

International Journal of Social Science and Education Research



ISSN Print: 2664-9845
ISSN Online: 2664-9853
Impact Factor: RJIF 8.15
IJSSER 2025; 7(1): 733-736
www.socialsciencejournals.net
Received: 11-04-2025
Accepted: 16-05-2025

Dr. Abhishek Kumar Tiwari
Associate Professor, Faculty of
Law, University of Lucknow,
Lucknow, Uttar Pradesh,
India

Veer Vikram Singh
Research Scholar, Faculty of
Law, University of Lucknow,
Lucknow, Uttar Pradesh,
India

Legal literacy and awareness for accessing justice: Judicial contribution and approach in India

Abhishek Kumar Tiwari and Veer Vikram Singh

DOI: <https://www.doi.org/10.33545/26649845.2025.v7.i1i.274>

Abstract

Legal literacy and awareness are fundamental to ensuring access to justice and achieving the constitutional vision of equality and socio-economic justice in India. This paper explores the evolving role of the Indian judiciary in promoting legal literacy and providing legal aid, particularly to marginalized communities. Anchored in the constitutional mandate of Article 39-A, the study examines judicial interventions, landmark rulings, and the establishment of legal aid mechanisms that have significantly expanded access to justice. Public Interest Litigations, procedural liberalization, and court-driven legal aid initiatives have all contributed to a more inclusive justice system. However, gaps remain in implementation due to infrastructural, administrative, and awareness challenges. This research highlights the urgent need for institutional reforms, structured legal education, and judicial activism to transform legal aid from a formality into a meaningful right for all.

Keywords: Legal literacy, legal aid, article 39-A, access to justice, judiciary

Introduction

The maintenance of the legal supremacy and predominance is vital for ensuring justice and providing assistance to the needy and vulnerable if there is any legal issue. The judicial adjudications has recently emphasized offering legal help including aid and awareness to these groups, ensuring that the underprivileged receive the support they need. To uphold the rule of law with in the society and individuals the very provision of Indian Constitution has established an impartial judicial body to fulfill the mandate of rights and socio-economic charter. It also provides a safeguard for the deprived classes in keeping with the objective to ensure equality in the distribution of all the three kinds of justice to all provided within the preamble.

Judicial interventions have played a vital role in nudging the legislature to enact laws to promote justice for the most vulnerable sections of society. PIL has emerged as a potent tool to secure the interests of the poor, thus stimulating sentiments in society for addressing the problems faced by them. The liberalization of procedural rules facilitated access to justice for the marginalized. Furthermore, initiatives such as Lok Adalat meant to establish free legal aid and administer justice by facilitating access for the poor.

Since the independence of India, national advancement has been noteworthy in the social, economic, technology, and legal fields without overcoming the hurdles of unemployment, poverty, growth in population, and illiteracy. As a state for welfare of every person, we are committed to the agenda of societal justice, and the government has emphasized uplifting the marginalized sections of society through legal aid and awareness. Article 39-A has stuck the thumb on the scale to offer free legal aid and promote legal literacy, as this has now become a state obligation. The enactment of laws alone would not suffice, and the judiciary steps in to enact what laws mean through the mandate of their judicious implementation.

The awareness and literacy regarding basic legal rights and duties must form the basis of implementation of the principle called "Rule of Law". Only then the deprived section would get assistance in the facilitation of their fundamental human rights to ensure equality within the society. Because of that, the judiciary has made significant effort to make the people legally literate and aware, especially the deprived ones. The architects of the Constitution, therefore, have it in mind that the notion of justice must be realized by every person and accordingly directed that the judiciary be duty bound to maintain the rights of all people.

Corresponding Author:
Dr. Abhishek Kumar Tiwari
Associate Professor, Faculty of
Law, University of Lucknow,
Lucknow, Uttar Pradesh,
India

The further judicial interventions directed the legislature in framing laws to secure the interest of population in need with in the society ^[1].

