



LEGAL AID AND ADVICE (AMENDMENT) BILL, 2015 & 2017 AND ITS IMPLICATIONS FOR THE POOR PEOPLE

Athul P Shabu

**First Year Student, The National University of Advanced Legal Studies (NUALS), Kochi, Kerala.*

Abstract

The Legal Aid and Advice (Amendment) Bill, 2015 and 2017, aims to provide better legal aid services to the poor and underprivileged sections of society. The bill aims to promote social justice by ensuring that every citizen has access to legal aid, irrespective of their socio-economic status. The bill's implications on poor people are significant, as it aims to improve access to justice for marginalized and underprivileged sections of society. The establishment of legal aid clinics and expansion of eligibility criteria will ensure that the poor have access to legal aid services, which were not available to them before. Moreover, the simplification of the process of providing legal aid will make it easier for the poor to seek assistance, which will help in reducing legal exploitation and injustice. This bill's provisions show that the Indian government is actively taking measures to ensure social justice and provide equal opportunities to all sections of society. In conclusion, the Legal Aid and Advice (Amendment) Bill, 2015 and 2017, holds significant promise for improving the access of the poor to legal aid and advice services. If implemented effectively, this bill can help in reducing legal exploitation, promote social justice, and create a more equitable society for all.

Key words-Legal Aid, NALSA, AALI, HRLN.

Introduction

Legal issues faced by people living under the poverty line in India are unique and challenging. Poverty is a significant factor that affects access to justice and legal services in India. The poor are often denied legal aid and legal representation, which leads to exploitation, injustice, and suffering. People living in poverty often face legal issues, such as land disputes, evictions, labour exploitation, police harassment, domestic violence, sexual harassment, and issues related to public entitlements. They often do not have access to reliable and affordable legal representation may be due to the lack of awareness of legal issues providing by the courts in India. The poor also face bureaucratic hurdles in accessing legal services. They often have difficulty in navigating the complex legal systems and judiciary, which may be confusing, time-consuming, and costly. Limited access to information and legal literacy often puts them at a disadvantage in legal proceedings. Discrimination against underprivileged groups, such as women, Dalits, and religious minorities, exacerbates their legal issues. Women, in particular, face issues of domestic violence, sexual harassment, and discrimination; they also have limited access to property rights, which leaves them vulnerable to exploitation. In conclusion, people living under the poverty line in India face numerous legal issues, which are challenging to resolve due to limited legal aid, bureaucratic hurdles, lack of access to information, and discrimination. The legal system must address these challenges and provide affordable and effective legal aid and representation to combat legal exploitation and ensure proper justice for all sections of society, including the marginalized and underprivileged.

Poverty in India

Poverty in India has been one of the most pressing and challenging issues for the country. Despite significant progress in the last few decades, poverty remains a pervasive problem that affects millions of people across the country .According to the World Bank, over 270 million people in India live in



poverty, which accounts for over 20% of the population. Poverty is particularly prevalent in rural areas, where about 70% of the country's poor live.

Factors that contribute to poverty in India include limited access to education and quality healthcare, unemployment and underemployment, unequal distribution of resources, insufficient investment in social infrastructure and rural development, and discrimination based on gender, caste, and religion. The Indian government has introduced various policies and programs to combat poverty, including the National Rural Employment Guarantee Act, the Pradhan Mantri Awaas Yojana, and the Swachh Bharat Abhiyaan, among others. However, much needs to be done to combat poverty effectively. In conclusion, poverty in India is a multifaceted issue with complex causes and challenges. The Indian government and civil society must work together to address the root causes of poverty, improve access to education, healthcare, and basic facilities, promote inclusive growth, and eliminate discrimination based on caste, religion, and gender. By taking effective and comprehensive measures to combat poverty, India can create a more prosperous and equitable future for all its citizens.

Right to free trial and free legal aid as a fundamental concomitant

The right to a fair trial and free legal aid are two important fundamental concomitants of the right to access justice. The right to a fair trial is a basic human right and is enshrined in several international human rights treaties and national constitutions. This right includes the right to an impartial and independent tribunal, the right to a public trial, the right to be heard, the right to legal representation, the right to cross-examine witnesses, and the right to an appeal. The provision of free legal aid is a recognized principle of international human rights law and is enshrined in several national constitutions, including the Indian Constitution. The Indian Constitution provides for free legal aid to all citizens, particularly to the poor and marginalized sections of society, under Article 39A.

