfair settlements.³² For example, women in matrimonial disputes or accident victims may be persuaded to accept inadequate compensation due to systemic power imbalances. Thus, while Lok Adalats offer speed and efficiency, they must also safeguard fairness and voluntariness.

5. Judicial Interpretation on Expansion of Legal Aid

While the Legal Services Authorities Act, 1987 institutionalized free legal aid, it is the judiciary that has given life and substance to this constitutional guarantee. The Indian Supreme Court, in particular, has played a transformative role by interpreting Articles 21, 39A, and 14 to expand the right

²⁵ *Ibid.*

²⁶ NALSA, *Annual Report 2020–21*, available at: <https://nalsa.gov.in> (last visited on December 10, 2023).

²⁷ *Ibid.*, at 21–23.

²⁸ Legal Services Authorities Act, 1987, ss. 19–22.

²⁹ R. Dhavan, *Litigation Explosion in India*, 203–205 (Indian Law Institute, New Delhi, 1986).

³⁰ Legal Services Authorities Act, 1987, s. 22B.

³¹ Legal Services Authorities (Amendment) Act, 2002, s. 22B.

³² NALSA Press Release, *National Lok Adalat Settles 58 Lakh Cases* (Nov. 12, 2022).

to legal aid as an integral part of access to justice. Judicial pronouncements not only recognized legal aid as a fundamental right but also shaped its contours in terms of scope, beneficiaries, and implementation.

Early Recognition: The Hussainara Khatoon Series

The foundation of the right to free legal aid in India was laid in the *Hussainara Khatoon v. State of Bihar* series of cases.³³ The petitions highlighted the plight of undertrial prisoners languishing in jails for years due to their inability to afford legal representation. Justice P.N. Bhagwati, speaking for the Court, held that the right to a speedy trial and the provision of free legal services are part of the constitutional guarantee under Article 21.³⁴ The Court categorically declared that free legal aid to the poor and indigent is an essential element of reasonable, fair and just procedure under Article 21, and hence mandatory.³⁵ This case marked a paradigm shift as access to counsel was no longer a matter of charity or state discretion, but a constitutionally enforceable right.

Expansion of Free Legal Aid through Article 21

In *Khatri (II) v. State of Bihar*,³⁶ arising out of the Bhagalpur blinding cases, the Court emphasized that the State has a duty to provide free legal aid not only during the trial but also at the time of first production before a magistrate and during remand proceedings. The Court rejected the argument that financial or administrative constraints could justify denial of legal aid.

Similarly, in *Suk Das v. Union Territory of Arunachal Pradesh*,³⁷ the Court set aside a conviction on the ground that the accused had not been informed of his right to free legal aid. Justice Bhagwati observed that failure to provide free legal representation vitiates the trial itself, as it offends both Article 21 and Article 14.

Right to Legal Aid as a Directive to the State

In *M.H. Hoskot v. State of Maharashtra*,³⁸ Justice Krishna Iyer expanded the principle by holding that the right to appeal includes the right to counsel at State expense for indigent convicts. He emphasized that legal aid is not a luxury but an essential ingredient of a fair procedure. The Court also directed that copies of judgments be furnished free of cost to prisoners wishing to appeal.

Later, in *State of Maharashtra v. Manubhai Pragaji Vashi*,³⁹ the Court held that the right to legal aid extends to legal education as well. It directed the State of Maharashtra to provide grants-in-aid to private law colleges, recognizing that quality legal education is integral to sustaining the legal aid system.

PIL and Access to Justice

Public Interest Litigation (PIL) became a crucial tool in expanding the ambit of free legal aid. Cases such as *People's Union for Democratic Rights v. Union of India*⁴⁰ and *Bandhua Mukti Morcha v. Union of India*⁴¹ reinforced that the State has a constitutional obligation to provide legal assistance to vulnerable groups such as bonded labourers and workers deprived of their rights. The Court linked free legal aid with social justice, emphasizing that without such support, fundamental rights remain illusory.

³³ (1980) 1 SCC 81.

³⁴ *Ibid.*

³⁵ (1980) 1 SCC 98.