Judicial bodies around the globe are acting as guardians and responsible to save individual interest in the form of rights either natural or fundamental. In India, the judiciary is the custodian of rights provided under the Constitution. Among the speakers, the hon'ble courts particularly takes the lead to protect these rights by laying down precedents that apply throughout the entire judicial system. The Judiciary in India enjoys an esteemed stature of independence and integrity. The goal vested in the charter specifically DPSP, which is ensuring the justice of all kinds, which are soul of the preamble. The guiding principle requires that the state's organ, that is, legislature, executive and judiciary should function collectively to maintain the balance between FRs and DPSPs respectively.

Legal literacy & awareness inline of the constitution of India

The Constitution through its endeavours entrusts the judiciary with the responsibility to promote the inherited intent of unity and integrity of the country. The judiciary is given powers of interpretation under Articles 131 to 136, and powers of advice through Article 143, dealing with advisory jurisdiction. With these powers, the Court has contributed significantly to the preservation of the Constitution's intents and the federal structure of India ^[2]. Additionally, India enjoys Judicial Review. The Court whether Supreme Court or High Courts are not only authorized to safeguard Fundamental Rights but also the Constitution of India ^[3]. Article 32 gives the Supreme Court jurisdiction by empowering it to suspend Fundamental Rights including the Writs of all kinds ^[4]. Even the High Courts in States can issue writs to safeguard these rights that exist within their territorial limitations, fulfilling their role as the judicial guarantor of Fundamental Rights ^[5].

The judicial system at India generally prohibits the public from seeking justice in absence of its inadaptability from foreign models of the administration of justice. Public access to justice is prohibited due mainly to legal illiteracy, economic limitations, and an overall lack of awareness. Realizing the challenges, the stipulation of legal aid ^[6] in the Constitution of India binds the government for promotion of the notion through literacy and awareness among the people and ensure equal convenience. The natural rights of every person have been included as basic rights in UDHR declared in 1948 are, equally treated important for citizens and a separate part has been included in the Constitution and the decision given in the leading case of *Chairman, Railway Board v. Chandrima Das* ^[7] by Hon'ble Supreme Court that safeguard of rights are the Indian Constitution, whether he is a citizen or non-citizen, as mentioned in Part III. The chapter has come together to protect these rights from political disturbance and political agendas. The High Courts and the Supreme Court, through constitutional remedies, safeguard these rights and work consistently to help fulfil the constitutional promises of justice and equality.

Legal literacy and awareness: A journey to access justice

The idea of natural justice lies in the words of the constitutional preamble itself but the journey of legal assistance to the person in need started when the provision of free legal aid has been imposed duty on State. Primarily,

it was only duty of the state without any obligation. Later, the judiciary applied the Interpretations rule to develop the concept under the umbrella of right of life and personal liberty ^[8] for the underprivileged persons as an intrinsic part of Rights.

The famous case of *Maneka Gandhi v/s Union of India* again applied rules of interpretation and held that "the phrase procedure established by law in Article 21, does not mean any procedure laid down in the statute but the procedure laid down in the statute must be just, fair and reasonable and that the term Law envisages not any law but a law which is Right, Just and Fair and not arbitrary, or oppressive." Any provision of law is arbitrary against equality and violates the right under Article 14. Arbitrary procedures are clearly in violation of the essential elements of the basic right related to life and cannot be considered a procedure at all because it has not complied with fairness. In this way, the said provision has been widely explained and given a broader interpretation of the provision and significantly developed the idea and notion of liberty for the people. Subsequently, the procedural aspects have been greatly emphasised and legal aid with no cost regarded as an essential component to establish the procedure as reasonable, fair, and just for the individual.

This journey became meaningful with the decision pronounced in *Hussainara Khatoon and Others vs. Home Secretary, State of Bihar* ^[9] where it was held by the bench that "right to legal services without any cost to the poor and the needy is an essential element of any fair and reasonable procedure contained in the provision given in Article 21 of the Constitution". The Hon'ble Court further expanded the terms that no individual whether person or citizen could be disavowed against his rights of free legal aid, awareness, and legal literacy by making a plea that there are either financial or administrative deficiency of resources. The onus would be on the state to organise legal education and awareness programs by themselves or other authorities responsible for such work to make the people legally aware and literate against their rights.

