

# Legal Aid in India

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## Abstract

Legal aid or legal support in India aims to ensure equal access to justice for all, especially for the weaker sections of society. Rooted in the Constitution and shaped by key historical developments, legal aid evolved through various committees and reports, leading to the enactment of the Legal Services Authorities Act, 1987.

This Act established the National Legal Services Authority NALSA to oversee legal aid services nationwide, alongside State Legal Services Authorities SLSA and District Legal Services Authorities DLSA. These bodies organize Lok Adalats, spread legal awareness, and provide free legal assistance to eligible individuals, including women, children, the constitutional right to legal aid, ensuring that justice is not denied due to economic or social disadvantages.

**Keywords:** Legal Aid ,NALSA , Supreme Court ,Free Legal Help, Prabhjot Singh Chahal , P.N Bhagwati, Supreme Court

## History of Legal Aid

In 1949 Bombay government set up a *Bombay committee on legal aid and advise*, under the chairmanship of Justice P.N Bhagwati. The committee took cognizance of the issues of existence of poverty, and measures to provide legal aid to the citizens. The committee proposed the concept of Dharma wherein the state is duty bound and under obligation to take care of the welfare of the individuals in his jurisdiction. As a result the committee gave three suggestions:

- Legal aid is a service and not charity. It is an obligation on the state.
- Legal aid is equally important.
- Legal aid should be given to both the parties in the proceedings.

In 1950, the Government of West Bengal set up *Bengal committee* to discuss various ways to implement legal legal aid, on the same line committee submitted the report. Between 1952- 1956 the Central Government asked the states to legislate for the implementation of legal services. This was due to the entry of the subject (legal aid) in the state list under schedule VII of the Constitution of India. The states are now empowered to legislate but the state government did not have sufficient funds to implement the same. Then in 1958 the issue was recognized and *14<sup>th</sup> law Commission Report on Reform of Judicial Administration*<sup>1</sup>, headed by Mr. MC Setalvad gave suggestion on legal aid:

- State owes duty to provide free legal aid to persons of limited means
- The duty or obligation not only binds the state but also the members of legal fraternity
- There should be Access to Justice

<sup>1</sup> <https://viamediationcentre.org/readnews/NDQw/Genesis-of-Legal-Aid-in-India#:~:text=In%201950%2C%20the%20Government%20of.should%20be%20Access%20to%20Justice>

In 1959, the *International Commission by Jurists Committee on Judicial and Legal Profession under Rule of Law* said that under the rule of law the state is under obligation to provide access to free legal aid to limited persons such as women, children or poor persons etc.

In 1960, three issues taken up by *Central Government Scheme*,

- Legal aid should be given statutory force
- It should be available to both the parties
- It is obligation of the state

Then, Gujarat committee report came under the chairmanship of Justice PN Bhagwati in 1970. The committee gave few suggestions such as:

- State is under constitutional obligation to provide legal services under Article 14 and Article 22<sup>2</sup>(1)
- Committee was in favour of free legal aid not only in civil or criminal courts but also in tribunals. Thereafter, legal aid scheme should be provided at all levels- state, district and taluk.
- Creation of legal funds
- Ambit of the term 'legal aid'- proper legal advice, preventive services, representation by lawyers, preventive measures.

Further in 1973, an *Expert Committee* under the chairmanship of Krishna Iyer said that the legal aid is indispensable postulate of legal system and not matter of charity. Then, in consequence, in 1976 *Article 39A of the Indian Constitution* was enacted wherein the state was under the obligation to provide legal aid to the weaker sections of the society.

Finally, in 1980 legal aid was drafted by a committee headed by Justice PN Bhagwati. The draft gained the position of an act in 1987 called *The Legal Services Authorities Act, 1987*

## NALSA

The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987<sup>3</sup> to provide free Legal Services to the weaker sections of the society and to organize Lok Adalats for amicable settlement of disputes.

