

# “ACCESS TO JUSTICE IN INDIA: A SOCIO-LEGAL STUDY OF HOW LAW, SOCIETY AND INSTITUTIONS SHAPE THE RIGHT TO FAIR AND EFFECTIVE JUSTICE”

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## 1. Introduction

Access to justice is widely recognised as a foundational requirement for the legitimacy of any legal system, because rights on paper are meaningless if people cannot effectively enforce them. In India, this idea is embedded in the Preamble’s promise of justice—social, economic and political—and operationalised through constitutional provisions, statutory schemes and judicial decisions that seek to remove economic and social barriers to courts and legal remedies. Yet, despite this strong normative framework, a significant gap persists between formal guarantees and lived realities, particularly for poor, marginalised and rural communities who continue to experience the legal system as distant, expensive and intimidating. This paper uses a socio-legal approach to examine how law, society and institutions actually shape the right to fair and effective justice in India, moving beyond doctrinal analysis to include social structures, power relations, and everyday experiences of litigants. The study aims to connect constitutional ideals with empirical realities, highlighting how caste, class, gender, geography and institutional design together determine who gets justice, how quickly, and at what cost.

## 2. Conceptual and Theoretical Framework

The phrase “access to justice” has evolved from a narrow focus on physical access to courts to a broader understanding that includes legal awareness, affordability, timely procedures, fair outcomes and respect for human dignity. Internationally, access to justice is treated as both a human right in itself and a gateway right necessary to realise other civil, political, social and economic rights. In socio-legal scholarship, the distinction between “law in books” and “law in action” is central, drawing attention to how formal rules are mediated by social norms, power structures and institutional practices. Theoretical perspectives from legal realism, critical legal studies and feminist legal theory

emphasise that legal institutions are not neutral but embedded in broader hierarchies of caste, gender, class and religion. For India, this means that any study of access to justice must look simultaneously at constitutional and statutory texts, judicial reasoning, and the concrete experiences of litigants in navigating police stations, legal aid offices and courts. This paper therefore adopts an interdisciplinary framework that combines legal analysis with insights from sociology, political science and economics to understand how formal rights are translated—or fail to be translated—into effective remedies.

## 3. Constitutional and Legal Framework in India:

The Indian Constitution does not explicitly use the phrase “access to justice,” but several provisions collectively create a robust normative basis for it. Articles 14 and 21, as interpreted by the Supreme Court, guarantee equality before law and the right to life and personal liberty in a manner that requires fair procedures, legal representation and effective remedies for rights violations. Article 39A, inserted by the Forty-second Amendment, directs the State to ensure that “opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities,” and mandates free legal aid through suitable legislation. This directive has been implemented through the Legal Services Authorities Act, 1987, which establishes NALSA, State Legal Services Authorities and District Legal Services Authorities to provide free legal services to eligible persons and to organise Lok Adalats and legal literacy programmes. In addition, procedural provisions in the Code of Civil Procedure and Code of Criminal Procedure, such as in forma pauperis suits, legal representation at State expense and safeguards against arbitrary arrest, contribute to the broader architecture of access to justice. Indian courts have repeatedly held that free legal aid and fair trial are integral to Article 21, thereby transforming access to justice from a matter of charity into an enforceable constitutional obligation.

#### 4. Institutions of Justice: Courts, Legal Aid and ADR:

Access to justice is mediated through a range of institutions, including formal courts, legal aid bodies, alternative dispute resolution mechanisms and emerging digital platforms. The regular court system—comprising subordinate courts, High Courts and the Supreme Court—remains the primary forum for adjudication, but is burdened with heavy case backlogs, procedural complexity and significant delays that disproportionately affect vulnerable litigants. Legal Services Authorities under the 1987 Act, coordinated by NALSA, are tasked with providing free legal representation, running

legal literacy campaigns and operating legal aid clinics in collaboration with law schools and civil society organisations. Lok Adalats, gram nyayalayas and mediation centres represent attempts to create simpler, faster and less formal avenues for dispute resolution, particularly in rural areas and for low-value disputes. Recent initiatives such as e-courts, online filing, video-conferencing of hearings and digital legal literacy portals have sought to address geographical and infrastructural barriers to justice. However, the effectiveness of these institutions is uneven, often limited by resource constraints, lack of awareness, variable quality of legal representation and persistent social hierarchies that shape how people experience and trust the system.

