JUSTICE FOR ALL: FROM LAYMAN TO LAWMAN (FREE LEGAL AID IN INDIA)

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ABSTRACT

India is a country where all people are equal. When we are talking about equality we are also talking about justice to all. The constitutional makers of India give more emphasis on the justice that justice is not only given to the rich people in the country but also given to the needy person who is helpless and doesn't have capacity to get access to justice easily. So to give equal justice to all the person who don't know the laws and the complexity of the laws called layman and the person who is aware of the law called the law man so to give both of them justice and especially to the person who is poor, can't afford lawyers to defend their basic constitutional right . In India when we get into a litigation the litigation cost can drain family savings, access to justice often becomes a luxury reserved for few. India's Legal Services Authority Act an article 39A promised free legal aid to ensure no poor or marginalised individual is denied justice. The Development of legal aid in India has also been significantly influenced by judicial decisions. In Hussainara Khatoon (IV) v. Home Secretary, State of Bihar, 1980 the Supreme Court recognized free legal services as an essential element of a fair, reasonable and just procedure under article 21. In Khatri (II) v. State of Bihar, 1981 the Supreme Court emphasised the duty to inform an accused about the availability of free legal assistance. In Suk Das v. Union Territory of Arunachal Pradesh, 1986 the Supreme Court further emphasised that legal cannot become a meaningful right if an indigent accused is expected to request assistance without being informed of that right. Yet a lot of gap is between what is written on the papers of the constitution and in various statutory laws made for justice and what actually happens on the courtroom floor.

Key Words: - *Access to Justice, Article 39A, Article 21, Legal Aid, NALSA, Legal Services Authorities Act,1987, Legal Awareness, Free Legal Services*

INTRODUCTION

Access to justice is a fundamental constitutional principle, yet poverty, lack of legal awareness and financial constraints often prevent ordinary citizens from seeking justice. Free Legal Aid acts as a bridge between the common person and the legal system, ensuring that justice is not a privilege reserved for the wealthy. Article 39A of the Indian Constitution and the Legal Services Authorities Act, 1987 provide the foundation for this objective. This article examines the constitutional and statutory framework of free legal aid in India, highlighting landmark judicial decisions, particularly *Hussainara Khatoon*, *Khatri* and *Suk Das*. It further explores practical challenges such as lack of awareness, geographical barriers, inadequate legal representation and digital exclusion. Finally, it suggests measures to strengthen legal literacy, improve the quality of legal services and connect legal institutions with disadvantaged communities. The central argument is that justice must remain accessible to every individual, irrespective of financial status or legal knowledge.

THE CONSTITUTIONAL AND STATUTORY FRAMEWORK

- **ARTICLE 39A : Equal Justice and Free Legal Aid**

Article 39A of the Indian constitution was inserted into the Constitution by the 42nd Amendment Act, 1976. [1]

It provides that, The State shall secure that the operation of legal system promotes justice, on a basis of equal opportunity, and shall, in particular provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice or not denied to any citizen by reason of economic or other disabilities. [2]

Although Article 39A forms part of Directive Principles of State Policy yet it reflects an important constitutional commitment towards equal access to justice.

Legal Aid is also connected with Article 14 equality before law and equal protection of law and Article 21 right to life and personal liberty of the Indian constitution. [3]

The legal aid should be understood as an instrument through which constitutional guarantees can become practically accessible to disadvantaged persons.

Access to legal assistance becomes important in the cases where the fundamental rights of an individual are at stake.

- **The Legal Services Authorities Act, 1987**

The Legal Services Authorities Act, 1987 is a statutory provision which provides free and competent legal services to eligible persons and organising Lok Adalats. [4]

The act established the National Legal Services Authority (NALSA) and State Legal Service Authority (SALSA) and District Legal Service Authority (DLSA) at the central level, state level and the district level respectively to provide Free Legal Aid and Assistance to the poor, weaker and marginalised people of society. [5]

NALSA states that legal services include free legal aid, legal literacy and awareness programmes and assistance in accessing entitlements under welfare laws and schemes. [6]

PERSONS ELIGIBLE TO RECEIVE FREE LEGAL SERVICES

Section 12 of the Legal Service Authorities Act, 1987 guarantees free legal services to specific vulnerable categories including women, children, members of SC/ ST community, industrial workers, victims of human trafficking and under trial prisoners. [7]

This legal aid is not a “State Charity” it's a “Statutory Right” of the needy people.