Hon'ble **Mr. Justice Sanjiv Khanna, The Chief Justice of India** is the Patron-in-Chief. NALSA is housed at Supreme Court of India, Tilak Marg, New Delhi, Delhi(110001). The NALSA Centre for Citizen Services is set up at Jaisalmer House<sup>4</sup>, Man Singh Road, New Delhi-110011. It is working during office hours on all working days.

National Legal Services Authority of India (NALSA)

Constituted under the Legal Services Authorities<sup>5</sup> Act of 1987, the National Legal Services Authority of India was established to create a nationwide network uniform in nature that would provide competent<sup>6</sup> legal services to the weaker sections of the society at no cost. The Authority came into force only in November 1995.

The [Supreme Court of India](#) first started the 'National Legal Services Day' in 1995.

- Another function of NALSA is to organize Lok Adalats for a quick resolution of the cases.
- The Patron-in-chief is the Chief Justice of India.
- The Executive Chairman of the Authority is the second senior-most judge of the SC.

<sup>2</sup> Constitution of India, Article 39A

<sup>3</sup> <https://nalsa.gov.in/about-us>

<sup>4</sup> : <https://nalsa.gov.in/about-us>

<sup>5</sup> Justice P.N. Bhagwati Committee, 1971; Legal Services Authorities Act, 1987, No. 39 of 1987, Acts of Parliament, 1987 (Indi

- At the state level, the State Legal Services Authority has been constituted to give effect to the policies of NALSA at the state level, and also to conduct [Lok Adalats](#) in the states. NALSA provides funds for the State Legal Services Authority for the implementation of the various legal aids and programmes.
- At the district<sup>7</sup> level also, the District Legal Services Authority has been established.
- Taluk Legal Services Committees are also constituted for each of the Taluk or Mandal or for a group of Taluk or Mandals to coordinate the activities of legal services in the Taluk and to organise Lok Adalats. Every Taluk Legal Services Committee is headed by a senior Civil Judge operating within the jurisdiction of the Committee who is its ex-officio Chairman.

### Objectives of NALSA<sup>8</sup>

The prime objective of NALSA is speedy disposal of cases and reducing the burden of the judiciary. Other objectives can be listed as follows:

- Spreading Legal Awareness
- Organizing Lok Adalats
- Promoting dispute settlements
- Providing the victims of crime with compensation

### NALSA Eligibility Criteria for Free Legal Services

Article 39 A of the [Constitution of India](#) provides for free legal aid to the poor and weaker sections of the society, to promote justice on the basis of equal opportunity. Article 14 and Article 22 (1), obligate the State to ensure equality before the law. To receive those services, the person acquiring them should fall under the following categories:

People with disability	Women and children
People who are members of SC & ST communities	Victims of poverty (beggars) and human trafficking
Industrial workmen	People under custody
People who are victims of natural disasters, caste or ethnic violence, etc <sup>9</sup> .	People with an annual income lower than 1 lakh

### SLSA

In every State, State Legal Services Authority has been constituted to give effect to the policies and directions of the **NALSA** and to give free legal services to the people and conduct Lok Adalats in the State. The State Legal Services Authority is headed by Hon'ble the Chief Justice of the respective High Court who is the Patron-in-Chief of the State Legal Services Authority. A Senior most Judge of High Court is nominated as Executive Chairman, SLSA.

<sup>8</sup> The Legal Services Authorities Act, 1987, No. 39 of 1987, Acts of Parliament, 1987 (India).

<sup>9</sup> : <https://byjus.com/free-ias-prep/national-legal-services-authority/>

### Functions of SLSA

1. To give effect to the policies and directions of the Central Authority.
2. To provide legal service to persons who satisfy the criteria laid down in the Legal Services Authorities Act, 1987.
3. To conduct Lok Adalats at various levels.
4. To encourage the settlement of disputes by way of Negotiation, Arbitration and Conciliation.
5. To secure the legal rights of poor, down trodden and weaker section of the society.
6. To ensure that the operation of the legal system promotes justice on a basis of equal opportunity.
7. To give people a platform where they receive effective counselling in order to resolve their disputes in an amicable manner and at pre-litigative stage.
8. To carry out legal literacy campaign across the Union Territory, Chandigarh.
9. To publicize legal aid schemes so that the target group, for whom Legal Services Authorities Act has provided for free legal aid, may come to know about the same and approach the concerned legal service functionaries.
10. To make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level, particularly among the Scheduled Castes and Scheduled Tribes, Women and Rural and Urban labour.
11. To act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor.
12. To sensitize people about the aims and objectives of the Legal Services Authorities Act, 1987 and their legal rights.
13. To perform such other functions as the State Authority may, in consultation with the Central Authority, prescribe by regulations<sup>10</sup>.

