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ENHANCING JUSTICE THROUGH LEGAL AID AND SOCIAL SUPPORT: SIGNIFICANCE AND LACUNAE

Introduction

The legal framework of India stands upon three pillars namely natural justice, good faith and equity and the Constitution of India has bestowed on the legal system the crucial responsibility of ensuring justice to all. For a layman, justice is nothing but the ability to do anything in the absence of fear which is only possible when there is no arbitrariness rather prevalence of equality. Traditionally, justice meant adhering to the rules of the state but with evolution of the advancing world, the modern concept of justice includes adherence as well as achieving nonpareil fairness in the social, economic and political arenas. With discrepancies in the level of education, awareness and financial stability, it becomes strenuous for the marginalized and weaker sections of the society to strive for justice. The difference in the power relations of people also affect the access to justice. The weaker sections naturally submit to the severe and brutal circumstances they experience in the face of blaming the vicious cycle of poverty. To tackle such challenges, the judicial process of India constitutes various provisions but the ubiquitous hurdles are such that a lot still needs to be done to realize justice for all. The judicial process includes two parameters that are access to justice and delivery to justice. Article 39A of the Indian Constitution provides the people a right to seek legal aid and casts a duty upon the state to ensure that free legal services are provided to them at reasonable rates. Along with this, Article 14,15,16 and 17 are also in consonance with the idea of justice as enshrined in our preamble.

Unravelling the concept of legal aid

According to Justice Bhagwati, “ legal aid means providing an arrangement in the society so that the missionary of administration of justice becomes easily accessible and is not out of reach of those who have to resort to it for enforcement of its given to them by law, the poor and illiterate should be able to approach the courts and their ignorance and poverty should not be an impediment in the way of their obtaining justice from the courts.”¹ The Supreme court had held that free legal service was an inalienable

¹ Legal Services Authorities Act, 1987, legal Aid Law in India, Lok Adalat, <https://www.legalserviceindia.com/articles/legaut.htm> (last visited Mar 19, 2024).

element of reasonable, fair and just procedure and that the right to free legal services was implicit in the guarantee of Article 21.

Addressing Disparities: The Call for Legal Aid and Social Support

Our legal system is encountered with various challenges which makes it necessary to rely on legal aid and other social services to prove the effectiveness of the same. These challenges can be classified into economic barriers, social barriers and legal barriers. The former solely includes the incapacity of some sections of the society to afford to hire a legal counsel to approach the court. The economic disparity is essentially associated with social and educational quandary. It is common to draw this relationship that economically weaker people also lack in their general awareness and educational qualifications. According to the India Justice Report, 2019, over 80% of 1.25 billion people are eligible to get free legal aid but only 15 million have benefitted from the services since 1995.² Majority of the people are not aware about the mere fact that they are entitled to receive free legal aid in case it is financially arduous for them to do the same. This is where the role of non-governmental organisations and other social group comes wherein they work at the sheer grass root level to extend education to the underprivileged part of the society by trying to strengthen the existing schooling system and provide quality knowledge about the rights and duties of people which they are otherwise ignorant of. Another social barrier is the lack of women representation in free legal aid. This cuts short the possibility of many people trying to get help from the legal assistance because they are bound by some socio-cultural barriers or they are not comfortable without the presence of a female legal representative due to stereotypes or prejudice. The second kind of challenges include complications in the administration process, competency hurdles, under-utilization of volunteers and budget allocation issues. There prevails a general belief that advocates providing free legal aid are incompetent and they do not acquire the best quality legal skills. There is also a dearth of advocacy and lawyers prepared to provide free legal aid owing to lacking motivation, incentives, and training. Lok Adalats have limited jurisdiction and powers and so they cannot handle complex disputes. Furthermore, they rely on the parties' consent and collaboration, which is not always attainable. The allocation of funds to legal service authorities had been inadequate and even if it was not, the actual utilization of the funds posed a big question. A study further states that the coverage of legal services clinics to villages is quite poor making it unable to provide easily accessible legal assistance to every deserving person.³ Moreover, too often lawyers assigned to provide legal aid and paid with public funds do not faithfully represent their clients, casting serious doubt on the credibility of the scheme of legal aid provided to weaker sections of society.⁴ Certain lawyers retained by legal aid committees use tactics of delay to sabotage the cases of their

² Rintu Mariam Biju, *India Justice Report 2019: Only 15 Million out of 1 Billion Eligible Indians Provided Legal Aid Services in Last 14 Years*, BAR AND BENCH - INDIAN LEGAL NEWS (2019), <https://www.barandbench.com/columns/india-justice-report-2019-15-million-out-of-1-billion-eligible-indians-provided-legal-aid-services> (last visited Mar 19, 2024).

³ 'India Justice Report: Ranking States on Police, Judiciary, Prisons and Legal Aid', Tata Trusts, New Delhi, India (2019).

⁴ Legal Aid and Awareness in India: Issues and Challenges, <https://legalserviceindia.com/legal/article-82-legal-aid-and-awareness-in-india-issues-and-challenges.html> (last visited Mar 19, 2024).

clients. These lawyers should be receiving their fees from the legal aid committee, but instead they are making their clients pay them extra fees. The fact that attorneys are paid extremely little by the legal aid committee, which does not even reimburse for incidental costs, may be one factor in this.

Conclusion

The indispensable roles of legal aid and social services in fostering universal access to justice cannot be overstated. In recent times technology has added to the robust growth of legal aid of free legal aid by making necessary documents and information available online, creating online chat and legal advice applications, e-filing, web services and increasing awareness using social media. These vital resources bridge gaps, offering support to marginalized individuals and communities, ensuring fairness and equity in legal proceedings. By providing guidance, representation, and necessary resources, they empower individuals to navigate complex legal systems, ultimately fostering a society where justice is not a privilege but a fundamental right for all.