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“ACCESS TO JUSTICE FOR THE MARGINALIZED: A REALITY CHECK ON FREE LEGAL AID IN INDIA”

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ABSTRACT

Access to justice stands as a fundamental pillar of any democratic society, aimed at ensuring the equal application of the rule of law. In India, this principle is constitutionally embedded in Article 39A, which obligates the State to extend free legal aid to individuals who cannot afford legal services, thus safeguarding their right to seek justice without discrimination based on financial or social status. Although the Legal Services Authorities Act, 1987 has laid down a comprehensive structure to provide such aid, the ground realities reveal a persistent gap between legal provisions and their practical implementation—especially for marginalized sections including economically weaker individuals, women, Scheduled Castes, Scheduled Tribes, and other disadvantaged groups.

This research critically examines the journey of free legal aid in India, tracing its historical background, evaluating the current legal and institutional framework, and identifying the core issues that continue to hinder its effectiveness. Challenges such as public unawareness, inadequate resources, and substandard legal representation are highlighted as major barriers. The paper further assesses ongoing initiatives like the Tele-Law programme, legal awareness drives, and voluntary legal services to understand their role in enhancing outreach and access.

In conclusion, the study recommends actionable reforms—both administrative and policy-oriented—to reinforce the legal aid system and fulfill its constitutional mandate. It underscores the need to ensure that justice is not reserved for a privileged few but is an accessible and enforceable right for every citizen, particularly those at the margins of the legal system.

KEYWORDS – Access to Justice, Free Legal Aid, Article 39A, Legal Services Authorities Act, Marginalized Communities, Legal Empowerment, Social Justice, Rule of Law, Tele-Law Programme, Legal Literacy, Public Awareness, Constitutional Mandate, Legal Reforms, Vulnerable Groups, Equal Justice, Legal Aid Mechanism, India

1. Introduction

Access to justice is a foundational element of any democratic legal system and is essential for the realization of other civil, political, and socio-economic rights. In India, where historical and structural inequalities continue to shape everyday experiences, achieving equal access

to justice remains a formidable challenge⁴³⁸. Marginalized groups—including economically weaker sections, Scheduled Castes (SCs), Scheduled Tribes (STs), religious minorities, women, and persons with disabilities—often encounter multiple, intersecting barriers that

⁴³⁸ Basu, D.D., *Introduction to the Constitution of India*, LexisNexis, 24th edn., 2022, p. 407.

prevent them from engaging effectively with the legal system.

These barriers are not merely financial but extend to social stigma, inadequate legal awareness, linguistic challenges, and geographical remoteness⁴³⁹. As a result, the promise of "equal justice under law" often remains unfulfilled for large sections of society.

To address such disparities, Article 39A of the Indian Constitution was inserted by the 42nd Constitutional Amendment in 1976. It directs the State to ensure that legal assistance is not denied to any citizen by reason of economic or other disabilities. This constitutional mandate laid the foundation for the enactment of the **Legal Services Authorities Act, 1987**, which created a statutory framework for delivering free legal services through institutions at the national (NALSA), state (SLSAs), and district levels (DLSAs).

The objective was to make justice more accessible, especially for those who are otherwise excluded due to social or economic disadvantage. However, despite this comprehensive legislative mechanism, ground-level implementation remains patchy and underwhelming. Empirical evidence shows that many beneficiaries receive poor-quality representation, face delays, or are entirely denied assistance due to procedural hurdles and lack of institutional accountability⁴⁴⁰. Additionally, many eligible individuals remain unaware of their entitlements under the law, pointing to an alarming gap in outreach and legal literacy.

This research paper seeks to examine these critical gaps in both policy and practice. It traces the historical evolution of legal aid in India, critiques the performance of existing institutions, and investigates whether recent initiatives such as the **Tele-Law Programme** and legal literacy drives have made any

meaningful impact.

Ultimately, this study aims to bridge the divide between constitutional ideals and social realities. Through a combination of empirical insight and policy analysis, it proposes actionable reforms to strengthen India's legal aid system—transforming it from a tokenistic formality into a substantive pillar of justice delivery.