JUDICIAL CATALYST: TRANSFORMING AID INTO A RIGHT

There are landmark judgments which became as the basis of free legal in India

In Hussainara Khatoon (IV) v. Home Secretary, State of Bihar [8]

The court confronted the plight of thousands of under trial prisoners who have been jailed for years- often longer than the maximum sentence for their alleged offences -simply because they were too poor to hire a lawyer or secure bail.

Justice P.N, Bhagwati declared that free legal service is an essential component of a

"reasonable, fair and just" trial process under Article 21. [9]

Following this in Khatri (II) v. State of Bihar, the Supreme Court clarified a crucial procedural point: the constitutional obligation to provide free Legal Aid does not begin when the trial starts. Instead, the magistrate is legally bound to inform the accused of their right to free counsel the very first time they are produced in court. [10]

In Suk Das v. Union Territory of Arunachal Pradesh (1986), the the Supreme Court of India gave a landmark judgement that established the state's constitutional obligation to provide free Legal Aid to indigent accused individuals under Article 21. [11]

Together, these cases shifted the judicial mindset. Free legal assistance was no longer a discretionary privilege granted at the magistrate's whim; it became an immediate, non-negotiable duty owed by the state to every indigent accused.

CHALLENGES IN ACCESSING LEGAL AID

Despite the constitutional and statutory framework several practical challenges remain.

1-Unawareness of Free Legal Aid

Many people are not aware that free legal services are available to them. Lack of legal literacy prevents many eligible persons from seeking free legal aid.

2-Geographical and Social Barriers

The geographical and social barriers can make it difficult for the people in remote or disadvantaged communities to access legal assistance.

3-Qualified Lawyers

The effectiveness of legal aid depends not only on the availability of lawyers but also on quality, communication and continuity of legal representation.

4-Technology

Technology has created additional opportunities as well as challenges. Online legal- awareness

programmes and digital services can increase outreach but people without reliable internet access or digital literacy may continue to face difficulties.NALSA currently provides information on approaching Legal Services Institutions and also provides toll free helpline number-**15100** for legal assistance. [12]

THE WAY FORWARD

Improving access to legal aid requires a strong connection between the local people and the legal service institutions. The legal service institutions must do legal awareness programmes which help the local community to understand that they have access to free Legal Aid and get justice easily. The legal literacy programs in the educational institution and through the technology example through internet, social media platforms,posters ,banners in the accessible areas where most of the local people live can provide a very competent platform by which the local people get to know about their rights and remedies available to them free of cost.

And at the same time, legal aid should focus not nearly on the number of cases handled but also on the quality and effectiveness of assistance provided.

CONCLUSION

Legal Aid is an important component of access to justice in India Article 39A of the constitution of India provides a basis for free Legal Aid and the Legal Services Authorities Act ,1987 is a statutory framework which talks about the free Legal Aid to the poor and underprivileged persons of India. [13] The judicial decisions on the Legal Aid become precedent for the upcoming cases on the legal aid cases. The Supreme Court's decisions in ***Hussainara Khatoon, Khatri and Suk Das*** have contributed significantly to the development of legal aid as an important component of fair procedure under article 21 these decisions demonstrate that access to justice cannot depend solely upon a person's financial ability or legal knowledge. [15]

However, the existence of a Constitutional and Statutory Framework does not by itself remove every practical barrier. Lack of awareness,geographical difficulties, digital exclusions and concerns regarding the quality of representation continue to make legal literacy and effective legal services important.

The future of legal aid therefore depends on connecting legal institutions more closely with the communities they serve. Legal awareness should begin before a dispute reaches the courtroom, and legal assistance should remain accessible throughout the legal process.

Legal Aid ultimately represents and important principle: "**Justice should not become inaccessible nearly because the person cannot afford a lawyer".**

Reference

1 The Constitution of India,art.14,21,39A
2. The Legal Services Authorities Act, 1987, s. 12.
3. Id., s. 13.
4. Hussainara Khatoon (IV) v. Home Secretary, State of Bihar, (1980) 1 SCC 81.
5. Khatri (II) v. State of Bihar, (1981) 1 SCC 627.
6. Suk Das v. Union Territory of Arunachal Pradesh, (1986) 2 SCC 401.
7. National Legal Services Authority, "Legal Services", available at: https://nalsa.gov.in/