
LEGAL AID IN INDIA: A CONSTITUTIONAL PROMISE AND ITS PRACTICAL CHALLENGES

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ABSTRACT

Access to justice is a fundamental element of a democratic legal system, yet for a large section of the Indian population, economic hardship, illiteracy, and social disadvantage continue to act as barriers to seeking legal remedies. Legal aid in India emerges as a crucial mechanism to address this imbalance and to ensure that justice is not limited to those who can afford it. Rooted in the constitutional vision of social justice, particularly under Article 39A of the Indian Constitution, the legal aid framework aims to provide free legal services to the poor and marginalized sections of society.

This paper examines the evolution, objectives, and institutional framework of legal aid in India, with a focus on the Legal Services Authorities Act, 1987 and the role of the National Legal Services Authority (NALSA). It analyses the scope of legal aid services, including legal advice, representation, and alternative dispute resolution mechanisms such as Lok Adalats. The paper also highlights the practical challenges faced in the implementation of legal aid, including lack of awareness, inadequate infrastructure, limited legal literacy, and concerns regarding the quality of legal representation.

The paper seeks to identify gaps between law and practice and suggests measures for strengthening legal aid delivery. The study concludes that effective implementation of legal aid is essential for upholding the rule of law and ensuring meaningful access to justice in India

Keywords: Legal Aid; Access to Justice; Article 39A; Legal Services Authorities Act, 1987; National Legal Services Authority (NALSA); Free Legal Services; Rule of Law; Marginalised and Weaker Sections; Lok Adalats; Social Justice.

INTRODUCTION

Legal aid in India means the provision of free legal services to individuals who are not able to afford legal representation or access to the justice. The main objective of legal aid is to ensure that justice is accessible to all, regardless of their financial circumstances. The Indian Constitution is founded on the principle of justice—social, economic, and political as enshrined in its Preamble.¹ To translate this constitutional promise into reality, the Directive Principles of State Policy place a duty upon the State to ensure fairness and equality in society. Article 38 mandates the State to promote the welfare of the people by securing a just social order,² while Article 39A specifically directs the State to provide free legal aid through suitable legislation or schemes so that no citizen is denied access to justice due to economic or other disabilities.³

In pursuance of this constitutional obligation, the Legal Services Authorities Act, 1987 was enacted and came into force in 1995.⁴ The Act institutionalised the concept of legal aid in India by providing free legal services to the socially and economically weaker sections of society. It seeks to ensure equal access to justice by offering legal advice, assistance, and representation to those who cannot afford legal counsel. The National Legal Services Authority (NALSA), along with State and District Legal Services Authorities, regulates and implements legal aid across the country.⁵

Thus, legal aid is not merely a welfare measure but an essential component of the rule of law. It plays a crucial role in protecting the rights of the poor, illiterate, and marginalised sections of society who would otherwise be excluded from the justice delivery system.⁶ However, despite a robust constitutional and statutory framework, the effective implementation of legal aid faces several practical challenges, preventing it from fully achieving its intended objectives.⁷ Addressing these challenges is vital to ensure that justice is not only guaranteed in theory but is also accessible in practice to every citizen of India.

¹*The Constitution of India (1950) Preamble.*

²*The Constitution of India (1950) art 38.*

³*The Constitution of India (1950) art 39A.*

⁴*Legal Services Authorities Act 1987, s 3.*

⁵*Legal Services Authorities Act 1987, ss 4–11.*

⁶Upendra Baxi, ‘Access to Justice, Social Justice and Legal Aid’ (1984) 1 SCC (Jour) 1.

⁷Marc Galanter, ‘Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change’ (1974) 9 Law & Society Review 95.

CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK OF LEGAL AID IN INDIA

1.CONSTITUTIONAL PROVISIONS

In order to maintain the rule of law in a democratic society, everyone, especially the poor, marginalised, and disadvantaged, must have access to justice. The Constitution of India sets the foundation for legal aid in multiple provisions. As per Article 14 -The state shall guarantee that all people are treated equally before the law and have access to a judicial system that maintains justice based on fairness.⁸ Article 21 protects the right to life and personal liberty, including the right to a fair trial.⁹ However, access to legal representation is fundamental to the effective enjoyment of these rights.. In 1976, the Indian Parliament incorporated Article 39A of the Constitution, which established free legal assistance as a basic principle and was inserted through forty-second Constitutional Amendment Act ,1976

Article 39A. Equal justice and free Legal Aid –“The State shall secure that the operation of the 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 are not denied to any citizen by reason of economic or other disabilities.”¹⁰

This constitutional recognition of access to justice as a policy imperative places an obligation on the State to actively remove barriers that impede marginalised groups from accessing legal remedies. The provision underscores the commitment of the Indian state to promote justice and provide free legal aid to those who are economically or otherwise disadvantaged. It recognizes that access to justice is a fundamental right and that steps must be taken to remove barriers that may prevent citizens from securing justice. On the basis of Article 39A, the Indian government enacted the Legal Services Authorities Act, 1987, which provides the legal framework for the provision of legal aid in India. Under this act, the National Legal Services Authority (NALSA),State Legal Services Authorities (SLSAS)and District Legal Services Authorities (DLSA)were established to facilitate the implementation of legal aid programs and services at the national,state and district level respectively.

⁸*The Constitution of India (1950) art 14.*

⁹*The Constitution of India (1950) art 21.*

¹⁰*The Constitution of India (1950) art 39*

2.LEGISLATIVE PROVISIONS

The notion of free Legal Aid was given formal support with the enactment of the Legal Services Authorities Act in 1987 and the subsequent founding of NALSA in 1995 which strength of motion of free legal aid in India. The following legislations legislated in favour of Free Legal Aid in India:

- The Bar Council of India
- Bar Council of India Legal Aid Rules, 1983
- Legal Practitioners (Regulation and Maintenance of Standards in Profession, Protecting the Interest of Clients and Promoting the Rule of Law) Bill, 2010

Although these legislations are also important in effective functioning of Legal Aid services in India.

Legal Services Authorities Act, 1987

The Legal Services Authorities Act was enacted in 1987 to provide a statutory framework for the provision of legal aid in India. The Act seeks to give effect to the constitutional mandate under Article 39A by establishing a statutory regime for legal aid and legal services in the country. The Act defines “legal services” in wide terms, encompassing advice, representation, assistance in securing bail, drafting of pleadings, and alternative dispute resolution mechanisms.¹¹ Under the Act, the State is required to provide free legal services to specific categories of persons, including the economically weaker sections, women and children, victims of human trafficking, industrial workmen, persons with mental or physical disabilities, and those with a gross annual income below the prescribed limit.¹²

The Act also institutionalised legal aid through a tiered structure of authorities: the National Legal Services Authority (NALSA), State Legal Services Authorities, District Legal Services Authorities at National, state and district level respectively. This framework aims to decentralise access to legal services, making them available even at the grassroots level.

¹¹*Legal Services Authorities Act 1987, s 2©.*

¹²*Legal Services Authorities Act 1987,*

Institutional Mechanism

National Legal Services Authority (NALSA) operates as the apex body responsible for guiding policy, framing schemes, and coordinating legal aid activities nationwide. It also conducts legal awareness programmes, training for para-legal volunteers, and reviews the functioning of State and District Authorities.

State and District Legal Services Authorities are tasked with implementing legal aid schemes, mobilising panel lawyers, organising Lok Adalats (people's courts) for alternative dispute resolution, and collaborating with civil society organizations to reach marginalised communities. Permanent Lok Adalats focus on pre-litigation dispute resolution in matters like public utility services.

Who Is Entitled to Receive Legal Aid?