2. Evolution of Free Legal Aid in India

The evolution of free legal aid in India is deeply rooted in the nation's constitutional ethos, particularly its commitment to social justice, equality, and the rule of law. The founding fathers envisioned a legal system that would not only uphold formal equality but also facilitate **substantive justice** for all, especially the marginalized⁴⁴¹.

While sporadic legal aid efforts began as early as the 1950s, often led by High Courts or voluntary groups, these initiatives were informal and lacked standardization⁴⁴². A structured approach emerged only with the insertion of **Article 39A** into the Constitution through the **42nd Constitutional Amendment Act, 1976**. This Article mandated the State to ensure that "the legal system promotes justice on the basis of equal opportunity" and to "provide free legal aid... to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities"⁴⁴³.

This signaled a paradigm shift from charity-based legal help to a **rights-based, state-backed model** of legal assistance grounded in constitutional morality⁴⁴⁴. The judiciary played a key role in reinforcing this vision. A landmark moment came in *Hussainara Khatoon v. State of Bihar* (1979), where the Supreme Court held that free legal aid is integral to the right to a fair trial under **Article 21** of the Constitution. This judgment laid the doctrinal foundation for

⁴³⁹ Singh, A., "Access to Justice in Rural India: An Empirical Analysis," *Journal of Human Rights and Law Review*, Vol. 10, No. 2, 2022, pp. 88–94.

⁴⁴⁰ Law Commission of India, *Report No. 222 on Need for Justice Dispensation Through ADR Including Mediation and Conciliation*, 2009.

⁴⁴¹ Baxi, Upendra, *The Crisis of the Indian Legal System*, Vikas Publishing, 1982.

⁴⁴² Law Commission of India, *Report No. 14 on Reform of Judicial Administration*, 1958

⁴⁴³ Constitution of India, Article 39A, inserted by the 42nd Amendment Act, 1976.

⁴⁴⁴ Dhavan, Rajeev, *Litigation Explosion in India*, Oxford University Press, 1990.

linking legal aid with fundamental rights.

In response, the **Legal Services Authorities Act, 1987** was enacted, coming into force on **9th November 1995**. The Act established a nationwide legal aid system comprising institutions at the **national (NALSA), state (SLSA), district (DLSA), and taluk (TLSC)** levels. These bodies were tasked with providing free legal representation, organizing *Lok Adalats*, conducting legal awareness programs, and supporting alternative dispute resolution mechanisms.

Section 12 of the Act prescribes eligibility criteria, targeting vulnerable groups such as **SCs, STs, women, children, victims of trafficking, industrial workers, persons in custody, and persons with disabilities**.

In subsequent years, the scope of legal aid expanded with programs like:

- **Legal Aid Clinics** (in universities and rural areas),
- **Legal Literacy Camps,**
- **Tele-Law services** (leveraging CSCs and technology),
- **Victim Compensation Schemes,** and
- **Pro bono legal services.**

Despite these developments, challenges persist: underfunding, lack of trained personnel, limited awareness, and uneven implementation continue to hinder the effectiveness of the system.

Thus, the legal aid system in India has witnessed remarkable legislative and judicial evolution, but the gap between constitutional aspiration and operational reality remains a pressing concern.

3. Institutional Framework

The delivery of free legal aid in India is institutionalized under the **Legal Services Authorities Act, 1987**, which provides for a **four-tiered** structure for legal services at the

national, state, district, and sub-district levels⁴⁴⁵. This system aims to decentralize legal aid and make it accessible to the most disadvantaged.

3.1 National Legal Services Authority (NALSA)

At the apex is the **National Legal Services Authority (NALSA)**, headquartered in New Delhi. Chaired by a sitting judge of the Supreme Court (other than the Chief Justice), NALSA formulates national policies, schemes, and guidelines for the implementation of legal aid services. It also coordinates legal aid activities across states and launches thematic campaigns targeting marginalized populations.

