



The Challenges Faced By Law Schools In Promoting Access To Justice

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Abstract

The Indian legal system is built on core values like justice, equality, liberty, and accountability, aiming to ensure both access and ease of justice. Rooted in cultural and ethical traditions, legal education in India is seen as a powerful tool for creating a just society by developing skilled, socially responsible lawyers. Quality legal education emphasizes ethics, practical skills, and interdisciplinary learning. The evolution of clinical legal education, especially with the integrated law programs, has strengthened this goal by combining practical training with legal aid initiatives. Law school clinics and programs now play a key role in helping marginalized communities through legal support, awareness, and paralegal training. The article explores the challenges faced by law schools in promoting access to justice and how legal education can advance access to justice and support the creation of a more inclusive and equitable society.

Keywords: Law School, Legal Education, Legal service, Lok adalath, Challenges.

Introduction

The next generation of legal brains is shaped in large part by law colleges. Their importance comes from their ability to promote a deeper comprehension of society processes in addition to providing theoretical legal information. These universities offer a practical platform where students can engage with real-world legal problems through the avenue of clinical legal education.

This strategy is essential because it instills in aspiring attorneys a sense of accountability and compassion. Students gain experience navigating complexity outside of textbooks through working directly with marginalized communities and engaging with real-world problems. They gain priceless insights into the difficulties marginalized communities encounter when navigating the legal system.

Their moral compass is shaped by this intense experience, which also improves their legal knowledge. Encouraging students to provide legal aid to underprivileged groups transcends beyond an academic endeavor and becomes a moral obligation embedded in their professional culture.

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Essentially, law schools' duty in providing clinical legal education goes beyond simple instruction to become a life-changing experience that equips students to become compassionate, socially conscious attorneys dedicated to closing the justice gap in society.

Justices Dwivedi and Chandrachud stressed in the *Kesavananda Bharati v. State of Kerala* case² that the Constitution shouldn't be a fight for the wealthy looking for legal loopholes. Instead, it ought to be intelligible and accessible to the general public, encouraging their appreciation and understanding. The greater the accessibility of something, the more significant and meaningful it is to them.

In an effort to improve legal services, Justices Krishan Iyer and P.N. Bhagwati led a national legal aid campaign. Their strategy went beyond traditional legal domains. They organised legal aid camps in outlying areas and mobilised justices of the High Court to visit villages, actively addressing the complaints of the populace. Their goal was to provide justice that was more oriented towards the community and less dependent on formal legalities through programmes like lok adalats. They pushed for a total reform of the legal system, especially with regard to the way justice was administered.

Legal aid is the practise of providing the state-funded underprivileged and disadvantaged members of society with free legal assistance. Enabling them to exercise their legal rights in court proceedings before courts or tribunals is its main objective. Legal aid is defined by Justice P.N. Bhagwati in the Legal Aid Committee Report as creating a social structure that makes it easy for people in need to access the legal system and ensures that they can pursue legal action to uphold the rights that the law has bestowed upon them.

The primary goal of legal aid is to remove obstacles that keep people from accessing the justice system, particularly the poor and illiterate. It seeks to guarantee that their incapacity to approach the courts is not impeded by financial difficulties or illiteracy. Ensuring that everyone has equal access to justice, regardless of socioeconomic background or educational attainment, is the main goal.

Historical Background

The Indian Constitution is the most important set of laws in the country, with sections covering every aspect of life. The Indian Constitution's Article 39 A requires the State to maintain an equal opportunity legal system that promotes justice. Free legal aid must be offered in order to guarantee impartial justice, regardless of social or economic distinctions. The State is also required by Articles 14 and 22(1) to ensure that all citizens are treated fairly under the law and that equality before the law is upheld. Legal aid works to preserve the spirit and purposes of the Constitution. Its main goal is to ensure that the poor, marginalised, and vulnerable groups in society have equal access to justice in order to uphold the constitutional commitment³.

The French government passed an act in 1851 to provide legal aid to those in need, which is when the idea of legal aid first emerged⁴. The concept of legal aid was first introduced in India in 1952 at Law Conferences⁵, when the government looked for ways to help the underprivileged economically. A committee headed by Hon. Mr. Justice P.N. Bhagwati, a Supreme Court judge at the time, was subsequently established in 1980 to supervise legal aid initiatives across the country⁶. The Committee for Implementing Legal Aid Schemes (CILAS) made a concerted effort to offer legal aid to individuals in need all throughout the nation. The

² <https://judgments.ecourts.gov.in/KBJ/> (last visited May 22, 2023).

³ <https://nalsa.gov.in/about-us> (last visited May 20, 2023).