³⁶ (1981) 1 SCC 627.

³⁷ (1986) 2 SCC 401.

³⁸ (1978) 3 SCC 544.

³⁹ (1995) 5 SCC 730.

⁴⁰ (1982) 3 SCC 235.

⁴¹ (1984) 3 SCC 161.

Interpreting Role of Legal Services Authorities

In *Kishore v. State of Himachal Pradesh*,⁴² the Supreme Court underscored the importance of the Legal Services Authorities Act, 1987, directing authorities to be proactive in providing legal aid to eligible persons. The judiciary has repeatedly reminded NALSA and SLSAs of their duty to spread legal literacy and ensure effective functioning of legal aid clinics.

Judicial Observations on Lok Adalat

The judiciary has generally lauded Lok Adalats. In *State of Punjab v. Jalour Singh*,⁴³ the Supreme Court clarified that Lok Adalats cannot decide cases on merits but can only facilitate settlement by consent. This ensures that the voluntariness of compromise remains paramount. The Court has also emphasized the importance of Permanent Lok Adalats in sectors involving public services, stressing their role in ensuring citizen-friendly dispute resolution.⁴⁴

NALSA and Lok Adalats together form the backbone of India's institutional legal aid system. While NALSA frames policies and ensures outreach to vulnerable groups, Lok Adalats provide an efficient forum for dispute settlement outside the formal court system. Their combined impact has been significant in enhancing access to justice. Yet, challenges relating to funding, quality of representation, and fairness in settlements highlight the need for ongoing reforms. The next phase must focus not merely on quantitative disposals but on ensuring substantive, rights-based justice for marginalized communities.

Critical Evaluation of Judicial Role

The judiciary's expansive interpretation of the right to legal aid has undoubtedly advanced access to justice. By reading legal aid into Article 21, the Court transformed a directive principle under Article 39A into an enforceable fundamental right. Yet, critics argue that judicial directives have often outpaced the capacity of state institutions. Despite clear judgments, many accused remain unrepresented, particularly at the stage of arrest or first production. Moreover, the quality of legal aid representation remains a persistent concern. Courts have acknowledged that merely assigning a lawyer does not suffice but the representation must be effective and meaningful.⁴⁵ However, structural deficiencies such as low remuneration for panel lawyers and lack of accountability mechanisms continue to undermine the constitutional promise.

Through a series of landmark judgments, the Indian judiciary has been the driving force in expanding the ambit of legal aid. From recognizing it as an integral facet of Article 21 in *Hussainara Khatoon* case, to extending it to appeals, remand hearings, and even legal education, the Court has consistently pushed the boundaries of state obligation. Nonetheless, judicial pronouncements alone cannot bridge the justice gap thus effective legislative implementation and robust institutional frameworks remain indispensable.

6. Effectiveness and Challenges in Implementation

The vision of Article 39A and the Legal Services Authorities Act, 1987, was to create a comprehensive system ensuring that the poor and marginalized are not denied justice due to lack of resources. However, translating this vision into practice has been fraught with challenges. While India's legal aid system has achieved notable successes, particularly through NALSA and Lok Adalats, its effectiveness remains uneven and contested.

⁴² (1991) 1 SCC 286.

⁴³ (2008) 2 SCC 660.

⁴⁴ Law Commission of India, 131st Report on Role of Legal Aid Schemes in Administration of Justice (1988), at 67.

⁴⁵ *Ranjan Dwivedi v. Union of India*, (1983) 3 SCC 307.

Successes in Implementation

A key achievement of the legal aid framework has been its vast institutional reach. With more than 600 District Legal Services Authorities (DLSAs), over 40,000 panel lawyers, and thousands of para-legal volunteers (PLVs), the system covers both urban and rural populations.⁴⁶ Legal aid clinics established in universities and panchayats have also extended outreach to communities traditionally excluded from the justice system.