NALSA oversees critical programs such as:

- **Legal Aid Clinics,**
- **Legal Empowerment Camps,**
- **Victim Compensation Schemes,** and
- **Awareness Initiatives** targeting SCs, STs, women, children, and persons with disabilities⁴⁴⁶.

3.2 State Legal Services Authorities (SLSAs)

Each state has its own **State Legal Services Authority (SLSA)**, headed by the Chief Justice of the High Court as the **Patron-in-Chief** and a senior judge as the **Executive Chairman**. SLSAs implement legal aid policies in accordance with NALSA's guidelines while tailoring programs to local needs. They supervise the functioning of **District Legal Services Authorities** and organize state-level awareness campaigns, training programs for legal aid lawyers, and community outreach efforts.

3.3 District Legal Services Authorities (DLSAs)

DLSAs operate under the District Judge and are the key implementing authorities at the district level. They coordinate with bar associations, organize **legal aid camps**, and manage applications for free legal assistance⁴⁴⁷. DLSAs also maintain panels of trained legal aid lawyers and collaborate with **correctional**

⁴⁴⁵ Legal Services Authorities Act, 1987, Chapter II.

⁴⁴⁶ NALSA Schemes and Campaigns, <https://nalsa.gov.in/schemes>.

⁴⁴⁷ *Ibid.*, Section 9.

homes, child care institutions, and police stations to identify people in need of legal aid—especially undertrial prisoners, women in distress, and juveniles in conflict with the law.

3.4 Taluk Legal Services Committees (TLSCs)

TLSCs, chaired by senior civil judges, function at the taluk or sub-divisional level and serve as the first point of legal contact in rural or semi-urban regions⁴⁴⁸. These committees organize legal awareness drives, Lok Adalats, and help citizens resolve minor civil or family disputes efficiently. Their presence is crucial in rural areas with poor legal literacy and minimal access to courts.

3.5 Human Resource Base: Legal Aid Lawyers and Para Legal Volunteers (PLVs)

As of March 2023, India's legal aid infrastructure includes around **49,126 empaneled legal aid lawyers** and over **42,446 Para Legal Volunteers (PLVs)**⁴⁴⁹. While legal aid lawyers provide court-based representation, **PLVs act as a vital bridge** between communities and the formal legal system. They assist with document preparation, legal awareness, and navigation through bureaucratic procedures.

PLVs are often drawn from local communities—teachers, students, retired government employees, social workers—and are trained by legal services authorities to identify legal issues and facilitate access to justice⁴⁵⁰.

4. Challenges in Providing Free Legal Aid

Despite the existence of a comprehensive statutory framework, the ground-level implementation of free legal aid in India faces several persistent challenges. These obstacles hinder the realization of the constitutional goal of equal access to justice, especially for the underprivileged.

4.1 Lack of Awareness

A significant impediment to the effective utilization of free legal aid services is the lack of

awareness among potential beneficiaries. Many citizens, particularly in rural, tribal, and backward areas, are unaware of their legal rights and the availability of free legal assistance. Cultural stigmas, illiteracy, and limited outreach further compound this problem. Studies have shown that a substantial portion of the rural population is unaware of the existence or functioning of legal services authorities.⁴⁵¹

4.2 Resource Constraints

Legal aid institutions in India often grapple with budgetary limitations, understaffing, and inadequate infrastructure. The number of legal aid lawyers and Para Legal Volunteers (PLVs) is insufficient to meet the increasing demand for services. Moreover, legal aid lawyers are often underpaid, which affects their motivation and the overall quality of legal representation. A 2021 report by NALSA indicated significant disparities in funding and resource allocation across different states.