The Constitution of India envisages equal access to justice for all individuals and mandates the State to ensure that legal aid is made available to those who are unable to afford legal representation. In furtherance of this constitutional objective, the Legal Services Authorities Act, 1987 specifies the categories of persons who are entitled to receive free legal services in India.¹³ Under Section 12 of the Act, legal aid is available to all Indian citizens, irrespective of age, gender, caste, or ethnicity, provided they fall within the prescribed categories. The persons entitled to receive legal aid include:

- A person who belongs to Scheduled Caste or Scheduled Tribe;
- A woman or a child;
- A person who is a victim of trafficking in human beings or begar;
- A person who is mentally ill or otherwise differently abled;
- A person under special circumstances, including victims of natural disasters, ethnic violence, caste atrocities, or industrial disasters;
- A person in custody, including custody in a protective home, juvenile home, or psychiatric hospital.¹⁴

¹³Legal Services Authorities Act 1987, s 12

¹⁴Legal Services Authorities Act 1987, s 12(a)–(g).

The individual to whom legal aid is provided is not required to pay any charges for availing such services. Free legal services include:

- Court fees or any other legal expenses related to litigation;
- Documentation costs, including drafting of pleadings, applications, affidavits, and obtaining certified copies;
- Advocate's fees, covering legal advice, representation, and assistance at all stages of legal proceedings.¹⁵

The provision of free legal services under the Act aims to eliminate financial barriers to justice and ensures that the legal system operates on the principles of fairness and equality.

Services Provided under Legal Aid

Legal aid includes legal advice, representation before courts and tribunals, drafting of legal documents, and other forms of legal assistance. It covers a wide range of legal matters, including criminal cases, civil disputes, family matters, labour issues, and other allied areas of law.¹⁶

Legal Aid Clinics

Legal aid clinics have been established in various parts of the country to provide legal assistance at the grassroots level. These clinics function as accessible points of contact for marginalised communities and are often operated with the assistance of panel lawyers and trained para-legal volunteers.¹⁷

¹⁵Legal Services Authorities Act 1987, s 13.

¹⁶Legal Services Authorities Act 1987, s 2©.

¹⁷Legal Services Authorities Act 1987, s 23

ROLE OF LEGAL AID IN ACCESS TO JUSTICE IN INDIA

Legal aid plays a pivotal role in ensuring meaningful access to justice for economically and socially marginalised sections of society. In a legal system characterised by procedural complexity, high costs, and professional representation, the absence of legal assistance often results in the exclusion of the poor and vulnerable from the justice delivery mechanism. Legal aid bridges this gap by enabling individuals to understand their legal rights, seek appropriate remedies, and effectively participate in judicial proceedings.

Access to justice is not limited to the mere availability of courts but encompasses the ability of individuals to approach legal institutions without fear, financial burden, or discrimination. Legal aid ensures that persons who lack financial resources are not denied justice solely due to their inability to afford legal representation. In criminal proceedings, legal aid is particularly significant, as it safeguards the rights of accused persons, ensures fair trial standards, and prevents miscarriages of justice, especially in cases involving undertrial prisoners and custodial detainees.¹⁸

Legal aid also contributes to the enforcement of fundamental rights guaranteed under Part III of the Constitution. Rights under Articles 14 and 21 would remain largely illusory for disadvantaged groups without access to legal remedies. By providing free legal services, the State fulfils its constitutional obligation to ensure equality before law and protection of life and personal liberty.¹⁹ In this sense, legal aid operates as a substantive mechanism for realising constitutional values rather than a mere procedural facility.

¹⁸Hussainara Khatoon v State of Bihar (1980) 1 SCC 81.

¹⁹Manubhai Pragji Vashi v State of Maharashtra (1989) 2 SCC 529.

Scholars have consistently emphasised that access to justice is a prerequisite for social justice and democratic governance.²⁰ Legal aid empowers marginalised individuals by enabling them to challenge exploitation, discrimination, and abuse by more powerful social and economic actors. It strengthens the rule of law by ensuring that justice is not monopolised by those with resources, but is equally accessible to all sections of society.