#### 5. Social Barriers: Caste, Class, Gender and Geography

Socio-legal research shows that access to justice in India is deeply stratified along lines of caste, class, gender and region, reflecting broader patterns of social exclusion. Members of Scheduled Castes, Scheduled Tribes and other marginalised communities often face discrimination and intimidation at the level of police, local bureaucracy and even lower courts, which discourages them from pursuing legal remedies. Economic poverty further restricts the ability to pay court fees, hire private lawyers, travel to distant courts or forgo daily wages for repeated hearings, making litigation an unsustainable option for many. Women encounter additional obstacles such as family pressure, fear of stigma, dependence on male relatives and gender-biased attitudes within institutions when seeking relief in cases of domestic violence, sexual offences or property disputes. Geographical factors, including rural location, poor transport, lack of nearby courts and limited language support, make formal legal institutions practically inaccessible to large segments of the population. These intersecting barriers mean that even when legal aid schemes formally exist, their benefits may not reach those most in need, resulting in a

structural denial of equal access to justice despite constitutional promises.

### **6. Institutional Barriers: Delay, Cost and Complexity**

Even for those who manage to approach formal institutions, systemic characteristics of the justice system can undermine the right to fair and effective justice. Chronic case backlogs and frequent adjournments lead to delays that effectively deny timely remedies, encapsulated in the maxim that “justice delayed is justice denied.” Procedural complexity, technical pleadings and formal evidentiary rules create dependence on legal professionals, which increases costs and disempowers litigants who cannot actively participate in their own cases.

Court fees, lawyer’s charges, travel expenses and opportunity costs of attending multiple hearings together make litigation prohibitively expensive for low-income individuals, despite the existence of free legal aid schemes. Moreover, inequality of arms between well-resourced parties (such as corporations or state agencies) and individual litigants can skew outcomes, raising questions about the substantive fairness of the process. Limited budgets for legal aid, insufficient training and supervision of panel lawyers, and lack of accountability for poor-quality representation further weaken institutional capacity to deliver equal justice. These structural issues show that improving access to justice requires not just more laws or schemes, but deep reforms in judicial administration, legal aid delivery and case-management practices.

### **7. Role of Legal Aid and Clinical Legal Education.**

Legal aid is often described as the bridge between formal legal rights and effective access to justice, particularly for economically and socially disadvantaged groups. In India, the Legal Services Authorities Act establishes an extensive institutional framework, but its success depends heavily on implementation, awareness and the quality of services provided.

Studies of legal aid programmes highlight positive contributions such as free representation in criminal cases, jail legal aid clinics, legal literacy camps and support for victims of domestic violence and other vulnerabilities. At the same time, empirical work reveals gaps, including low public awareness, bureaucratic procedures to secure aid, limited follow-up with beneficiaries and uneven commitment among panel lawyers. Clinical legal education in law schools—through legal aid clinics, street plays, prison visits and community legal camps—has emerged as an important avenue to simultaneously train students and expand grassroots access to legal information. When effectively integrated with state legal services and civil society initiatives, these clinics can help demystify law, empower communities to claim entitlements and generate data about recurring access-to-justice problems. Strengthening legal aid and clinical legal education is therefore critical to transforming access to justice from a theoretical aspiration into a daily reality for marginalised communities.

### **8. Alternative and Informal Modes of Justice Alternative dispute resolution (ADR)**

Mechanisms such as Lok Adalats, mediation, arbitration and conciliation have been promoted in India as cost-effective and less formal pathways to justice. Lok Adalats, in particular, are designed to provide speedy, compromise-based settlement of disputes, often waiving court fees and avoiding complex procedures, which can be beneficial for low-income litigants. Mediation centres attached to courts and community-based dispute resolution processes aim to preserve relationships and create solutions tailored to local social realities. Beyond state-sponsored ADR, India has a long history of informal justice through panchayats and community councils, which can offer proximity and familiarity but may also reproduce caste and gender hierarchies. Socio-legal research warns that while ADR can reduce delays and costs, its emphasis on compromise and informality may

undercut rights in cases involving domestic violence, structural inequality or power imbalances. Accordingly, the contribution of ADR and informal forums to access to justice must be evaluated in terms of both efficiency and substantive fairness, ensuring that speed does not come at the expense of rights protection and equality.