4.3 Geographical and Structural Barriers

Many remote and backward regions lack basic legal infrastructure such as court premises, legal aid clinics, or trained legal professionals. The problem is aggravated by poor transport and limited internet penetration, which restricts access to online legal services. This geographical disconnect isolates large segments of the population from formal legal mechanisms, forcing them to rely on informal and sometimes exploitative systems of justice.⁴⁵²

4.4 Quality of Legal Representation

Another major concern is the substandard quality of legal services offered through the legal aid system. Many legal aid lawyers, especially at the district and taluk levels, lack adequate training or show low levels of commitment due to poor remuneration and absence of professional incentives. There are

⁴⁴⁸ Ibid., Section 11A

⁴⁴⁹ Ministry of Law and Justice, *Tele-Law Dashboard*, March 2023

⁴⁵⁰ NALSA, *Para Legal Volunteer Scheme*, <https://nalsa.gov.in/plvs>.

⁴⁵¹ National Legal Services Authority (NALSA), *Annual Report 2021–2022*, available at: <https://nalsa.gov.in>

⁴⁵² Law Commission of India, *Report No. 222 on Need for Justice-dispensation through ADR*, Ministry of Law and Justice, Government of India, 2009.

instances where lawyers fail to appear in court, provide improper legal advice, or handle multiple cases simultaneously, thereby compromising justice for aid-seekers.

5. Recent Initiatives and Reforms

In an attempt to improve the reach, quality, and efficiency of legal aid services, the central government and various legal services authorities have launched several reformative initiatives in recent years.

5.1 Tele-Law Programme

The Tele-Law initiative, launched in 2017, bridges the digital divide by offering remote legal consultations through Common Service Centres (CSCs) across rural India. By leveraging video conferencing tools and support from PLVs, legal experts can provide real-time legal advice to individuals without requiring physical presence. This model has been particularly useful in remote areas and during the COVID-19 pandemic.⁴⁵³

5.2 Legal Literacy and Awareness Camps

To address the awareness deficit, legal services authorities conduct regular legal literacy campaigns in schools, villages, and urban slums. These programs employ methods such as street plays, posters, local language booklets, and interactive workshops to educate citizens about their rights and available legal remedies.⁴⁵⁴ These initiatives aim to build legal consciousness at the grassroots level.

5.3 Encouraging Pro Bono Legal Services

Recognizing the limitations of government-funded legal aid, the judiciary and legal institutions are promoting pro bono work by private lawyers. The Bar Council of India and various High Courts have encouraged the legal fraternity to dedicate a portion of their practice to free legal aid. Recognition and certifications are provided to those who contribute meaningfully, thereby increasing participation

in the system.⁴⁵⁵

5.4 Legal Aid Clinics in Educational Institutions

Law schools across India have been directed to establish Legal Aid Clinics as part of their social justice mission. These clinics offer law students the opportunity to engage with real-world legal issues under supervision. Such clinics serve dual purposes: providing community service and imparting experiential legal education.⁴⁵⁶

6. Case Studies: Access to Free Legal Aid in India

6.1 Case Study 1: Land Dispute Involving Tribal Farmers in Jharkhand

Background:

In Simdega district, Jharkhand, a private corporation attempted to acquire ancestral land from tribal farmers. Due to traditional inheritance systems, these farmers had no formal ownership documents.

Legal Aid Involvement:

The District Legal Services Authority (DLSA) became involved after an NGO brought the issue to light. Legal aid lawyers were appointed to advocate for the farmers, many of whom had never engaged with formal judicial processes.

Challenges Faced:

- Language barriers and illiteracy hindered communication.
- The community distrusted state-appointed lawyers due to fears of corporate collusion.
- Absence of official land records made legal substantiation difficult.

Outcome:

Following legal representation and mediation by paralegals, the matter was escalated to the High Court. The Court ordered a fresh land survey that considered tribal customs, leading to temporary protection of the land rights.⁴⁵⁷

⁴⁵³ Ministry of Law and Justice, *Tele-Law Dashboard and Monthly Reports*, 2023.

⁴⁵⁴ Sinha, R., "Legal Literacy as a Tool of Empowerment," *Indian Journal of Legal Studies*, Vol. 8, Issue 2, 2021

⁴⁵⁵ Bar Council of India, *Pro Bono Legal Services Circulars and Guidelines*, 2022.