### DLSA

In every District, District Legal Services Authority has been constituted to implement Legal Services Programmes in the District. The District Legal Services Authority is situated in the District Courts Complex in every District and chaired by the District Judge of the respective district. A Civil Judge Cadre Judicial Officer is appointed as Secretary on full time basis.

The main functions of the District Legal Service Authority (DLSA) or the activities engaged by DLSA are as follows:

- Provides free and competent legal aid in the nature of counselling and legal advice, as well as free legal services in the conduct of cases before Courts and Tribunals.
- Organises regular Lok Adalats every month for pending cases of all types, as well as special Lok Adalats for special categories of cases. Lok Adalats limit costs, delays and ensure speedy justice, overcoming legal technicalities.

<sup>10</sup> <https://chdlsa.gov.in/index.php?trs=functions>

- Undertake responsibilities of pre-litigation dispute resolution through conciliation mechanism by establishing Permanent Lok Adalats in each district where matters relating to Public Utility Services are taken up for settlement.
- Spreads Legal Awareness among the public, targeting particularly the beneficiaries of social legislations and the public at large on various issues of legal importance.
- Special endeavour is made for rendering free legal aid to under trial prisoners whose cases are pending in courts.
- Organises Legal Literacy Classes in colleges<sup>11</sup>, jails and Legal Awareness programmes for women and children in need of care and protection.

## Category to legal aid

(a) **A member of a Scheduled Caste or Scheduled Tribe;**

(b) **A victim of trafficking in human beings** or beggar as referred to in Article 23 of the Constitution;

(c) **A woman or a child;** *{a woman is entitled for free legal aid irrespective of her income or financial status. A woman is eligible to apply for free legal aid by virtue of Section 12(c) of the Legal Services Authorities Act, 1987.}*

*{A child is eligible for free legal aid till the age of majority i.e. 18 years. This is effectuated by Section 12 (c) of the Legal Services Authorities Act, 1987. }*

*{Senior citizens' eligibility for free legal aid depends on the Rules framed by the respective State Governments in this regard. In Delhi for example, senior citizens are eligible for free legal aid subject to prescribed ceiling of annual income. Any individual above the age of 60 can apply for free legal aid/services.}*

(d) **A mentally ill** or otherwise disabled person;

(e) A person under circumstances of undeserved want such as being **a victim of a mass disaster**, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or

(f) **An industrial workman;** or

(g) **In custody**, including custody in a protective home within the meaning of clause (g) of Section 2 of the Immoral Traffic (Prevention) Act, 1956(104 of 1956); or in a juvenile home within the meaning of clause(j) of Section 2 of the Juvenile Justice Act, 1986 (53 of 1986); or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of Section 2 of the Mental Health Act, 1987(14 of 1987);or

(h) a person in receipt of **annual income less than the amount mentioned** in the following schedule (or any other higher amount as may be prescribed by the State Government), if the case is before a Court other than the Supreme Court, and less than Rs 5 Lakh<sup>12</sup>, if the case is before the Supreme Court.

The Income Ceiling Limit prescribed u/S 12(h) of the Act for availing free legal services in different States has been stated below:

Income Ceiling Limit (Per Annum)	States/ Union Territories
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<sup>11</sup> <https://byjus.com/ias-questions/what-are-the-functions-of-the-district-legal-service-authority/#:~:text=The%20main%20functions%20of%20the,need%20of%20care%20and%20protection>.