## 9. Emerging Trends:

Digital Justice and Innovations Recent years have seen significant experimentation with technology-driven reforms that reshape how people access legal information and dispute-resolution mechanisms. The e-Courts Mission Mode Project has introduced electronic filing, digital case status tracking, virtual hearings and online publication of judgments, which can reduce geographical barriers and improve transparency for litigants. During and after the Covid-19 pandemic, virtual hearings became a key tool for maintaining continuity of judicial work, although uneven internet access and digital literacy limited their benefits for many rural and low-income users. Government programmes such as “Designing

Innovative Solutions for Holistic Access to Justice” (DISHA) have explored technology-enabled legal literacy, mobile legal services and integrated platforms connecting citizens with legal aid and grievance-redress mechanisms. Civil society organisations and universities have developed open-access legal information portals, chat-based tools and helplines to simplify complex laws and procedures for ordinary citizens. While digital innovations hold promise for expanding access, they also risk deepening existing inequalities if not accompanied by efforts to address the digital divide, language barriers and accessibility needs of persons with disabilities.

## 10. Judicial Approach and Key Case Law.

Indian courts have played a central role in transforming access to justice from a directive-principle aspiration into an enforceable component of fundamental rights.

Through expansive interpretations of Articles 14 and 21, the Supreme Court has read into the Constitution requirements of fair procedure, legal aid and expeditious trial as integral elements of the right to life and personal liberty. Landmark decisions on under trial prisoners, legal representation, PILs and prisoners’ rights have recognised that the poor and marginalised cannot be left to fend for themselves in an adversarial legal system dominated by technicalities and professional lawyers. At the same time, socio-legal commentators note that courts have sometimes been more successful in articulating broad principles than in ensuring consistent implementation, given structural constraints in lower courts and legal aid machinery. Analysing leading judgments alongside empirical data therefore helps reveal both the transformative potential and the practical limits of judicial interventions in advancing access to justice.

## 11. Landmark Supreme Court Judgments on Legal Aid and Access to Justice.

Judicial decisions have been crucial in reading access to justice and legal aid into the core of fundamental rights. In **Hussainara Khatoon v. State of Bihar**, the Supreme Court, dealing with a series of petitions about undertrial prisoners, held that free legal services are an essential element of “reasonable, fair and just” procedure under Article 21, and that indigence cannot be a ground to deny legal representation. The Court emphasised that it is the State’s obligation to ensure that the legal system promotes justice on the basis of equal opportunity, echoing the mandate of Article 39A. In **M.H. Hoskot v. State of Maharashtra**, the Court extended this reasoning to appeals, declaring that if a prisoner cannot exercise the right of appeal for want of legal assistance, the court is duty-bound under Articles 21 and 142 read with Article 39A to provide counsel at State cost. The scope of State responsibility was further clarified in **Khatri v. State of Bihar**, where the Court held that legal aid must be provided not only at the stage of trial but from the very first production of the accused before a magistrate,

and that financial or administrative constraints cannot justify failure to provide counsel. In **Suk Das v. Union Territory of Arunachal Pradesh**, the Court reiterated that free legal aid is a fundamental right of a person facing a charge that may result in deprivation of life or personal liberty, and it invalidated a conviction where the accused had not been informed of this right. Later cases, including directions in **Mohd. Ajmal Amir Kasab v. State of Maharashtra**, have reinforced the duty of magistrates to expressly inform accused persons of their entitlement to free legal representation from the moment of arrest and first production. These judgments collectively demonstrate how the Supreme Court has converted the constitutional promise of equal justice and free legal aid into a concrete, enforceable right, thereby embedding access to justice at the heart of India's criminal justice system.