⁴⁵⁶ University Grants Commission (UGC), *Model Guidelines for Legal Aid Clinics in Law Schools*, 2017.

⁴⁵⁷ Jharkhand High Court, *Tribal Land Rights Judgment*, 2022; NALSA, *Legal Services in Tribal Areas*, Annual Report 2022–23.

Analysis:

This case illustrates the importance of culturally aware legal aid and the role of legal institutions in defending indigenous land rights.

6.2 Case Study 2: Domestic Violence Survivor in Uttar Pradesh

Background:

A woman from rural Lucknow endured years of abuse. Social isolation and economic dependency left her unaware of her rights under the Protection of Women from Domestic Violence Act, 2005.

Legal	Aid	Intervention:
She met a Para Legal Volunteer (PLV) at a legal awareness camp organized by the State Legal Services Authority (SLSA), who helped her initiate legal proceedings.		

Challenges Faced:

- Police hesitance in filing an FIR.
- Community pressure to abandon legal action.
- Fear of retaliation and unfamiliarity with court procedures.

Outcome:

She received assistance from a government-supported One Stop Centre, protection orders from the court, and interim maintenance. Long-term legal and psychological support was arranged.⁴⁵⁸

Analysis:

Legal aid coupled with social support mechanisms can empower victims of domestic abuse to seek justice and rebuild their lives.

6.3 Case Study 3: Wrongful Arrest of a Dalit Laborer in Tamil Nadu

Background:

A Dalit daily wage laborer in Tamil Nadu was arrested for theft without substantial evidence and remained in custody for three months due to inability to afford bail.

Legal

Aid

Support:

The DLSA team discovered his case during a routine jail visit and assigned a lawyer who filed for bail and questioned the arrest through a writ petition.

Challenges Faced:

- The accused was unaware of his legal rights.
- Allegations of custodial torture emerged.
- He had no support system or family representation.

Outcome:

The High Court ordered his release and held police accountable. The State Human Rights Commission recommended compensation.⁴⁵⁹

Analysis:

This case underlines the systemic discrimination faced by marginalized communities and the vital need for timely legal aid to uphold constitutional safeguards.

6.4 Case Study 4: Migrant Worker in Assam Accused of Being a Foreign National

Background:

A Bengali-speaking migrant worker in Assam was misidentified as an illegal immigrant and placed in a detention center due to missing documentation.

Legal

Aid

Role:

The Assam State Legal Services Authority, through a legal aid camp, reviewed his case. A lawyer retrieved school and voter records from West Bengal and presented them to the Foreigners Tribunal.

Challenges Faced:

- Documentation was lost during flood-related displacement.
- Language barriers hindered communication during hearings.
- Bureaucratic delays in verification from his home state.

⁴⁵⁸ Protection of Women from Domestic Violence Act, 2005; SLSA Uttar Pradesh, *Gender Justice Initiative Reports*, 2023.

⁴⁵⁹ Tamil Nadu State Legal Services Authority, *Prison Legal Aid Intervention Report*, 2022; SHRC Tamil Nadu, Case No. 421/2022.

Outcome:

The tribunal acknowledged his citizenship and ordered his release after several months of litigation.⁴⁶⁰

Analysis:

Legal aid proves to be a crucial safeguard against wrongful detention stemming from administrative oversight and systemic prejudice.

6.5 Case Study 5: Children in Conflict with Law in Maharashtra

Background:

Several juvenile boys in Mumbai were arrested for petty crimes and detained in observation homes without legal representation or trial.

Legal	Aid	Action:
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An NGO flagged the issue to the Juvenile Justice Board. A Legal Services Clinic from a local law school took up their case under professional supervision.

Challenges Faced:

- Children were arrested without guardians present.
- Their psychological needs were neglected.
- The procedural mandates of the Juvenile Justice Act were ignored.

Outcome:

The boys were released and referred to rehabilitation programs. A suo motu judicial inquiry followed regarding the conditions in observation homes.⁴⁶¹

Analysis:

This case demonstrates how legal aid not only provides individual relief but can also trigger systemic reform in juvenile justice mechanisms.