⁴ <https://www.legalserviceindia.com/articles/laid.htm> (last visited May 20, 2023).

⁵ <https://www.lawctopus.com/academike/legal-aid-and-legal-schools/#:~:text=Historical%20Background&text=In%20India%2C%20the%20concept%20of,under%20the%20Chairmanship%20of%20Hon> (last visited May 20, 2023).

⁶ <https://www2.ohchr.org/english/bodies/hrc/membersCVs/bhagwati.htm> (last visited May 20, 2023).

creation of Lok adalats represents yet another important advancement in the field of legal aid for Indian citizens. The goal of these specialised courts was to speed up trial procedures and, in turn, the administration of justice. Their introduction was crucial in quickening the nation's legal proceedings and ensuring that justice was served more quickly.

The Legal Services Authority Act was created in 1987 in order to give the idea of legal aid cells a statutory basis and coherence. This act was eventually put into effect in 1995, despite its early flaws, primarily thanks to the assistance of Hon. Mr. Justice R.N. Mishra. In the same year that the act went into effect, the National Legal Services Authority (NALSA⁷) was established. Executive Chairman Hon. Dr. Justice A.S. Anand, a Supreme Court judge, took over. A comprehensive national network was established as a result of this initiative, of which NALSA is the apex body. The main goal was to promote the idea that everyone should have access to the legal system. In compliance with the Constitution, NALSA developed guidelines and policies to guarantee that legal services are accessible to everyone.

The Central Authority implemented a number of calculated steps to ensure that the main goals of legal aid cells were met. These included using lok adalats to efficiently dispose of cases in order to speed up the resolution process. Furthermore, using large-scale publicity campaigns, coordinated efforts were made to increase public awareness of the available Legal Aid Schemes and programmes. Legal aid facilities were established within correctional institutions to address the legal needs of inmates and ensure accessibility. Additionally, legal awareness was furthered by the accreditation of NGOs and organisations, which increased the impact and reach of legal aid programmes.

Mathews and Outton contend that a person's rights and obligations towards other members of the community are governed by the law, regardless of the standards they choose—religious, moral, social, or purely rational. They contend that this variety of principles frequently must be accepted as they are, and that consulting an expert becomes essential in today's complex and diverse society. This knowledge is crucial for defining, identifying, and protecting legal rights in this complex legal environment in addition to protecting or enforcing them⁸.

Law schools have several functions. First, they teach students about the law. Secondly, they train students by helping them with clinical legal education. Lastly, they help the poor get access to the legal system.

Role Of College - The challenges faced by law schools in promoting access to justice.

Legal schools are the main educational establishments that provide law courses for undergraduates, making them unique in the educational landscape. They are crucial in moulding the legislators, advisors, and solicitors needed to carry out the law in a nation efficiently. There are many legal schools in India, including 14 national law schools that are well-known for providing high-quality legal education. These organisations have a well-deserved reputation for providing those in need with legal aid and raising public awareness of Indian law. Their dedication encompasses national initiatives aimed at raising legal consciousness. These legal aid cells at law schools take on a major responsibility of assisting those in need by organising and identifying bodies and providing financial aid as well as guidance and legal counsel.

Law schools play a significant role in addressing the urgent problem of access to justice, even though the government and legal professionals bear the majority of the primary responsibility for providing legal services to the underprivileged. Even though it's secondary, their responsibility is important.

⁷ The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to provide free Legal Services to the weaker sections of the society and to organize Lok Adalats for amicable settlement of disputes.

⁸ <https://www.legalserviceindia.com/article/I340-Legal-Aid-In-India.html> (last visited May 22, 2023).

The centre of this obligation in the context of law schools is their legal aid clinics. For low-income people and communities struggling with legal issues beyond their means, these clinics are like rays of hope. The complex nature of these marginalised groups' legal issues or their ignorance of their rights frequently make it difficult for them to obtain legal representation.

These legal aid clinics at law schools are extremely important. They are proactive in helping to close the access to justice gap. Through the provision of their knowledge and assets, these clinics assist individuals who might face difficulties in navigating the legal system. Their function goes beyond simple instruction; it involves using legal knowledge in a useful way to benefit the community.

Through these clinics, law schools empower underprivileged people and communities by offering priceless support and guidance. This dedication to social responsibility embodies the values of justice and equity that law schools seek to inculcate in their future legal professionals, in addition to enriching the educational experience for law students⁹.

Let us examine the legal profession's and law schools' crucial roles and responsibilities in influencing the administration of justice in more detail.