Free Legal Aid in India

Free legal aid in India is a constitutional right guaranteed under Article 39A of the Indian Constitution. It ensures that every citizen, particularly the poor and marginalized, has equal access to justice. The Legal Services Authorities Act of 1987 provides a statutory framework for the implementation of free legal aid programs. Under this act, every state in India has a State Legal Services Authority responsible for providing legal aid to eligible individuals. Legal aid is provided through legal aid clinics, legal aid cells in courts, and other similar institutions. Free legal aid aims to ensure that justice is accessible to all, regardless of their financial status or background.

Organizations engaged with giving legal aid to the poor

In India, several organizations are engaged in providing legal aid to the poor and marginalized sections of society. These organizations help the disadvantaged sections of society to get access to justice by providing legal representation, counselling, and awareness. One of the most prominent organizations in India providing legal aid to the poor is the National Legal Services Authority (NALSA). The authority was established to provide free legal aid to the marginalized and underprivileged sections of society, including women, children, senior citizens, and people with disabilities. In addition to NALSA, several other non-governmental organizations (NGOs) also provide legal aid to the poor in India. For example, the Human Rights Law Network (HRLN) provides legal aid to people facing human rights abuses and helps them fight for their rights. Another organization, the Association for Advocacy and Legal Initiatives (AALI), works to promote social justice and provides legal aid to the marginalized sections of society. Other organizations provide specialized legal aid to people who face



specific legal issues, such as the Vidhi Center for Legal Policy, which provides legal aid on issues related to land, labor, and environmental law.

In conclusion, organizations like NALSA, HRLN, AALI, and others play a crucial role in providing legal aid to the poor in India. Legal aid and advice (amendment) bills, 2015 and 2017, were introduced in the parliament of India to provide better access to justice for poor people. The bill provides new provisions and amendments to the existing laws that govern legal aid in the country. One of the significant changes brought about by the amendment is the introduction of a mandatory provision for all lawyers to provide pro-bono services for a certain number of hours per year. This move is a significant step towards bridging the gap between the poor and the rich in terms of access to justice. Poor people who cannot afford expensive legal services can now avail the services of a qualified legal professional free of cost. The bill also provides for the establishment of legal aid clinics across the country to provide free legal advice and consultation to the poor. This step will not only help poor people in getting advice on their legal rights but also create awareness about their rights and duties.

Moreover, the bill has introduced provisions for legal aid for marginalized communities, including women, children, and senior citizens, members of the Scheduled Castes and Scheduled Tribes, and persons with disabilities. This move ensures that vulnerable sections of society receive the necessary support to fight for their rights in a court of law.

In conclusion, the legal aid and advice (amendment) bills, of 2015 and 2017, are a step in the right direction to ensure that poor people have access to justice. The provisions of the bill ensure that legal services are accessible to every section of society, and no one is denied justice due to financial constraints. However, there is a need for a concerted effort by the government and legal professionals to ensure that the bill is implemented effectively and poor people can access the benefits of the bill.

PEOPLE WHO CAN CLAIM FREE LEGAL AID ACCORDING TO THE LEGAL SERVICES AUTHORITY ACT, 1987.

Clause 12 of the aforementioned Act specifies the criteria for providing legal services. Every individual who needs to register or safeguard a lawsuit here under the Act is entitled to free legal facilities if they are:

- A representative of a Schedule Tribe or a Scheduled Caste;
- A survivor of human smuggling or homeless people as identified in Article 23;
- A woman or a kid; or
- An individual with something like an impairment as specified in Clause I of Article 2 of said People with disabilities or any kind of impairments.
- someone in need due to conditions like being a sufferer of a major calamity, ethnic tensions, social atrocities, storm, famine, or earthquake.

Functioning of Today's Legal Services Authorities- Structures and working underneath the Legal Services Authorities Act 1987 at differing stages:

Central Authority Functions- As per Chapter 4 of the aforementioned Conduct, the System must therefore operate all or a portion of the mentioned tasks:



Set rules and guidelines for influencing political services accessible underneath the requirements of this Act;

Structure first most effective and cost-effective strategies for influencing legal services available and accessible underneath the terms of this Act;

Use the finances at the discretion and suggest suitable allotments of funds to Governmental Bodies and Diwans.

Review and assess the execution of legal aid welfare schemes programs regularly, and allow for an independent review of programs and initiatives funded entirely or partially by money that was given by this Act; schools, law schools, as well as other entities.

Give aid for specialized initiatives to numerous people, volunteer social service organizations, and District and State Entities from funds set aside for the execution of legal support programs under the terms of the Provision.