<sup>12</sup> : [https://nalsa.gov.in/services/legal-aid/eligibility#:~:text=The%20sections%20of%20the%20society,14%20of%201987\):or](https://nalsa.gov.in/services/legal-aid/eligibility#:~:text=The%20sections%20of%20the%20society,14%20of%201987):or)

Rs 3,00,000	Andhra Pradesh, Assam, Goa, Haryana, Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Manipur, Odisha, Punjab, Sikkim, Tamil Nadu, Uttarakhand, Andaman & Nicobar Islands, Chandigarh UT
Rs 1,50,000	Bihar, Chhattisgarh, Rajasthan, Tripura
Rs 1,00,000	Arunachal Pradesh, Gujarat, Jammu and Kashmir, Karnataka, Madhya Pradesh, Meghalaya, Nagaland, Telangana, Uttar Pradesh, West Bengal, Daman & Diu, Puducherry
Rs 25,000	Mizoram <sup>13</sup>
Rs 15,000	Dadar and Nagar Haveli UT
Rs 9,000	Lakshadweep
General -Rs 1,00,000 Senior Citizen- Rs 2,00,000 Transgender -Rs 2,00,000	Delhi

### How to approach legal aid

#### ONLINE METHOD:

- Go to the front office of the nearest legal services authority in your district.
- If you want to approach your State’s legal services authority, go to their front office during the office hours.
- Fill up the ready-made application form available at the legal services authority.
- You can also make an application in writing on a simple piece of paper with the necessary details such as their name, gender, residential address, employment status, nationality, whether SC/ST (with proof in support in the form of a certificate), income per month (with affidavit), the case for which legal aid is required and reason for seeking legal aid.
- You can submit the filled-out application in person at the front office or through post.
- A paralegal volunteer or an officer of the authority will guide you on the next steps to be taken, clarification or other documents required

#### OFFLINE

1. Go to the National Legal Services Authority’s Legal Services Management System
2. Click on ‘Lodge Application Form’ for legal services.
3. Change the language of the application by clicking on the Hindi/English button on top left side of the form.
4. Choose the Legal Service Authority where you plan to file an application to.
5. Choose the State, District or Taluk where you want to file the application to.
6. Fill the nature of the legal problem and choose options given in the drop down including law and order, retirement dues, revenue/land/tax, social evils etc. will be available.

<sup>13</sup> <https://nyaaya.org/resource/guide-on-applying-for-legal-aid/>

7. Fill in the summary of the problem for which you are applying for legal aid.
8. Add personal details like name, gender, case, caste certificate, annual income etc.
9. Enter details related to any previous cases like case type, case no., court type etc.
10. Attach documents if you have case or additional information and click on Submit
11. Obtain a Diary Number which can be used by you to track the application in the future<sup>14</sup>

### **Hussainara Khatoon v. home secretary, state of Bihar<sup>15</sup>**

**Facts:** This was a Public Interest Litigation filed regarding the rights of undertrial prisoners and the administration of prisons in Bihar.

**Findings:** The court discussed the problem of undertrial prisoners not being released on bail, and highlighted the need for a comprehensive legal services programme. It held that legal services are an essential ingredient of just, fair and reasonable procedure under Article 21. The court held that it is the constitutional right of every accused person who is unable to engage a lawyer on account of reasons such as poverty, indigence or incommunicado situation to have a lawyer provided by the State if the circumstances of the case and the needs of justice so required. The court also specifically directed that at the next remand dates, the magistrates should appoint lawyers (provided by the State at its own cost<sup>16</sup>) on behalf of undertrial prisoners who are charged with bailable offences or have been in prison beyond one half of the maximum punishment they could be given, for the purpose of making an application for bail. Finally, it impressed upon the Government the need to introduce a comprehensive legal services programme.

**Impact:** This case significantly impacted the legal landscape by highlighting the plight of undertrial prisoners languishing in jail due to lack of legal representation.

### **Suk das v. union territory of Arunachal Pradesh**

**Facts:** This was an appeal against a two-year imprisonment for criminal intimidation where the accused was unrepresented for the trial and did not make an application for legal aid.

