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THE RIGHT TO ACCESS JUSTICE: A CONSTITUTIONAL MANDATE IN INDIA

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ABSTRACT

The Right to Access Justice in India has evolved from a procedural entitlement into a substantive, enforceable **Fundamental Right**, rooted in the constitutional guarantees of equality, liberty, and dignity. This paper examines how the Supreme Court, through progressive interpretation of **Articles 14, 21, and 39A**, has institutionalized access to justice as an essential component of the rule of law. It traces the historical development of the concept—from mere access to courts to a broader framework encompassing **affordability, accessibility, effectiveness, and speedy adjudication**, as articulated in *Anita Kushwaha v. Pushap Sudan*. The paper further explores how Article 14 combats arbitrariness, how Article 21 mandates fair and reasonable procedures including free legal aid and speedy trial, and how Article 39A provides the constitutional foundation for equal justice through mechanisms like NALSA under the Legal Services Authorities Act, 1987. Despite a strong constitutional and judicial framework, challenges such as judicial backlog, poor legal awareness, and inconsistent quality of legal aid hinder realization of this right. The study concludes that effective implementation, infrastructural strengthening, and enhanced legal literacy are essential to ensure that the promise of justice—social, economic, and political—reaches every citizen.

Keywords – Access to Justice; Article 14; Article 21; Article 39A; Free Legal Aid; Equality Before Law; Fair Procedure; Speedy Trial; Judicial Activism; Public Interest Litigation (PIL); Legal Services Authorities Act, 1987; NALSA; Substantive Justice; Rule of Law; Constitutional Mandate.

I. Introduction: The Cornerstone of the Rule of Law

The concept of 'Justice' is the foundational pillar of any democratic, welfare state. In India, the **Right to Access Justice** is not merely a legal right but has been elevated by the Supreme Court to the status of a **Fundamental Right**. This right ensures that the promises of equality, liberty, and a dignified life, as enshrined in the Preamble, are practically realizable for every citizen, irrespective of their socio-economic status.

The constitutional architecture of India explicitly mandates the State to secure this right, drawing its strength primarily from a trinity of provisions: **Article 14** (Right to Equality), **Article 21** (Protection of Life and Personal Liberty),

and **Article 39A** (Equal Justice and Free Legal Aid). This assignment will explore the historical evolution of the right, analyze the judicial interpretation of these three articles, and examine the institutional mechanisms established to translate this constitutional mandate into a tangible reality.

II. Historical and Conceptual Evolution of Access to Justice

Access to justice, in its traditional sense, meant mere access to the courts. However, the Indian judiciary, driven by the philosophy of social justice, has expanded its scope to encompass four crucial facets, as articulated in the landmark case of *Anita Kushwaha v. Pushap Sudan (2016)*.

1. **Effective Adjudicatory Mechanism:** The State must provide a judicial system capable of resolving disputes.
2. **Reasonable Accessibility:** The mechanism must be accessible in terms of distance, geography, and cost.
3. **Speedy Adjudication:** Justice delayed is justice denied. The process must be timely.
4. **Affordability:** The litigant's access to the process must be affordable, especially for the economically disadvantaged.

The shift from a mere legal right to a fundamental right marked a paradigm change, moving the focus from procedural technicality to **substantive justice**.

III. Article 14: Access to Justice through the Prism of Equality

A. *Equality Before the Law and Equal Protection of the Laws*

Article 14 provides: "The State shall not deny to any person **equality before the law** or the **equal protection of the laws** within the territory of India."

The judicial interpretation of Article 14 has fundamentally contributed to the Right to Access Justice in two significant ways:

- **Rule Against Arbitrariness:** In cases like *E.P. Royappa v. State of Tamil Nadu*, the Supreme Court held that Article 14 is a guarantee against arbitrariness. Since denial of a fair opportunity to be heard, or an inaccessible legal system, is inherently arbitrary, it violates the right to equality.
- **Equal Protection as a Positive Duty:** While "equality before the law" is a negative concept (absence of special privileges), "equal protection of the laws" is a positive concept. It mandates that equals should be treated equally and, conversely, unequals should be treated differently to achieve substantive equality. For an indigent person, equal protection necessitates providing them

with the necessary tools, i.e., legal aid, to stand on an equal footing with an affluent counterpart. The absence of a lawyer or prohibitive court fees creates an inequality that the State is obliged to rectify under the mandate of equal protection.

B. *Judicial Innovations under Article 14*

The Supreme Court utilized Article 14 to relax the strict rule of *locus standi* (the right to bring an action to court) and promote **Public Interest Litigation (PIL)**. This was a direct measure to make justice accessible to marginalized groups who were poor, illiterate, or unaware of their rights. By allowing public-spirited citizens or organizations to bring cases on their behalf (e.g., *Sunil Batra v. Delhi Administration*), the judiciary ensured that institutional barriers to access were dismantled, directly flowing from the anti-arbitrariness doctrine of Article 14.

IV. Article 21: Access to Justice as an Integral Part of Life and Liberty

A. *The Expanded Horizon of 'Life and Personal Liberty'*

Article 21 states: "No person shall be deprived of his life or personal liberty except according to **procedure established by law**."

The true transformation of Access to Justice occurred through the expansive judicial interpretation of Article 21.

1. **'Procedure Established by Law' Must be Fair, Just, and Reasonable:** The narrow interpretation of "procedure established by law" was rejected in the landmark case of *Maneka Gandhi v. Union of India*. It was established that the procedure must be **fair, just, and reasonable**, and not arbitrary or fanciful. A criminal trial conducted without an effective defense counsel for the accused is inherently unjust, unfair, and unreasonable, thus violating Article 21.
2. **Right to a Fair Trial Includes Right to Free Legal Aid:** The Supreme Court, in cases like *Hussainara Khatoon v. Home*

Secretary, State of Bihar, declared that the right to a speedy trial and the right to free legal aid for the poor accused are implicit and integral parts of the right to life and personal liberty guaranteed under Article 21. An accused person, especially one who cannot afford legal services, is denied a fair trial if not provided with legal representation by the State.