Furthermore, legal aid contributes to public confidence in the justice system by reinforcing the perception that courts are accessible and responsive to the needs of the poor. Through legal awareness programmes, Lok Adalats, and legal aid clinics, the legal aid system promotes alternative and participatory forms of dispute resolution, thereby reducing litigation costs and judicial delays.²¹ Thus, legal aid functions not only as a tool of individual empowerment but also as an institutional mechanism for promoting justice

In sum, legal aid is not merely a charitable or welfare-oriented service but a constitutional necessity and a cornerstone of access to justice. It ensures that justice is not contingent upon wealth or social status, but is grounded in principles of equality, fairness, and human dignity. An effective legal aid system is therefore indispensable for the realisation of constitutional ideals, the protection of fundamental rights, and the strengthening of democratic governance in India.

²⁰Upendra Baxi, 'Access to Justice, Social Justice and Legal Aid' (1984) 1 SCC (Jour) 1.

²¹Legal Services Authorities Act 1987, ss 19–22; National Legal Services Authority (NALSA), Lok Adalat and Access to Justice <https://nalsa.gov.in> accessed 27 December 2025.

ROLE OF JUDICIARY AND JUDICIAL INTERPRETATION

The Indian judiciary, particularly the Supreme Court, has played a proactive role in interpreting the right to legal aid as an integral part of the right to a fair trial under Article 21 of the Constitution of India ²². In various landmark judgments, courts have emphasised that access to justice cannot be denied to a person merely on account of poverty indigence.²³ The Supreme Court has directed state governments and legal services authorities to formulate effective schemes and monitor their implementation, particularly in cases involving undertrial prisoners and custodial detainees.²⁴

The judiciary has also expanded categories of persons eligible for legal aid in certain contexts, recognising the evolving needs of vulnerable and Marginalised groups.²⁵ This judicial oversight has contributed to strengthening the legal aid framework, but substantive challenges in implementation remain.²⁶

In Hussainara Khatoon v State of Bihar, The Supreme Court for the first time explicitly recognised the right to free legal aid as a fundamental right implicit in Article 21 of the Constitution. The Court observed that the right to a speedy trial and legal representation is essential for ensuring fair procedure, and the State is duty-bound to provide legal assistance to indigent accused persons.²⁷

In Sheela Barse vs. State of Maharashtra, It was decided that providing legal aid to a poor accused who has been detained and put in danger of losing his life or personal liberty constitutes a fundamental obligation arising not only under Article 39-A but also under Articles 21 and 14 of the Constitution.²⁸

²²Manubhai Pragaji Vashi v State of Maharashtra (1988) 4 SCC 167.

²³Hussainara Khatoon v State of Bihar (1980) 1 SCC 81.

²⁴Khatri (II) v State of Bihar (1981) 1 SCC 627.

²⁵Centre for Legal Research v State of Kerala (1986) 2 SCC 706.

²⁶Marc Galanter, ‘Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change’ (1974) 9 Law & Society Review 95.

²⁷Hussainara Khatoon v State of Bihar (1980) 1 SCC 81.

²⁸Sheela Barse v State of Maharashtra (1983) 2 SCC 96.

In Khatri (II) v State of Bihar, The Supreme Court held that the constitutional obligation to provide legal aid arises the moment an accused is produced before a magistrate and continues throughout the trial. The Court emphasised that failure to provide legal assistance due to ignorance or poverty violates Article 21.²⁹

Centre for Legal Research v State of Kerala, The Supreme Court highlighted the role of legal aid institutions and underscored the necessity of strengthening legal aid programmes to ensure effective access to justice for marginalised communities.³⁰

In Manubhai Pragaji Vashi v State of Maharashtra, The Supreme Court reiterated that access to justice is a fundamental right and legal aid serves as a vital tool to ensure equality before the law. The Court stressed that legal education and legal aid are essential components of a just legal system.³¹

Role of Lok Adalats

Lok Adalats play a significant role in achieving the objectives of the Legal Services Authorities Act 1987.³² They provide an effective forum for the settlement of disputes through conciliation and compromise. Awards passed by Lok Adalats are final and binding on the parties and are deemed to be decrees of civil courts, thereby eliminating prolonged litigation.³³

Lok Adalats have been particularly effective in resolving motor accident claim cases, family disputes, labour disputes, and matters relating to public utility services, contributing to speedy and cost-effective justice.³⁴

²⁹Khatri (II) v State of Bihar (1981) 1 SCC 627

³⁰Centre for Legal Research v State of Kerala (1986) 2 SCC 706.