**Findings:** The question<sup>17</sup> in this case was whether the fundamental right to legal assistance at state cost could be denied if he did not apply for free legal aid. The court reiterated the holding of *Khatri and Ors. v. State of Bihar and Ors.* that the magistrate is under an obligation to inform the accused of his right to free legal services if he cannot engage a lawyer because of poverty. In this case, since the Additional Deputy Commissioner did not inform the appellant of his right to free legal assistance, and the accused remained unrepresented during trial, which led to a conviction; the trial was vitiated on account of the violation of the Fundamental Rights of the accused under Article 21 and the conviction was set aside.

**Impact:** This case further emphasized the need for legal awareness and accessibility to justice for marginalized communities.

### **Khatri v. state of Bihar**

**Facts:** This was a Public Interest Litigation filed regarding the blinding of prisoners in Bihar.

**Findings:** While discussing the right of these prisoners to compensation, the court noted the absence of legal representation to these prisoners when they were produced before the magistrate, where they neither

<sup>14</sup> : <https://nyaaya.org/resource/guide-on-applying-for-legal-aid/>

<sup>15</sup> *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369.

<sup>16</sup> *Suk Das v. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991.

<sup>17</sup> *Suk Das v. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991.

requested it nor did the magistrate enquire if they desired legal representation at state cost. The court criticised the failure of lower courts to follow the binding decision of the Supreme Court in *Hussainara Khatoon v. Home Secretary, State of Bihar* and ensure the constitutional right to legal representation. It also pointed out that the State cannot avoid its constitutional obligation to provide free legal services to an indigent accused by pleading financial or administrative inability. It emphasised that this obligation attaches when the accused is first produced before the magistrate. Noting the lack of awareness of legal rights, the court held that there is an obligation on the magistrate to inform the accused that if he is unable to engage the services of a lawyer on account of poverty, he is entitled to free legal services at the cost of the State. The court qualified that this only applies in cases that would result in imprisonment and where the circumstances of the case and the needs of social justice require that he should be given free legal representation. The court mentions that cases involving offences such as economic offences, prostitution or child abuse need not require that legal aid be provided.<sup>18</sup>

## Conclusion

In conclusion, legal aid in India plays a vital role in upholding the constitutional promise of justice for all. The concept of legal aid is rooted in Article 39A of the Constitution of India, which directs the state to ensure that opportunities for securing justice are not denied to any citizen due to economic or other disabilities. This principle is further strengthened by the Legal Services Authorities Act, 1987, which established a framework to provide free legal services to eligible individuals, including women, children, Scheduled Castes (SC), Scheduled Tribes (ST), persons with disabilities, victims of human trafficking, and those in custody.

Legal aid helps bridge the gap between the privileged and the underprivileged, ensuring that everyone, regardless of their financial background, has equal access to legal remedies. Institutions like the National Legal Services Authority (NALSA) and State and District Legal Services Authorities work tirelessly to provide free legal counseling, representation in court, and awareness programs to empower people with knowledge about their rights.

Despite the robust framework, challenges like lack of awareness, insufficient infrastructure, and shortage of lawyers willing to take up legal aid cases still persist. Many people, especially in rural and remote areas, remain unaware of their right to free legal assistance. Moreover, the quality of representation in legal aid cases is often questioned, highlighting the need for better training and sensitization of lawyers and legal aid providers.

To make legal aid more effective, it is crucial to improve outreach programs, enhance the capacity of legal aid institutions, and ensure the timely and efficient delivery of services. Technology can also play a significant role in expanding access, with initiatives like online legal aid services and mobile legal aid clinics reaching those in the most inaccessible regions.

Ultimately, legal aid is not just about providing free legal representation — it's about empowering individuals, fostering social justice, and ensuring that no one is denied their fundamental rights due to poverty or social disadvantages. Strengthening the legal aid system is essential for creating a truly just and equitable society in India.

<sup>18</sup> <https://www.project39a.com/legal-aid-landmark-judgments#>



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