In order to facilitate and carry out justice in society, the legal profession has a fundamental responsibility. Law schools have a big responsibility to develop people who will make a dynamic contribution to the legal landscape because they are the birthplace of legal practitioners. The substance and core of the legal education provided in these institutions urgently need to be revitalised. The aim is to impart a novel viewpoint that transcends conventional legal education. The goal of this new strategy is to create solicitors and other legal professionals who are not only well-versed in the law but also aware of social justice issues and capable of handling them in the modern world. The goal is to give these professionals the knowledge and abilities needed to successfully negotiate the complexity of today's environment.

Law schools aim to produce graduates who are not only skilled in legal matters but also actively involved in contributing to social relevance and justice by infusing legal education with a more comprehensive understanding of societal needs. With the goal of bridging the theoretical and practical gaps in legal education, legal professionals will be better equipped to fulfil the constitutional mandate of providing equal access to justice for all members of society. A major turning point was reached in 1997 when the Bar Council of India issued a directive requiring legal aid to be taught in law schools all over the country¹⁰. This initiative attempted to inculcate in prospective solicitors a sense of social responsibility from the beginning of their legal education as well as a thorough understanding of legal aid principles. Even after this mandate has been in place for a significant amount of time—more than 15 years—the effective integration and execution of it have not yet met the expected standards. There is still a noticeable disconnect between the regulation and how law schools actually put it into practice. There appears to be a discrepancy between the required amount of curriculum integration for legal aid studies and the actual level of that integration. This disparity begs important questions about how well the educational strategy addresses the real-world applications of legal aid.

The question is whether the educational programme actually immerses students in the complexities of legal aid, encouraging a thorough comprehension and real-world application of these concepts. The discrepancy in implementation suggests that a more proactive strategy is required to guarantee that the core of legal aid

⁹ Jane H. Aiken and Stephen Wizner, Teaching and Doing: The Role of Law School . Clinics in Enhancing Access to Justice, available at <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1296&context=facpub/> (last visited May 20, 2023).

¹⁰ <http://www.barcouncilofindia.org/wp-content/uploads/2010/06/3-member-Committee-Report-on-Legal-Education.pdf> (last visited May 21, 2023).

education is actively ingrained in the educational framework rather than just being a required subject. In order to guarantee that legal aid education goes beyond theoretical instruction and becomes an essential component of students' legal consciousness and professional development, it calls for a reevaluation of teaching methodologies and a stronger emphasis on practical training¹¹.

All law schools are involved in different projects that are meant to support the legal aid sector in India. Even though the efforts of certain institutions might not live up to expectations, there are some encouraging programmes that could greatly benefit society if given more support.

Law schools getting involved in these initiatives has a lot of potential to improve society welfare. As students, they have an exceptional chance to obtain real-world experience and have access to time and modest financial resources, which allow them to participate in worthwhile social projects.

Law schools have a great deal of potential to be social change agents. Law students can play an active role in changing society by arranging events like seminars, community outreach programmes, visits to prisons, and other proactive activities. These programmes give students practical experience while also acting as effective means of fostering empathy and a sense of social responsibility. Such initiatives have an effect that goes beyond the immediate beneficiaries and favourably influences public perceptions of justice and the availability of legal aid.

Law schools can play a critical role in producing a new generation of legal professionals who are not only academically accomplished but also fervently committed to bringing about positive change in society by directing their energies and resources towards these worthwhile endeavours.

The evolution and current status of the Legal Aid Movement in India.

The Indian Constitution's Article 39A¹² requires the State to make sure the legal system upholds justice and provides equal opportunities for all of its citizens. It places a strong emphasis on the provision of free legal aid through policies, programmes, or other channels in order to end any denial of justice brought about by financial or other obstacles. The State is further required by Articles 14 and 22(1) to guarantee equality before the law and a legal system that encourages everyone's equal access to justice¹³. Legal aid works to fulfil this constitutional obligation by attempting to give fair justice to the poor, disadvantaged, and disenfranchised members of society.

The inception of the Legal Aid movement dates back to 1851, when France enacted laws aimed at providing legal aid to the poor. In 1944, Lord Chancellor Viscount Simon established the Rushcliffe Committee to evaluate the state of the art in England and Wales for providing legal aid to the underprivileged¹⁴. This marked the beginning of formal State attempts to assist the poor with legal services in Britain. Their suggestions were meant to guarantee that the State assisted those in need of legal counsel.

Starting in 1952, the Indian government took a proactive approach to the problem of providing legal help to the underprivileged through a number of Law Commissions and Law Ministers' conferences. The government had developed regulations for legal assistance programmes by 1960. In some states, Legal Aid Boards, Societies, and Law Departments carried out the implementation of these programmes.¹⁵ In 1980, a national-level Committee was established under the leadership of Hon. Mr. Justice P.N. Bhagwati, a

¹¹ <https://www.undp.org/india/publications/study-law-school-based-legal-services-clinics-0> (last visited May 20, 2023).