³¹Manubhai Pragaji Vashi v State of Maharashtra (1988) 4 SCC 167.

³²Legal Services Authorities Act 1987, s 19.

³³Legal Services Authorities Act 1987, s 21.

³⁴National Legal Services Authority (NALSA), 'Lok Adalat' <https://nalsa.gov.in> accessed 27 December 2025.

CHALLENGES IN IMPLEMENTATION

Despite a robust constitutional and legislative framework, the delivery of legal aid in India continues to face several systemic and operational challenges.

Lack of Awareness

One of the most significant barriers to the effective utilisation of legal aid is the lack of public awareness regarding the availability of free legal services. Many eligible beneficiaries remain uninformed about their legal entitlements. Rural populations, migrant workers, and illiterate individuals are often unaware of the institutional mechanisms established for legal aid, resulting in underutilisation of existing schemes.³⁵

Inadequate Funding and Infrastructure

The legal aid system in India faces long-standing challenges due to insufficient funding. Legal aid cells, particularly at the district and taluk levels, frequently lack adequate infrastructure, trained staff, and financial resources to manage cases effectively.³⁶ In the absence of sufficient funding, initiatives relating to legal literacy, outreach programmes, and quality legal representation remain limited.

The shortage of panel lawyers willing to undertake legal aid cases—especially in remote and underserved regions—further aggravates the problem. Legal aid lawyers are often overburdened, inadequately compensated, and lack access to research and institutional support, which adversely affects the quality of legal representation provided.³⁷

³⁵National Legal Services Authority (NALSA), Legal Services and Access to Justice <https://nalsa.gov.in> accessed 27 December 2025.

³⁶Law Commission of India, Report on Legal Aid (1977).

³⁷Marc Galanter, ‘Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change’ (1974) 9 Law & Society Review 95.

Quality of Representation

The quality of legal aid services remains inconsistent across jurisdictions. Although the Legal Services Authorities Act 1987 mandates the provision of free legal services, the effectiveness of such services largely depends on the competence, training, and commitment of assigned counsel. In several cases, inadequate preparation and lack of motivation among legal aid lawyers result in substandard advocacy, undermining beneficiaries' confidence in the justice system and compromising fair trial standards.³⁸

Procedural Hindrances

Formal court procedures are often complex, time-consuming, and intimidating for legal aid beneficiaries, even when legal representation is provided. Frequent adjournments, procedural delays, and bureaucratic hurdles significantly reduce the effectiveness of legal aid in securing timely justice. Linguistic barriers in multilingual jurisdictions further compound the difficulties faced by marginalised groups.³⁹

Socio-Cultural Barriers

Socio-cultural factors such as social stigma, fear of retaliation, and lack of trust in legal institutions discourage many eligible individuals—particularly women and members of marginalised castes—from seeking legal aid. Gender bias, community pressure, and entrenched power structures often limit the empowering potential of legal aid, especially in cases involving domestic violence, sexual harassment, and family disputes.⁴⁰

³⁸Upendra Baxi, 'Access to Justice, Social Justice and Legal Aid' (1984) 1 SCC (Jour) 1.

³⁹Hussainara Khatoon v State of Bihar (1980) 1 SCC 81.

⁴⁰Sheela Barse v State of Maharashtra (1983) 2 SCC 96.