Create practical legal curriculums in collaboration well with the Bar Council of India, as well as encourage, guide, and monitor the development and operation of legal assistance clinics in institutions, law schools, as well as other establishments

Landmark Case Generating Legal Aid Movement in India

The "Hussainara Khatoon vs. State of Bihar" case was a landmark case that generated the legal aid movement in India (1). This case highlighted the issue of undertrial prisoners who were detained in prison for an extended period without a trial; some of these prisoners were even found to be innocent. This case brought to light the need for legal aid for the poor and marginalized sections of society. In the "Hussainara Khatoon vs. State of Bihar" case, the Supreme Court directed the Bihar Government to release all undertrial prisoners who had been detained for more than two years without a trial. The Court also directed the government to set up legal aid committees to provide legal aid to poor and indigent prisoners. The judgment in this case not only led to the release of hundreds of undertrial prisoners but also paved the way for the legal aid movement in India. As a result of this case, the government and civil society organizations began to focus on providing legal assistance to the poor and marginalized sections of society. In 1987, the Legal Services Authorities Act was enacted, which made it mandatory for the government and non-governmental organizations to provide legal aid to the poor and underprivileged. The enactment of this act further strengthened the legal aid movement in India. The "Hussainara Khatoon vs. State of Bihar" case played a significant role in highlighting the importance of legal aid for the poor and marginalized sections of society. The case generated public awareness about the issue and paved the way for the establishment of legal aid committees and the enactment of legal aid legislation in India. Today, the legal aid movement has become an important tool to empower the disadvantaged sections of society by providing them with access to justice and legal representation.

Case Laws Related to Free Legal Aid and Advice

State of Maharashtra v. Manubhai Pragaji (2) – The Maharashtra government, represented by the Ministry of Education, issued a Leave Petition (SLP) in the Supreme Court against the HC judgment, which further managed to hold that it was the duty of the state to continue providing funding towards both governmental and non-governmental law schools as per clauses 21 and 39A of the Constitution.



In this decision, the Supreme Court supported the High Court's ruling, declaring the failure to do so is unjust and said that the nation must make provision for this.

Abul Hassan and National Legal Services Authorities v. Delhi Vidyut Board & Ors(3).—The requirement for everlasting Lok Adalat is examined in length by the tribunal in this since there are other similar kinds of instances waiting in the bench which might be handled or determined by procedures such as Lok Adalat at preliminary periods. It is additionally provided for under Article 39A and Article 22 of said Legal Services Administration Act of 1987.

The same concept was affirmed in the scenario of the *United India Insurance Co. Ltd. vs. Akshay Sinha and others (4)* stating that some numerous churlish occurrences or incidents are acceptable in character, and the Legal Assistance Officials must make individuals aware of Lok Arbitrator and also perform or establish Lok Adalat.

In the issue of *Sampurna Behrua v. Union of India, (5)* the plaintiff filed a Lawsuit to advocate for children and juveniles that weren't claiming assistance under the Juvenile Court (Care and Protection) Act, 2015. It addressed the question of granting protection to the nation's future while not sacrificing for them. The Delhi Legal Assistance Authority assisted the applicant in fighting her claim and bringing it before the tribunal on the topic of children's rights in this lawsuit. It could also be observed in the issue of the *National Legal Services board vs. Union of India, (6)* that the question before the jury was the acknowledgment of transsexual freedom. The judge determined that they should be regarded as the "third sex" when given authority as per Part III of the said Constitution of India, that they need to be legitimately distinguished by the country, and that they need to be regarded as backward classes of citizens to obtain all benefits established by the state.

India is a diverse country whose primary objective should be to hold people together and the legal system should work as per the need of the citizen to maintain peace and harmony in the country which will lead to increased confidence in law and strengthen democracy to administrate justice. The government must initiate a scheme to communicate the legal knowledge and basic rights of poor and illiterate people to bring legal awareness. So, that the citizens can approach as per their needs. The way of providing legal services should not be narrow, it should work on a wider scale to achieve a higher level and use properly like ADR and Lok Adalat to speed up their process of work and resolve disputes. The central and state legal services authority should be provided with the fund by their respective level of government that no one should leave behind and deny their basic legal right to ensure justice.

Conclusion

The main implications of the bill are as follows:

1. **Expansion of Eligibility Criteria:** The bill proposes an expansion of the eligibility criteria for legal aid services to include all marginalized and vulnerable sections of society, including women, children, senior citizens, persons with disabilities, and members of the Scheduled Castes and Scheduled Tribes.
2. **Establishment of Legal Aid Clinics:** The bill also proposes the establishment of legal aid clinics to provide legal assistance to the poor in every district of the country. These clinics will act as a one-stop solution for all legal aid and advice requirements for the poor.



3. Simplification of Legal Aid Process: The bill proposes the simplification of the legal aid process to increase its accessibility to the poor. It aims to streamline the process of providing legal aid by appointing para-legal volunteers and mobile legal aid clinics.

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