Judicial contribution and judicial approach

The movement of legal literacy and awareness through legal assistance in India experienced growth, more particularly, the judiciary. For the case in point, an approach of judiciary and the statutes was not wide enough to implement the policy of legal aid and assistance for people with legal illiteracy. Victims particularly the poor victims were always at a disadvantage in court, especially in cases where they were innocent and not having representation. Although existing statutes and the Constitutional provisions regarding the advancement of Legal Aid services failed to interpret them broadly at initial stage of development. However, the law requires representation by an advocate or attorney ^[10].

The insertion of an obligation was the watershed and breaking point of duty of free legal aid by the 42nd Amendment of 1976 made provision for legal aid to all needy persons as a DPSP with the conviction that justice could solely be rendered with legal literacy and awareness to the vulnerable's of society. Before this amendment, it was the burden of the person facing the allegation to hoist the question of legal representation, there being no infrastructure created to cater for this need ^[11].

At first, the judiciary's contribution in the development processes was small. The courts in the case of *Janardan*

Reddy vs. State of Hyderabad ^[12] and Tara Singh vs. State of Punjab ^[13], confined the implications of lawyer's right only for requesting that a lawyer can be appointed for an accused. The bench pronounced a meaningful judgment while discussing the issues raised in Keshavanand Bharti vs. State of Kerala ^[14], that FRs and DPSPs are not in conflict but are complementary to each other, both serving the same purpose of transformation of societal norms in the line of the constitution and the promotion of a welfare nature of the nation. This perception served to clarify and assist the fulfilment of equality and justice in areas that had previously been termed legal aid provisions.

In the ratio of Sheela Barse vs. State of Maharashtra, ^[15] the Court decided that legal assistance to any individual under the trio of rights guaranteed under Articles 14, 21, and 39-A is a reflection of constitutional mandate. The court further included that this obligation of the state includes assistance to indigent persons, under-trial prisoners, convicts, and those who are in police custody, to ensure justice and linked the legal assistance with the broader constitutional guarantees to a person. This watershed judgment acknowledged that unless legal representation is provided, individuals, particularly those in vulnerable situations like imprisonment, risk suffering unfair consequences.

The court played role in enforcing such rights through several rulings. In Gopalanachari vs. State of Kerala ^[16], the lower courts were clear by the principle of precedents to promote legal education and awareness as a human right. Justice V.R. Krishna Iyer referred specifically to the plight of the poor and illiterate, who often could not defend themselves. The Court reiterated that trial courts are duty-bound to ensure that accused individuals, particularly prisoners, have the opportunity to be defended by counsel as mandated under Article 39-A.

The concept of equal legal representation was further expanded in Kishore Chand vs. State of H.P. ^[17], where the court noted that while the state provided a lawyer to indigent accused, there was often a mismatch in the degree of excellence of defence. The court criticized the exercise of assigning inexperienced junior lawyers to indigent defendants and urged senior counsel to volunteer them to ensure equal defence. Similarly, in Sukur Ali vs. State of Assam ^[18], the court ruled that in the absence of counsel appointed, the case cannot proceed. The court is duty-bound to appoint an amicus curiae for an accused to get legal help in representation.

The Hon'ble Court recently in the Ashok vs State of Uttar Pradesh ^[19] specifically directed that "if legal aid is provided only for the sake of providing it, it will serve no purpose. As there is a constitutional right to legal aid, so provided aid must be of a good quality and effective."

In another judgment, the apex judiciary has spotlighted the importance of the legal aid program and its current status in India can be visualised when the two judges bench of Hon'ble Court comprising of Justice KV Vishwanathan and Justice BR Gavai while deciding the issues of Suhas Chakma vs Union of India and others ^[20] in the words "Legal Aid to poor should not be poor legal aid" and the bench also issued a guideline for betterment cells and clinics responsible for said purpose.