Another success lies in the disposal of cases through Lok Adalats. According to NALSA statistics, over 1.25 crore cases were settled in Lok Adalats in 2019 alone.⁴⁷ Such large-scale settlements demonstrate the ability of the system to provide speedy, cost-effective dispute resolution, reducing the backlog in courts. Further, specialized schemes for victims of trafficking, prisoners, and women survivors of violence indicate attempts to address intersectional vulnerabilities.⁴⁸

Persistent Challenges

Despite these achievements, the effectiveness of legal aid delivery remains questionable due to following reasons:

Inadequate Funding: Legal aid in India suffers from chronic underfunding. The budgetary allocation for NALSA and State Legal Services Authorities is modest compared to the scale of demand.⁴⁹ Limited resources translate into poor remuneration for panel lawyers, lack of infrastructure for legal aid clinics, and inadequate monitoring.

Quality of Legal Representation: Perhaps the most serious challenge is the quality of representation. Studies show that many panel lawyers treat legal aid cases casually, often failing to consult their clients, prepare adequately, or appear regularly in court.⁵⁰ As a result, indigent litigants may receive ineffective assistance, undermining the very purpose of free legal aid. In *Common Cause v. Union of India*,⁵¹ the Supreme Court noted that legal aid cannot be reduced to a mere formality and stressed that effective representation is essential for fulfilling constitutional guarantees.

Lack of Awareness: Large sections of the eligible population remain unaware of their entitlement to free legal aid under Section 12 of the LSA Act. A 2016 survey by the Commonwealth Human Rights Initiative (CHRI) revealed that more than 80% of prisoners interviewed did not know about legal aid provisions.⁵² This awareness gap perpetuates inequality in access to justice. In *State of Haryana v. Darshana Devi*,⁵³ the Court underscored that justice should not be priced beyond the reach of ordinary citizens, reiterating the constitutional duty of the State to ensure effective legal aid.

Overemphasis on Quantitative Outcomes: Institutions often focus on the number of cases disposed rather than the quality of justice delivered. Lok Adalats, for instance, are praised for mass disposals, but concerns persist about whether settlements are fair, voluntary, and informed.⁵⁴

Institutional Weaknesses: DLSAs and TLSAs are often understaffed, with limited professional training for PLVs and panel lawyers. Monitoring mechanisms to ensure accountability are weak, resulting in inefficiency and negligence.⁵⁵

The implementation of free legal aid in India reflects a paradox. On the one hand, the system has achieved significant reach and has provided relief to millions through Lok Adalats and legal aid

⁴⁶ *Id.* at 26.

⁴⁷ *Ibid.*

⁴⁸ NALSA, *Schemes and Services* (2021), available at: <https://nalsa.gov.in> (last visited on January 10, 2024).

⁴⁹ *Supra* note 44 at 11.

⁵⁰ Commonwealth Human Rights Initiative (CHRI), *Hope Behind Bars? Status of CHRI, Hope Behind Bars?* (2018), at 53.

⁵¹ (1996) 6 SCC 530.

⁵² Commonwealth Human Rights Initiative (CHRI), *Hope Behind Bars? Status of CHRI, Hope Behind Bars?* at (2016), at 42–44.

⁵³ (1979) 2 SCC 236.

⁵⁴ *Ibid.*

⁵⁵ *Supra* note 29 at 8.

programs. On the other, structural weaknesses such as limited funding, poor quality of representation, lack of awareness, and overemphasis on quantitative disposal undermine its effectiveness. Without addressing these systemic issues, free legal aid risks becoming a symbolic rather than substantive guarantee. The challenge, therefore, lies not in creating new institutions, but in strengthening existing ones to deliver justice that is not only speedy and inexpensive but also meaningful and equitable.

NALSA has attempted to address some of these concerns through the introduction of para-legal volunteers (PLVs), specialized training programs, and digitization initiatives such as online Lok Adalats.⁵⁶ During the COVID-19 pandemic, online legal aid clinics and helplines were established to ensure continuity of services.⁵⁷ However, the sustainability and inclusiveness of these innovations remain under examination.