¹² <https://www.constitutionofindia.net/articles/article-39a-equal-justice-and-free-legal-aid/> (last visited May 22, 2023).

¹³ <https://doj.gov.in/access-to-justice-for-the-marginalized/> (last visited May 22, 2023).

¹⁴ <https://nalsa.gov.in/about-us> (last visited May 22, 2023).

¹⁵ <https://globalaccesstojustice.com/global-overview-india/> (last visited May 22, 2023).

Supreme Court Judge at that time, known as CILAS (Committee for Implementing Legal Aid Schemes). This committee took charge of overseeing and supervising legal aid programs across the country. The subsequent introduction of Lok Adalats marked a significant addition to the country's justice dispensation system. These forums provided litigants with an alternative platform for conciliatory dispute resolution.

The Legal Services Authorities Act was passed in 1987¹⁶ with the intention of giving legal assistance programmes all around the nation a consistent legislative base¹⁷. On November 9, 1995, this statute was finally put into effect following the introduction of necessary modifications through the Amendment statute of 1994. The Chief Justice of India at the time, Hon. Mr. Justice R.N. Mishra, was instrumental in the passage of this legislation.

An important turning point in India's legal history was the establishment of the National Legal Services Authority on December 5, 1995. On July 17, 1997, the esteemed Supreme Court Judge Hon. Dr. Justice A.S. Anand took on the crucial position of Executive Chairman subsequent to its formation. Hon. Dr. Justice A.S. Anand assumed leadership and went out with great intent to establish the National Legal Services Authority.

His aggressive attitude paid off, as the first Member Secretary was appointed in December 1997, setting the stage for the establishment of the authority's founding staff. The hiring of more officials and employees carried on this pace, therefore reshaping the organisational structure. The National Legal Services Authority's staffing plans were on track by January 1998.

The National Legal Services Authority office became fully functioning for the first time in February 1998¹⁸, marking the fruition of these efforts. This was a noteworthy accomplishment that indicated the authority was prepared to start its important role of providing legal services and help to the entire country.

A significant change took place in October 1998 when Hon. Dr. Justice A.S. Anand became the Chief Justice of India and the Patron-in-Chief of the National Legal Services Authority. This change was a pivotal moment for the leadership of the authority. Concurrently, the most senior judge on the Indian Supreme Court, Hon. Mr. Justice S.P. Bharucha, assumed the position of Executive Chairman of the National Legal Services Authority.

This leadership move signalled a transformation while maintaining the authority's dedication to its core goal of providing legal services and aid across the nation, ushering in a new era for the organisation. It was a pivotal point in the National Legal Services Authority's development, guaranteeing the continuation of existing programmes while welcoming new ideas and direction under new management.¹⁹ The Act envisions a broad national network with the goal of offering substantial legal assistance and support. The National Legal Services Authority (NALSA), the highest authority, was established to provide rules and guidelines controlling access to legal services in accordance with the requirements of the Act. It is in charge of creating practical and affordable legal service plans, allocating funding, and providing support to NGOs and State Legal Services Authorities so they may carry out legal aid initiatives.

¹⁶ <https://doj.gov.in/access-to-justice-for-the-marginalized/#:~:text=1987%2C%20the%20Legal%20Services%20Authorities,the%20basis%20of%20equal%20opportunity>. (last visited May 23, 2023).

¹⁷ <https://blog.ipleaders.in/legal-services-authority-act-1987/> (last visited May 22, 2023).

¹⁸ <https://nalsa.gov.in/about-us#:~:text=By%20February%2C%201998%20the%20office,of%20National%20Legal%20Services%20Authority>. (last visited May 23, 2023).

¹⁹ <https://nalsa.gov.in/about-us> (last visited May 22, 2023).

To carry out the rules and regulations set out by the national authority, a State Legal Services Authority is created in each state (NALSA). Its duties include conducting Lok Adalats around the state and provide legal assistance to the public. The Chief Justice of the corresponding State High Court serves as the Patron-in-Chief of the State Legal Services Authority, and its Executive Chairman is a retired or appointed High Court Judge.

District Legal Services Authorities are established at the district level to carry out Legal Aid Programmes and Schemes inside their respective districts. The District Judge is the ex-officio Chairman of these authorities.

To further organise and manage legal services, Taluk Legal Services Committees are established for every Taluk, Mandal, or group of Taluks or Mandals. Every committee is chaired ex officio by a senior Civil Judge who practises within that committee's jurisdiction. These committees are in charge of setting up Lok Adalats for quick dispute settlement and arranging legal services in their respective districts.