The reflection of all these decisions clarifies the proactive nature of the judiciary in interpreting and implementing the provision of Article 39-A which was recognised not only as a Directive Principle but as a cornerstone for ensuring

equality and justice, especially for the economically disadvantaged.

The journey in India reflects a growing understanding of the goals to ensure access to justice. The court has progressively expanded the scope of prescribed provisions, recognising the need for legal literacy and awareness among the masses, deprived of fairness. Despite the existing challenges in implementation, the court through its decisions continues to transform the legit landscape, ensuring that individuals, especially the marginalized, can seek justice.

Conclusion

After the Forty-Second Amendment and the landmark judgement of Maneka Gandhi, the progressive approach to interpreting the Constitution's provisions primarily concerned a wider base for access of legal services was adopted by the judges. This activism, widened the expression of services meant to assist individuals legally in terms of representation in the court under Article 22 and Section 341 of the BNSS. The cases of landmark judgments like M H Hoskot, Hussainara Khatoon, Suk Das, Anokhelal, and Suhas Chakma read the legal aid rights to be incorporated from being a political principle to emanating as a FRs under Articles 14 and 21, making it obligatory on the authorities responsible for assistance and services available for legal awareness. To implement the schemes of the government at both level for betterment of marginalized groups, court has given directions and guidelines for the implementation of those schemes.

The Centre for Research and Planning of the Supreme Court of India recently conducted thorough research and published a report in October 2024 titled Legal Aid Through Law Schools in which the agencies have studied the working of legal aid cells established at law institutes and responsible for legal aid and organise camp for legal literacy and awareness of people living in an undeveloped area and not having adequate opportunity to access the means of the justice system. The report submitted by the agency concludes that challenges are still the same as it was in the 2011 report of UNDP 2011 that there is a shortage of human resources to conduct any program of good quality. There is an unavailability of adequate infrastructure and training programs for volunteers, and no mechanism or dedicated body for the evaluation of the work done by the committees and authorities at different levels to convert the dream into reality.

Conclusively, providing legal assistance is not an act of kindness whereas the state's primary duty towards the person. The agenda behind the concept was to fulfil the mandate of distributive justice, ensure the welfare nature of the state and combat the mindset of social discrimination. The legislature, through the enactment of 1987, coincides with the goal that everyone must have access to free legal aid aimed at the accessibility of justice. However, the movement can't reach undeveloped areas of its purpose due to an absence of legal consciousness. The person having a lack of knowledge of basic rights generally faces exploitation, restricting access to justice.

References

1. G. Mallikarjun, "Legal Aid in India and the Judicial Contribution" 7 NALSAR Law Review; c2013.

2. Chandra A. An Analysis of Legal Aid in Assam, A Dissertation Submitted for the Degree of Master of Law (1991-1992), Guwahati University, p.47-50.
3. The Constitution of India 1950, art. 32(1)
4. Ibid
5. The Constitution of India 1950, art.220 (1)
6. The Constitution of India 1950, art. 32 (1)
7. AIR 2000 SC 988.
8. The Constitution of India 1950, art. 21
9. AIR 1979 SC 1360
10. The Bhartiya Nagrik suraksha Sanhita 2023(Act 46 of 2023), s. 341
11. Dr. Kalpana Jawale, "Changing Dimension of right to Legal Aid as a Fundamental Right Under the Indian Constitution: A Judicial Approach" 2 OIIRJ, (2012).
12. AIR 1951 SC 217.
13. AIR 1951 SC 411,1951 SCR 729.
14. AIR 1973 SC 1461.
15. AIR 1983 SC 378.
16. AIR 1981 SC 674.
17. 1990 Cri LJ 2289(SC)
18. AIR 2011 SC 1222.
19. 2024 INSC 919
20. 2024 INSC 813