### **11B. Key Supreme Court Cases Expanding Legal Aid Rights**

#### **M.H. Hoskot v. State of Maharashtra (1978)**

In M.H. Hoskot, the Supreme Court held that the right to counsel for a prisoner is a component of the right to life and personal liberty under Article 21. The Court ruled that where a convicted person is unable to exercise the right of appeal because of poverty, illiteracy or ignorance, it is the duty of the court and the State to provide legal assistance at State expense. Free legal aid was described as a State obligation and not a matter of governmental charity, and procedural safeguards were declared indispensable to the essence of liberty protected by Article 21. This judgment laid an early doctrinal foundation for linking fair procedure, appeals and State-funded legal representation.

#### **2. Hussainara Khatoon v. State of Bihar (1979–80)**

In the series of Hussainara Khatoon cases, brought through PIL on behalf of thousands of under trial prisoners in Bihar, the Court exposed shocking delays where under trials had been incarcerated for periods longer than the

maximum sentence for their alleged offences. The Court held that the right to a speedy trial is implicit in Article 21 and that the State cannot plead financial or administrative inability to justify violation of this right. It further recognised that free legal services are an essential element of "reasonable, fair and just" procedure, and directed the State to provide counsel to indigent accused and to set up legal aid committees at various levels. Hussainara thus firmly anchored speedy trial and free legal aid within the fundamental rights framework and directly influenced later statutory developments, including the Legal Services Authorities Act, 1987.

#### **3. Khatri (II) v. State of Bihar (Bhagalpur Blinding Case) (1981)**

In Khatri and Others v. State of Bihar, concerning blinded prisoners in Bhagalpur, the Court found that most accused had been remanded without any legal representation. Relying on Hussainara, the Court held that it is a constitutional obligation of the State to provide free legal aid to an indigent accused not only at trial but from the very first production before a magistrate and at every subsequent stage of the proceedings. The Court rejected the State's plea of financial or administrative constraints and stressed that magistrates and sessions judges have a positive duty to inform every unrepresented accused of the availability of free legal aid. Khatri thus extended the temporal scope of the right to legal aid backwards to the earliest stage of criminal process, when crucial decisions about remand and bail are made.

#### **4. Suk Das v. Union Territory of Arunachal Pradesh (1986)**

Suk Das further strengthened the enforceability of legal aid rights by setting aside a conviction solely on the ground that the indigent accused had not been informed of, or provided, free legal representation. The Court held that a trial of a poor accused without offering legal aid at State expense is violative of Article 21 and stands vitiated, regardless of whether the accused expressly requested a lawyer. Justice P.N.

Bhagwati underlined that many accused are unaware of their rights, and therefore the duty lies on the court to actively inform them and ensure the actual, not merely theoretical, availability of counsel. Suk Das thus transformed the right to free legal aid into an affirmative judicial duty: silence or ignorance on the part of the accused cannot be treated as a waiver of this fundamental right.

### 5. Later developments and reaffirmations

Subsequent judgments and policy analyses note that these early cases have been repeatedly cited to affirm that free legal assistance for poor and indigent persons at State cost is a fundamental right under Article 21. Commentaries and recent Supreme Court orders emphasise that this right extends across stages—arrest, remand, trial, appeal and even post-conviction proceedings—and that meaningful assistance requires competent representation, not a mere formal appointment of counsel. Collectively, this line of cases has embedded legal aid at the constitutional core of India's criminal justice system, providing a strong doctrinal basis for your socio-legal analysis of how law and institutions shape access to fair and effective justice.

### 12. Research Methodology and Scope

As the topic concerns how law, society and institutions interact, a socio-legal methodology that combines doctrinal and empirical components is particularly appropriate. The doctrinal part can examine constitutional provisions, statutes, case law and policy documents on legal aid, court reforms and access-to-justice initiatives. The empirical or social-science component may include analysis of secondary data on case pendency, legal aid utilisation, prison populations, legal literacy levels and socio-economic indicators relevant to justice access. Where feasible, field methods such as interviews with legal aid lawyers, court staff, NGO workers or affected litigants, and observation of legal aid clinics or Lok Adalats, can provide qualitative insights into lived experiences. Clearly specifying the

geographical focus (for example, one state or district), time period and target groups—such as women, Dalits, undertrial prisoners or informal-sector workers—helps narrow the study while still addressing the broader question of how law, society and institutions shape the right to fair and effective justice.