RECENT DEVELOPMENTS AND INNOVATIONS

In recent years, the National Legal Services Authority (NALSA) and various State Legal Services Authorities have undertaken several initiatives to enhance the reach and effectiveness of legal aid services. These include nationwide legal awareness programmes, mobile legal aid clinics, and institutionalised pro bono collaborations with law schools, legal aid clinics, and bar associations.

The increasing use of technology such as online legal advice portals, telephonic helplines, and digital grievance redress mechanisms has the potential to bridge accessibility gaps, particularly in urban and peri-urban areas.⁴¹ These innovations aim to make legal aid more responsive, efficient, and user-friendly.

Legal aid services have also expanded to address contemporary legal challenges such as cybercrime, environmental disputes, and human trafficking, reflecting an adaptive and evolving approach to access to justice in a rapidly changing socio-legal landscape.⁴²

RECOMMENDATION FOR REFORM

To strengthen the legal aid regime in India and ensure that its constitutional promise becomes a lived reality, the following reforms are crucial

1. Increased Funding and Institutional Support

State and Central Governments must allocate dedicated budgetary resources to expand legal aid infrastructure, recruit and train panel lawyers, and equip legal aid cells with necessary facilities. Financial incentives for lawyers taking up legal aid cases can improve representation quality.⁴³

⁴¹*Law Commission of India, Access to Justice and Legal Aid (2015).*

⁴²*Legal Services Authorities Act 1987, ss 4–11.*

⁴³*Ibid*

2. Awareness and Legal Literacy Programmes

Comprehensive legal literacy campaigns should be undertaken, especially in rural and marginalised communities. Partnerships with NGOs, academic institutions, and community leaders can enhance awareness and dispel myths about the justice system.⁴⁴

3. Strengthening Training and Accountability

Regular training programmes for legal aid lawyers, para-legal volunteers, and authority officials will improve service quality. Establishing accountability mechanisms to monitor performance and case outcomes can help ensure effective representation.⁴⁵

4. Technology Integration

Leveraging digital platforms for legal advice, case tracking, and awareness can overcome physical barriers to access. Tele-legal aid services, online appointment systems, and digital legal literacy modules can expand reach and efficiency.⁴⁶

5. Community-Centred Approaches

Legal aid should be provided in a way that respects local social and cultural conditions. Community paralegals and local volunteers who understand the language, customs, and everyday problems of the people can build trust and encourage more individuals from marginalised groups to make use of legal aid services.⁴⁷

⁴⁴National Legal Services Authority (NALSA), Legal Literacy and Legal Awareness Programmes <https://nalsa.gov.in> accessed 27 December 2025.

⁴⁵Upendra Baxi, 'Access to Justice, Social Justice and Legal Aid' (1984) 1 SCC (Jour) 1.

⁴⁶Law Commission of India, Access to Justice and Legal Aid (2015).

⁴⁷Hussainara Khatoon v State of Bihar (1980) 1 SCC 81.

CONCLUSION

Legal aid is a crucial component of India's legal system, aimed at ensuring equal access to justice and safeguarding the rights of all citizens, particularly those who are economically and socially disadvantaged. The legal aid framework plays a vital role in upholding the rule of law and strengthening public confidence in the justice delivery system.

Legal aid ensures that justice remains accessible to individuals irrespective of economic or other disabilities and is recognised as an essential element of fair procedure under Indian constitutional law. Article 39A of the Constitution expressly mandates the State to provide free legal aid to promote equal justice. The Legal Services Authorities Act 1987 provides the statutory foundation for the legal aid system in India by establishing the National Legal Services Authority (NALSA) and State Legal Services Authorities (SLSAs) to oversee its implementation.

Legal aid thus remains a critical instrument for protecting fundamental rights, promoting social justice, and reinforcing constitutional values. By removing financial and structural barriers to justice, legal aid reflects the commitment of the Indian State to ensure that justice is not denied on grounds of poverty or disadvantage. As legal aid programmes continue to evolve and expand, they contribute significantly to the creation of a more equitable and inclusive justice system in India.