7. Socio-Economic Dimensions of Free Legal Aid in India

The effectiveness of legal aid in India cannot be understood merely through statutes and institutions rather it must also be examined against the backdrop of the country's deeply entrenched socio-economic inequalities. Access to justice is shaped not only by legal frameworks but also by caste hierarchies, gender relations, rural-urban disparities, and the marginalization of vulnerable communities. Legal aid, in this sense, is not only a legal instrument but also a tool of social transformation.

Caste and Social Exclusion

India's caste system continues to exert a profound influence on access to justice. Dalits and other marginalized castes often face systemic discrimination both in society and within the justice delivery system.⁵⁸ Many victims of caste-based atrocities under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 hesitate to approach formal legal institutions due to fear of reprisal or lack of trust in authorities.⁵⁹

Though legal aid services are statutorily extended to Scheduled Castes and Scheduled Tribes under Section 12 of the Legal Services Authorities Act, 1987, studies reveal that awareness of such entitlements is extremely low among marginalized castes.⁶⁰ Moreover, panel lawyers assigned to these communities are often underpaid and overburdened, reducing effectiveness. Thus, while the promise of legal aid exists on paper, caste barriers continue to inhibit real access.

Gender Dimensions of Legal Aid

Women constitute one of the largest groups requiring legal aid. Discrimination within family structures, economic dependency, and social norms make women especially vulnerable.⁶¹ Cases relating to domestic violence, maintenance, custody, and sexual harassment are areas where women frequently require assistance. The Protection of Women from Domestic Violence Act, 2005 and Section 125 of the Code of Criminal Procedure, 1973 are key legal avenues where free legal aid plays a pivotal role. The National Legal Services Authority (NALSA) has also launched schemes such as the Legal Services to Women Scheme to provide specialized support.⁶² However, gendered barriers persist: women in rural areas are often discouraged from pursuing legal action, and stigma surrounding sexual offences leads to

⁵⁶ *Id.* at 26.

⁵⁷ *Ibid.*

⁵⁸ S.K. Thorat & P. Attewell, "The Legacy of Social Exclusion: A Correspondence Study of Job Discrimination in India," *Economic and Political Weekly*, Vol. 42, No. 41 (2007), at 4141.

⁵⁹ National Dalit Movement for Justice, *Status Report on Implementation of SC/ST (Prevention of Atrocities) Act, 1989* (2016), at 7.

⁶⁰ National Legal Services Authority, *Annual Report 2019–20*, available at: <https://nalsa.gov.in> (last visited on December 10, 2023).

⁶¹ Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (OUP, 2001), at 112.

⁶² NALSA, *Scheme for Legal Services to Women and Children*, 2015, at 3.

underreporting. Furthermore, women panel lawyers remain underrepresented, which discourages many female victims from seeking assistance.⁶³ Training more female paralegals and ensuring gender-sensitive legal services could significantly enhance the inclusivity of legal aid delivery.

Rural–Urban Divide

The rural–urban divide presents another challenge. Legal services are often concentrated in urban centres, while rural populations constituting nearly 65% of India’s total population face serious barriers.⁶⁴ Factors such as distance from courts, lack of transportation, limited availability of lawyers, and low literacy levels exacerbate the inaccessibility of legal aid in rural areas.

Though Lok Adalats and Legal Aid Clinics have been established at the village level, their coverage remains patchy. A 2018 NALSA report revealed that legal literacy camps were disproportionately held in towns and district headquarters, leaving many rural populations uninformed of their rights.⁶⁵ The lack of infrastructure, particularly in tribal and remote areas, further limits the reach of free legal aid.

Marginalized and Vulnerable Groups

Beyond caste and gender, other marginalized groups also experience acute barriers to justice. Prisoners form one such category. A large majority of undertrial prisoners in India from economically weaker sections, often deprived with effective legal representation.⁶⁶ Despite the constitutional mandate under Article 39A and judicial pronouncements in cases such as *Hussainara Khatoon v. State of Bihar*,⁶⁷ undertrials continue to languish in jails for years.

Similarly, migrant workers, minorities, persons with disabilities, and LGBTQ+ communities face distinct legal challenges compounded by social exclusion.⁶⁸ For instance, while the Transgender Persons (Protection of Rights) Act, 2019 provides legal safeguards, many transgender persons lack awareness or resources to enforce their rights through formal institutions.⁶⁹ Legal aid is therefore not merely a question of legal entitlement but also of ensuring inclusivity for groups traditionally excluded from the justice system.