### 13. Quantitative Picture of Access to Justice in India.

Any socio-legal analysis of access to justice must be grounded in empirical data about how the system actually functions for ordinary litigants. Official statistics on case pendency, legal aid coverage and disposal through Lok Adalats reveal both the scale of the challenge and the partial impact of existing reforms. The National Judicial Data Grid and related government datasets show that, as of late 2024, India's district and subordinate courts and High Courts together have crores of pending cases, with many matters remaining unresolved for several years. An overview of state-wise data compiled from the India Justice Report indicates that average pendency in High Courts is about 5.47 years and in district courts about 3.18 years, with significantly higher delays in some large states such as Uttar Pradesh and West Bengal. These figures underscore how structural delay can convert the formal right to approach courts into a prolonged and costly ordeal for litigants, particularly the poor who cannot sustain repeated appearances over many years. Judicial capacity constraints further exacerbate pendency problems. India's judge-to-population ratio remains around 21 judges per million people, which is low compared to many other jurisdictions, and there are several hundred vacancies across different levels of the judiciary at any given time. Government entities are among the largest litigants, contributing to nearly half of all pending cases, which not only clogs the system but also raises questions about the State's own role in generating avoidable litigation. These structural patterns suggest that access to justice cannot be improved merely by creating more schemes on paper; it requires serious

investments in judicial infrastructure, better case-management and reducing unnecessary government-initiated cases. Legal aid data present a paradox. According to summaries of the India Justice Report and recent policy analyses, although around 80 percent of India's population is technically eligible for free legal services, only about 15.5 lakh people actually availed legal aid in 2023–24. NALSA's own statistics, along with background papers, show that legal aid receives less than 1 percent of the total justice budget, and NALSA's central funds have declined in real terms over recent years. Utilisation of available funds has also dropped, and there is a shrinking frontline of para-legal volunteers and clinics, with data indicating roughly one legal aid clinic for every 163 villages on average. Per-capita spending on legal aid ranges only between a few rupees across states, reflecting how under-resourced the system is relative to the population it is supposed to serve. These figures help explain why awareness is low, outreach is patchy, and beneficiaries often perceive legal aid as inferior to private representation, thereby undermining the promise of equal access to justice in practice. Lok Adalat and ADR data offer a mixed picture of innovation and disparity. NALSA and open government datasets record that National, State and Permanent Lok Adalats together have handled very large volumes of cases in recent years, with some states reporting disposals running into lakhs or even crores of matters over a three-year period. For example, analysis of disposal data for 2020–21 to 2023–24 shows that Uttar Pradesh has consistently recorded the highest number of cases settled in National Lok Adalats, while small Union Territories like Lakshadweep dispose of very few cases. These numbers demonstrate that ADR mechanisms have become an important outlet for clearing backlogs and providing quicker relief in compoundable, small-value and pre-litigation disputes. At the same time, the sharp disparities between states, and the absence of systematic data on the quality of settlements, reinforce the

need to complement quantitative indicators with qualitative research on whether such forums genuinely enhance access to fair and equitable outcomes, especially for vulnerable groups.

#### 14. Findings, Suggestions and Conclusion

A socio-legal examination of access to justice in India reveals a persistent mismatch between constitutional commitments and the everyday experiences of marginalised litigants. Law, society and institutions together shape who can effectively claim rights, with caste, class, gender and geography intersecting with institutional delays, costs and complexity to produce layered exclusion. The existing framework—Constitutional guarantees, the Legal Services Authorities Act, ADR mechanisms and digital reforms—provides important tools but suffers from implementation gaps, resource limitations and lack of sustained monitoring. Key reforms suggested in contemporary scholarship include strengthening legal aid budgets and accountability, improving training and evaluation of panel lawyers, expanding community-based legal literacy, and adopting data-driven judicial administration to reduce delays and backlog. There is also a strong case for integrating socio-legal research and clinical legal education into justice-sector policy, so that reforms are informed by empirical evidence from courts, prisons and communities rather than only by doctrinal reasoning. Ultimately, ensuring fair and effective access to justice in India requires viewing it not as a peripheral welfare measure, but as a central democratic obligation that must guide institutional design, resource allocation and everyday practices within the legal system.