3. **Right to Speedy Trial:** Delay in the judicial process is a direct denial of justice. The Court held the **Right to Speedy Trial** as an essential component of Article 21, as prolonged incarceration without a verdict amounts to an arbitrary deprivation of liberty. This has led to judicial mandates for case management and time-bound disposal.

B. The Right to Legal Representation

In **M.H. Hoskot v. State of Maharashtra**, Justice V.R. Krishna Iyer observed that providing free legal services to the poor is an essential element of "reasonable, fair and just" procedure. This judicial command rooted the principle of *free legal aid* firmly within the sphere of **Fundamental Rights** under Article 21.

V. Article 39A: The Institutional Foundation for Equal Justice

A. Mandate of Equal Justice and Free Legal Aid

Article 39A, inserted into the Directive Principles of State Policy (DPSP) by the 42nd Amendment in 1976, is the most direct and specific constitutional provision concerning access to justice. It directs the State to:

*"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**."*

While DPSPs are not directly enforceable, Article 39A acts as the **guiding principle** and constitutional conscience for the interpretation of Articles 14 and 21. The judiciary has often used Article 39A to infuse content and meaning into the fundamental rights, thereby making the right to legal aid a justiciable (enforceable) right.

B. The Interplay with Fundamental Rights

The Supreme Court's jurisprudence created a potent synergy between the three articles: Article 39A, though a DPSP, is no longer a mere aspiration but an **obligatory command** when read in conjunction with the enforceable Fundamental Rights.

- **Article 14 & 39A:** Article 39A provides the mechanism (free legal aid) to realize the promise of "equal protection of the laws" under Article 14.
- **Article 21 & 39A:** Article 39A outlines the State's duty to ensure that the "procedure established by law" under Article 21 is "fair and just" by providing necessary legal assistance. As stated in **Suk Das v. Union Territory of Arunachal Pradesh**, this right is a fundamental right, and the State must inform an accused of its availability.

C. Legislative and Institutional Mechanism: Legal Services Authorities Act, 1987

The constitutional mandate of Article 39A led to the enactment of the **Legal Services Authorities Act, 1987**. This Act created a structured, hierarchical mechanism for providing free and competent legal services, including:

- **National Legal Services Authority (NALSA)** at the national level.
- **State Legal Services Authorities (SLSAs)** at the state level.
- **District and Taluka Legal Services Committees.**

These bodies implement legal aid schemes, run legal awareness programs, and organize **Lok Adalats** (People's Courts) as an Alternative Dispute Redressal (ADR) mechanism

to ensure speedy and affordable justice delivery, especially for the economically weaker sections.

VI. Challenges and Future Directions

Despite robust constitutional and judicial backing, the Right to Access Justice faces significant challenges:

- **Judicial Backlog (Docket Explosion):** Massive pending cases lead to inordinate delays, directly infringing the right to a speedy trial under Article 21.
- **Lack of Legal Awareness:** A large section of the poor and marginalized population remains unaware of the existence of the free legal aid schemes under NALSA.
- **Quality of Legal Aid:** The quality of legal aid services is often criticized, as the services provided may not be as effective as those offered by paid, private counsel, creating a qualitative difference in access to justice.
- **Infrastructure Deficit:** Insufficient number of judges, courtrooms, and administrative staff, particularly at the lower judiciary level.
- **Frivolous Litigation:** The misuse of the right to access justice, including PIL and other remedies, for personal gain or to harass opponents, as noted in recent Supreme Court rulings, is a growing concern.

VII. Conclusion

The journey of the **Right to Access Justice** in India is a testament to the transformative power of judicial activism, driven by the core values of the Constitution. By interpreting **Article 14** to condemn arbitrariness, expanding **Article 21** to encompass the right to a fair and speedy trial, and actively utilizing the directive principle of **Article 39A** to mandate legal aid, the Supreme Court has successfully carved out one of the most progressive and inclusionary fundamental rights.

The constitutional framework is sound, rooted in the idea that justice must be both substantive and accessible. However, the true challenge lies in effective implementation. The State, through its legislative and executive machinery, must redouble its efforts to strengthen the legal aid infrastructure, reduce pendency, and enhance legal literacy to ensure that the promise of 'justice—social, economic, and political'—reaches the last person standing. The Right to Access Justice is, therefore, the quintessential **fundamental right**, as it is the key that unlocks and defends all other rights guaranteed by the Constitution.

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– Expanded Article 21 to require procedures to be "fair, just and reasonable."

Hussainara Khatoon (I-VI) v. Home Secretary, State of Bihar, (1980) 1 SCC 81.

– Declared speedy trial and free legal aid part of Article 21.

M.H. Hoskot v. State of Maharashtra, (1978) 3 SCC 544.

– Recognized free legal aid as part of fair procedure.

E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3.

– Established the rule against arbitrariness under Article 14.

Sunil Batra v. Delhi Administration, (1978) 4 SCC 494.

– Expanded locus standi; PIL jurisprudence.

Suk Das v. Union Territory of Arunachal Pradesh, (1986) 2 SCC 401.

– Held that legal aid is a fundamental right and State must inform accused of it.

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

– Access to justice for women prisoners.

S.P. Gupta v. Union of India, 1981 Supp SCC 87.

– Expanded PIL and opened courts to public-spirited individuals.

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