Interplay of Poverty and Illiteracy

Poverty and illiteracy remain the overarching socio-economic barriers to justice in India. For the poor, the very idea of engaging with the legal system is intimidating, given the costs of litigation and procedural complexity.⁷⁰ Illiteracy compounds the problem as many beneficiaries are unable to even identify their eligibility for free legal aid or to understand the documents provided to them.⁷¹ Although NALSA and State Legal Services Authorities conduct literacy and awareness drives, their impact has been limited by inadequate outreach and funding. Bridging this literacy justice gap is crucial for realizing the transformative potential of legal aid.

⁶³ K. Choudhury, “Gender Representation in Legal Aid Mechanisms,” *Indian Journal of Gender Studies*, Vol. 23, No. 1 (2016), at 78.

⁶⁴ Census of India, 2011, “Rural–Urban Distribution,” at 14 available at: <https://censusindia.gov.in/nada/index.php/catalog> (last visited on December 10, 2023).

⁶⁵ NALSA, *Annual Report 2018–19*, at 32 available at: <https://nalsa.gov.in> (last visited on December 10, 2023).

⁶⁶ National Crime Records Bureau, *Prison Statistics India 2020*, at 59.

⁶⁷ (1980) 1 SCC 98.

⁶⁸ A. Baxi, “Access to Justice and the Marginalized in India,” *Indian Journal of Human Rights Law Review*, Vol. 7 (2012), at 44.

⁶⁹ Human Rights Law Network, *Report on the Status of Transgender Rights in India* (2020), at 16.

⁷⁰ Marc Galanter, “Why the Haves Come Out Ahead: Speculations on the Limits of Legal Change,” *Law & Society Review*, Vol. 9, No. 1 (1974), at 95.

⁷¹ P. Sharan, “Illiteracy and Legal Aid in India: A Ground Reality Check,” *JILI*, Vol. 55, No. 2 (2013), at 218.

The socio-economic dimensions of free legal aid in India reveal that legal rights are mediated by structural inequalities. Caste, gender, geography and poverty intersect to create multiple layers of exclusion. Unless legal aid mechanisms are tailored to address these realities through community-based legal awareness, gender-sensitive support systems, rural legal infrastructure and focused schemes for marginalized groups, the constitutional promise will remain only partially fulfilled. Strengthening socio-economic inclusivity must therefore be central to the project of access to justice in India.

10. Road Ahead Towards Policy Reforms

India has established a comprehensive legal aid framework through constitutional provisions, statutory mechanisms and judicial pronouncements, the reality of implementation remains fraught with gaps. Moving forward, reforms must focus not merely on expanding the scope of free legal aid but also on enhancing its effectiveness, accountability and inclusivity. Several policy directions emerge as critical for bridging the justice gap.

Professionalization of Legal Aid Services

A major criticism of the current legal aid service system is the reliance on panel lawyers who are poorly paid and inadequately monitored. Many cases are accepted as a formality lacking quality representation. Therefore, introducing a cadre of salaried public defenders could professionalize services, enhance accountability, and reduce dependence on voluntary or part-time lawyers. Providing regular training in human rights law, gender justice and procedural fairness should also be mandatory.

Strengthening Grassroots Legal Aid Infrastructure

Legal aid delivery in India is top-heavy, with most activities concentrated in district headquarters or urban areas. To address rural-urban disparities, the focus should shift to legal aid clinics at the panchayat level and greater investment in paralegal volunteers. Legal literacy campaigns must be regularized and conducted in local languages.

Expanding Civil Legal Aid Coverage

Current practices disproportionately emphasize criminal matters, leaving civil disputes—such as housing, land rights, maintenance, and employment under-served. Civil legal aid should be strengthened through specialized units addressing family law, labour rights, tenancy disputes, and consumer protection. Such interventions would directly impact vulnerable populations whose daily lives are shaped more by civil than criminal conflicts.

