The Constitution of Legal Services Authorities and Entitlements of Legal Services in India: An Overview

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Abstract:

In India about 70 percent of the people living in rural areas are illiterate and many of them are very poor. It is very difficult for many of them to reach the benefits of the legal process to the poor and to protect them against injustice. There is an urgent need to introduce dynamic and comprehensive legal service programme with a view to deliver justice to the poor and needy person. Legal aid is the provision of assistance to people otherwise enables to afford legal representation and access to the court system. Thus, legal aid is very significant in providing access to legal system. The concept of legal aid coincides with the preamble of the Constitution of India that secures to all its citizens social, economic and political justice. The importance of this concept can be gauged from the fact that the 30 percent of the Indian population is living under poverty line. The concept of legal aid cannot be undermined when we see the holistic picture of the Indian population deprived of even the basic needs of their lives. Setting up of legal service authorities and committees at national, state and district levels with the objective to improve the quality of legal services and make justice approachable to the deprived section of the society. The aim of this research paper is to study the extent to which the legal services authorities are working towards providing free legal aid to the poor and promote justice on the basis of equal opportunity.

Keywords: Legal Service, Legal Aid, Justice, Society, Legal Service Authorities

Introduction:

Legal aid may be taken to mean free legal assistance to the poor persons in any judicial proceedings before the courts, tribunals or ant authority. It intends to provide free legal assistance to the poor persons who are not able to enforce the rights given to them by law. The Constitution of India gives much importance to rule of law. In India, it is regarded as a part of basic structure of the Constitution and also of natural justice. Free legal aid to the poor and weak persons has been held to be necessary adjunct of the rule of law. The preamble of the Indian constitution aims to secure to the people of India justice-socio economic and political. Article 38 and 39-A of the Indian Constitution is notable. Article 38(1) states the States shall promote the welfare of the people by securing and protecting the social order including justice and Article-39A of the Constitution states that the state shall in particular provide free legal aid, by suitable legislation or schemes, to ensure that opportunities for securing justice are denied to any citizen.

Objectives of the study:

1. The objective of this research paper is to study the extent to which the legal services authorities are working towards providing free legal aid to the poor and promote justice on the basis of equal opportunity.
2. To know the significance of the Constitution of Legal Service Authorities in India.
3. The emphasis of Legal Aid under the Constitution of India.
4. The conclusion and suggestions made in this research paper for the proper implementation of Legal Services to the needy/ poor and provide legal awareness to the public at large.

Constitution of Legal Service Authorities Act 1987:

The first Legal Aid Movement appears to be of the year 1851 when some enactments were introduced in France for providing legal assistance to the indigent. Since 1952, the Government of India also started addressing to the question of Legal Aid for the poor in various conferences of Law Ministers and Law Commissions. In 1960, some guidelines were drawn by the Government for Legal Aid Schemes. In different states legal aid schemes were floated through legal Aid Boards, societies and law Departments. In 1980 a committee at the national level was constituted to oversee and supervise Legal Aid programs throughout the country under the chairmanship of Honorable Mr. Justice P.N Bhagwati then a Judge for Supreme Court of India. This committee came to be known as CILAS (Committee for Implementing Legal Aid Schemes) and started monitoring legal aid activities throughout the country. The introduction of Lok Adalats added a new chapter to the justice dispensation system of this country and succeeded in providing a supplementary forum to the litigation for conciliatory settlement of their disputes. In 1987 Legal Service Authorities Act was enacted to give a statutory base to Legal Aid Programme throughout the country on a uniform pattern. Special status has been assigned to the Lok Adalats under the Legal Services Authorities Act 1987 which came into effect from 9th November 1995. Section 19 (5) provides that a Lok Adalats shall have jurisdictions to determine and arrive at a compromise or settlement between the parties to a civil, criminal, or revenue court or any tribunal constituted under any law for the time being in force in the area for which the Lok Adalat is organized. The Lok Adalats shall, however, have no jurisdiction in respect of any matter relating to offences not compoundable under any law[2].

The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to monitor and evaluate implementation of legal aid programs and to lay down policies and principles for making legal services available under the Act.[3] In every State, a State Legal Services Authority and in every High Court, a High Court Legal Services Committee has been constituted. District Legal Services Authorities (DLSA), Taluk Legal Services Committees have been constituted in the Districts and most of the Talukas to give effect to the policies and directions of the NALSA[4] and to provide free legal services to the people and conduct Lok Adalats in the State. Supreme Court Legal Services Committee has been constituted to administer and implement the legal services programme in so far as it relates to the Supreme Court of India.

Types of Legal Services Provided:

- Free Legal Aid: Representation in court, preparation of legal documents, legal advice.
- Legal Awareness: Campaigns in rural and backward areas to educate citizens.
- Lok Adalats: Forums for speedy and cost-effective dispute resolution.