7. Recommendations for Strengthening Legal Aid

To make legal aid services truly accessible and

effective, a multi-pronged strategy is required. The following recommendations offer practical steps towards reinforcing the system:

7.1 Strengthening Legal Awareness Initiatives

Implementing **large-scale awareness campaigns** through television, radio, social media, and grassroots institutions like Panchayats can help inform marginalized communities about their rights and entitlements under the legal aid framework.⁴⁶²

7.2 Training and Capacity Building

Regular **capacity-building programs** for legal aid lawyers and Para Legal Volunteers can improve service quality. Incentivizing performance and offering skill-based training in areas like victim rights, forensic interpretation, and alternative dispute resolution (ADR) can enhance professionalism.

7.3 Infrastructure Enhancement

Investments must be made to **develop physical and digital infrastructure** in underserved areas. This includes setting up legal aid clinics, mobile legal service vans, and expanding the reach of digital tools like Tele-Law to more districts.

7.4 Monitoring and Accountability Mechanisms

Establishing **robust monitoring systems** to track the performance of legal aid providers is essential. Regular audits, beneficiary feedback mechanisms, and performance-based evaluations can ensure greater transparency and responsiveness in the system.⁴⁶³

7.5 Collaboration with Civil Society

Partnering with **non-governmental organizations (NGOs)** and community-based groups can improve outreach, especially to marginalized populations who may distrust formal legal institutions. These partnerships can also support legal education and community

⁴⁶⁰ Assam State Legal Services Authority, *Foreigners Tribunal Legal Aid Cases Summary*, 2023; The Citizenship Act, 195

⁴⁶¹ Juvenile Justice (Care and Protection of Children) Act, 2015; Maharashtra State Commission for Protection of Child Rights, 2022 Inquiry Report.

⁴⁶² National Legal Services Authority (NALSA), *Legal Literacy and Awareness Programme Guidelines*, 2023.

⁴⁶³ Commonwealth Human Rights Initiative (CHRI), *Ensuring Accountability in Legal Aid Systems*, 2021

mediation initiatives.⁴⁶⁴

8. Conclusion

Free legal aid constitutes a vital instrument in actualizing the principle of access to justice, which lies at the heart of a democratic and equitable society. In a country as vast and socially stratified as India, where economic disparities, illiteracy, caste-based discrimination, and geographical isolation often bar the underprivileged from engaging with the legal system, the significance of state-supported legal assistance cannot be overstated. Article 39A of the Indian Constitution, along with the Legal Services Authorities Act, 1987, laid the foundation for a structured legal aid framework intended to serve the justice needs of the economically and socially marginalized.

Despite the creation of an expansive institutional network, including bodies like NALSA, SLSAs, DLSAs, and TLSCs, the on-ground implementation continues to face numerous hurdles. Many beneficiaries remain unaware of their entitlements; others are deterred by poor quality legal representation, delays, or mistrust in legal institutions. Moreover, insufficient funding, infrastructural bottlenecks, and limited technological outreach further constrain the system's ability to perform optimally.

However, it is important to acknowledge the progress made through innovative programs such as Tele-Law, legal literacy drives, and pro bono services, which have begun to bridge longstanding gaps in legal awareness and accessibility. These initiatives highlight the potential of legal aid mechanisms when supported by strong policy, community engagement, and digital innovation.

To truly fulfill the constitutional vision of justice for all, a multi-pronged and sustained approach is essential. This includes investing in legal education and training, enhancing the accountability of legal aid providers, expanding

outreach in rural and tribal areas, and ensuring that the voices of the marginalized are not just heard but empowered within the judicial process. Only through such committed efforts can the promise of free legal aid evolve from a theoretical entitlement into a lived reality for millions of Indians who continue to remain on the periphery of justice.

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⁴⁶⁴ Centre for Social Justice (CSJ), *Community Lawyering and Legal Empowerment Toolkit*, 2022.

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