Leveraging Technology and Digital Platforms

The COVID-19 pandemic demonstrated the potential of technology in justice delivery. Tele-law initiatives under the Ministry of Law and Justice, which connected citizens with lawyers through digital platforms, represent a promising step. However, digital divides particularly in rural areas must be addressed through public investment in connectivity and digital literacy. Expanding online legal literacy modules, mobile apps in regional languages and e-Lok Adalats could broaden outreach significantly.

Adequate Funding and Resource Allocation

Perhaps the most fundamental reform lies in ensuring sufficient financial resources. India spends less on legal aid, without adequate funding, legal aid remains a symbolic right. Dedicated budgetary allocations, timely disbursement of funds to State Legal Services Authorities and performance-based grants could address chronic underfunding.

Accountability and Monitoring Mechanisms

There is a pressing need for independent monitoring and evaluation of legal aid services. Presently, reporting structures are internal to NALSA and State Legal Services Authorities, creating risks of opacity. Establishing an independent oversight body, involving civil society representatives,

academics and retired judges could strengthen accountability. Regular audits, user feedback mechanisms, and public dashboards of performance indicators would enhance transparency.

Mainstreaming Legal Aid into Welfare Schemes

Legal aid must not be seen in isolation but integrated into broader welfare frameworks. Linking legal aid with welfare schemes would ensure convergence of resources and wider reach. For instance, paralegal volunteers could be embedded within health missions or child welfare centres to provide frontline legal assistance.

Promoting Legal Awareness and Education

Legal awareness is the bedrock of effective legal aid, without knowledge of rights, legal aid beneficiaries cannot claim entitlements. Legal literacy must be integrated into school curricula and adult education programs. Media both traditional and digital should be leveraged to conduct rights-based campaigns, particularly targeting marginalized communities.

Gender-Sensitive and Inclusive Legal Aid

Ensuring inclusivity is paramount. Legal aid services must be gender-sensitive, accessible to persons with disabilities, tailored to the needs of minorities and LGBTQ+ groups. Establishing help desks targeting legal literacy for marginalized identities could make legal aid more equitable.

Towards a Rights-Based Paradigm

Further, Legal Aid services must move from a charity-based to a rights-based paradigm. Free legal services should not be seen as benevolence but as an enforceable entitlement flowing from Article 39A and as part of Article 21 of the Constitution of India. However, the success of proper implementation of free legal aid services depends largely on political will and recognition of legal aid as a cornerstone of democracy and rule of law.

8. CONCLUSION

The journey of free legal aid in India reflects the evolution of the justice system itself from a colonial legal order designed to serve the privileged few to a democratic framework that aspires to universal access to justice. Anchored in Article 39A of the Constitution of India and nurtured through judicial creativity, legislative action and institutional innovation, legal aid has come to symbolize the Indian state's commitment to the principle of equality before law.

At the constitutional level, legal aid is more than a welfare measure, it is a guarantee implicit in Article 21 providing protection of life and personal liberty. Through various cases the judiciary has underscored that denial of legal assistance to the poor undermines the very foundation of fair trial and due process. The Legal Services Authorities Act, 1987 institutionalized this principle, creating a nationwide network for legal aid. However, the disjuncture between constitutional ideals and ground realities has persisted. Despite decades of reform, implementation continues to falter due to inadequate funding, poor quality of representation, low public awareness and structural inequalities of caste, class, and gender. Lok Adalat and legal aid clinics, though innovative, often prioritize case disposal over substantive justice. Resulting the very communities for whom legal aid was designed such as Dalits, women, rural poor, undertrials and marginalized minorities remain excluded or underserved. Perhaps the way forward requires a paradigm shift in how legal aid is conceived and delivered, only then legal aid can function as an instrument of social justice rather than a symbolic gesture.

Legal aid if implemented robustly, has the potential to transform the justice system from an elite institution into a people's forum. It can restore faith in the rule of law for those who currently experience the courts as distant, intimidating or exclusionary. Only then will Article 39A move from constitutional rhetoric to living reality, ensuring that in India, justice is not only a privilege for the few, but a right guaranteed to all.