In *Sheela Barse vs State of Maharashtra*,[5] it was held that legal assistance to a poor accused who is arrested and put in jeopardy of his life or personal liberty is constitutional imperative mandated not only by Article 39-A but also by Article 21 and 14 of the constitution.

Article 21 clearly says that every person has an equal right to life and liberty except according to the procedure established by the law. It was held in this case of *Hussainara Khatoon vs State of Bihar*[6], that if any accused is not able to afford legal service then he has right to free legal aid at the cost of the state. Also in *Sukhdas vs. Union Territory of Arunachal Pradesh*[7], it was held, if in case an accused is not told of his right and therefore he remains exceptional by a lawyer, his trial is vitiated by constitutional infirmity and any conviction as a result of such trial is liable to be set aside. Article 14 also talks about equality before law and section 304 of Cr.P.C imposes an obligation on the courts to provide legal aid at the expense of the state to an accused, when there is no sufficient means and finances to engage an advocate. There cannot be any real equality in criminal cases unless the accused gets a fair trial of defending himself against the charge and a professional assistance. At

[2] Rajan R.D, "A Primer on Alternative Dispute Resolution" Bharathi law Publication, 2005
[3] Nature of Free Legal Services, National Legal Services Authority, available at https://nalsa.gov.in/content/nature-free-legal-services
[4] NALSA (2015–2023). Annual Reports. National Legal Services Authority
[5] 1983 SCR(2)337
[6] 1986 AIR SC 1369
[7] 1986 SCR (1) 590

present the legal aid movement in India is unorganized and diffused. There is lack of co-ordination in it. Lawyers do not engage themselves in pro bono activities because of various reasons. There is lack of financial resources. The legal education imparted earlier did not provide social education. Therefore, they do not understand or accept their obligation to do so; also the members of the profession do not regularly come into contact with members of the community who need legal assistance. Illiteracy is also a major obstacle to legal aid. Now it is common knowledge that about 70% of the people living in rural areas are illiterate and even more then that are not aware of the rights conferred upon them by law. It is the absence of legal awareness which leads awareness which leads to exploitation and deprivation of rights and benefits of the poor.[8] A report published by Government of India and United Nations Development in 2011 highlighted the expected role of legal educators in transforming the constitutional ideology of access to justice into reality. Such a transformation calls for competent and affordable legal services to the vast population of the country. There is also recognition on the part of Bar Council itself that the legal education sector is a significant contributory towards the meaningful existence of law and justice in civil society. Many law colleges which exist in India impart legal education to lawyers. The Legal Services Authorities Act, 1987 and the Regulations issued under its mandate these law schools to extend legal services to common citizens is an effort to include marginalized sections into the legal system through multiple modes[9].

Findings:

- The Legal Services Authorities Act, 1987 has substantially enhanced access to justice by institutionalizing
- free legal aid and promoting alternative dispute resolution mechanisms such as Lok Adalats.
- Despite this progress, many legal aid lawyers face challenges related to inadequate training, low remuneration, and limited motivation, which affects the quality of legal representation.
- There is significant disparity in the implementation of legal aid services across different states, largely attributable to uneven infrastructure, resource allocation, and public awareness levels.
- Although digital platforms for legal aid have been introduced, their utilization remains low in remote and rural areas, limiting their effectiveness in bridging the justice gap.

Conclusion:

Legal aid specifically has been put forward as a welfare initiative that provides justice based on 'equal opportunity' under Article 39A of the Constitution. Hence, it would be suggested that, it is not only the participation of lawyers, but also the courts, the law teachers in legal awareness programs, law students and public at large is needed in spreading legal awareness and educating the people. It is known that the main object is to reduce the burden on the courts so that the problem of delay may be solved and people may get justice within due time. For this the Lok- Adalaths should be promoted in the right direction as thy settle disputes quickly. There is a need of holistic approach for the proper implementation of the Act. The legal aid movement has to go to the grass root level and help to discover, identify and solve the problems and difficulties of the poor.

Suggestions:

- Capacity Building: Enhance the training programs for legal aid lawyers and introduce incentives to improve their motivation and performance.
- Awareness Campaigns: Intensify legal literacy and awareness efforts, particularly targeting tribal, rural, and remote communities to increase demand for legal aid services.
- Technology Integration: Expand the reach of digital legal services by developing mobile legal clinics, user-friendly apps, and improving internet infrastructure in underserved areas.
- Performance Monitoring: Establish regular audits and evaluations of Legal Services Authorities to ensure transparency, accountability, and continual improvement in service delivery.

[8] Saurabh Sood, " Convergence in the Practice of Legal Aid to Improve Access to Justice" , Asian Journal of Legal Education, 2019

[9] Verma, S. (2020). Digital Initiatives in Legal Aid: Opportunities and Limitations. Law and Technology Review, 7(3), 112-128