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LEGAL LITERACY AS A TOOL FOR SOCIAL TRANSFORMATION

AUTHORED BY - SREELAKSHMI.R

INTRODUCTION.

The legislature of the state and the Parliament, while enacting the legislation, consider the objectives of it. Some laws lay down the substantive rights of the masses and some touch upon the procedural aspect of certain laws. But it is due to lack of awareness of beneficiaries that most of the legislations are ineffective at the stage of their execution. To quell this problem, the step of generating among the masses, awareness of their rights has been recognized as the appropriate initiative. The source of power among the masses has been attributed to such awareness. India is a land of various laws on a variety of subjects. Most of these pertain to the benefits of the people. To ensure justice for all, safeguard popular rights, and promote legal empowerment of the society, need is always felt for making the public aware about their rights and entitlements. With the same token, such awareness can be credited for facilitating the aggrieved person to quickly take resort to channels available for the redressal of grievances, through agencies like the Police, the Executive and the Judiciary. Further the awareness of one's legal rights paves the way for participation of the masses in the decision making process. It is due to this situation, that Legal literacy has been recognized as a tool of qualitative change at the basic level as it provides them with the adequate knowledge of their rights.

Legal literacy connotes the knowledge of the primary level in law. After the citizens (particularly marginalized or underprivileged groups) become aware of the rights provided to them by law, they can use such awareness as a tool to fight injustices. Such awareness can transform their lives. Legal literacy is the first step to that end. Further, the better awareness of laws is a contributing factor to help people work more effectively in diverse spheres. To give effect to such initiative, in 2005, National Legal Literacy Mission (NLLM) was adopted by the Central government.

NEED FOR LEGAL LITERACY

Being the part of the largest democracy, knowledge of law serves the people with the tool of power and self-realization. Unless the people are aware of rights, they cannot live in consonance

with the true dictates of democracy and rule of law. Legal literacy is commonly understood as knowing the primary level in law. Need of the legal literacy is accentuated due to following reasons:

1. **Fighting Injustice and Women Empowerment.** It is through awareness of the laws and the objectives served by them that citizens, particularly marginalized or underprivileged groups, can obtain the benefits that law seeks to offer them. Taking into consideration the present scenario, the issues like empowerment of women and making them aware of their rights which they can use to fight injustices, becomes a distant dream in the absence of legal literacy. Hon^{ble} Mr. Justice Kabir has aptly remarked that lack of awareness and education are the main causes for injustices being meted out to the marginalized populations especially women. Similar observation has been made by Hon^{ble} Mr. Justice Pradeep Kumar, the Judge of the High Court of Jharkhand. He emphasized upon the women's need to be aware about the laws that safeguarding their interests, so that they can approach the right authorities with their grievances in order to ensure quick justice. In the Fourth United Nations World Conference on Women, held in Beijing in 1995, the Beijing Platform for Action (BPFA) was adopted, with the object of achieving equality for women in various walks of life. As a result, the Beijing Declaration and Platform for Action was adopted, which emphasized the need for access to free or low-cost legal services, including legal literacy, especially focusing on women living in poverty. It also noticed that women's poverty had its connection to the absence of economic opportunities and autonomy, lack of access to economic resources, including credit, land ownership and inheritance, lack of access to education and support services and their minimal participation in the decision-making process. Also Legal literacy programmes have been attributed for helping women to understand the link between their rights and other aspects of their lives and in demonstrating that cost effective initiatives can be undertaken to help women obtain those rights.
2. **Understanding the Scope of Rights and Challenging their Violations.** Legal literacy is essential as it is the knowledge of law that can be used as a tool by vulnerable groups to understand and evaluate the law, to get acquainted with the scope of their rights under the law, and get their rights enforced by taking action and bringing the legal machinery into force. Knowing their rights, the people can challenge violations thereof. Article 39A of the Constitution of India directs the State to provide free legal aid with the aid of suitable

legislation or schemes. It is the awareness of rights and duties that makes the delivery of justice and balancing of various interests an easy task.

3. **Transparency and Accountability in the Governance.** Growing legal literacy opens the gate for a transparent and accountable Government truly based on the “Rule of Law”. It is the awareness about rights, governance and state obligations that has contributed to the changed attitude of the masses resulting in demand for justice and accountability from the government. In this regard, the contributions made by a renowned NGO, Multiple Action Research Group (MARG), is acclaimed. Undertaking the projects like Harshingar project and project of Building legal capacity in Savda Ghevra, Delhi, it has played its due role in achieving the goal of legal literacy.
4. **Empowering the Poor.** The legal system of a nation has a big share in empowerment of the poor people, as it confers upon them rights, powers, privileges, and immunities along with a strong judicial system that can give effect to these legal entitlements. The object empowerment cannot see the light unless, the target group (here the poor) are made aware of their entitlements in a legal system. Taking the note of the step to that end in international arena, in 2005, the United Nations Development Programme (UNDP) hosted the Commission on Legal Empowerment of the Poor. The Commission realised that, lack of understanding of legal rights and obligations serves as a barrier to access to justice for the poor.

CONCEPT OF LEGAL LITERACY IN INDIA

Definition of the term Legal Literacy.

To understand the meaning of Legal Literacy, it is essential to go through the definition of the term literacy. According to the Ministry of Home Affairs, Literacy can be defined as reference to both ability to read and write in any language. In the terms of the Programme for the International Assessment of Adult Competencies (PIAAC) “Literacy is the ability to identify, understand, interpret, create, communicate and compute, using printed and written materials associated with varying contexts. Literacy involves a continuum of learning in enabling individuals to achieve their goals, to develop their knowledge and potential, and to participate fully in their community and wider society”. Legal literacy has been defined by Laird Hunter, in Reading the Legal World, in following words: "People using the legal system must be able to guide themselves through a process that they understand [...] and, at appropriate places along the way, □ recognize they have

a legal right or responsibility, in order to exercise or assume it; recognize when a problem or conflict is a legal conflict and when a legal solution is available; know how to take the necessary action to avoid problems and where this is not possible, how to help themselves appropriately; know how and where to find information on the law, and be able to find information that is accessible to them, know when and how to obtain suitable legal assistance; have confidence that the legal system will provide a remedy, and

- Understand the process clearly enough to perceive that justice has been done... Translating the information and meanings of the legal system to learners and people with limited literacy skills requires that lawyers and others clearly understand the dual nature of legal literacy: the ability to read and familiarity with the legal context”. The quest for legal literacy forms the part and parcel of the Legal Aid to the masses. Even before the launch of the NLLM, the quest for the legal literacy was recognized in India. The journey of legal literacy, from its inception has taken the shape of legal rights. It was evident that the meaning of law will stand neglected, if only the privileged sections of the society have access to it. It was further observed that the law is meaningless unless people have equal access to it for their protection.

NATIONAL LEGAL LITERACY MISSION.

The National Legal Literacy Mission, with its motto “From Ignorance to Legal Empowerment”, was launched by the honourable Prime Minister of India, Dr. Manmohan Singh. This five-year Mission had its foundation in the goal of legal empowerment of all sections of the society. Its object was to simplify the language of the law to make people able to understand laws and judgments. Special focus was laid on the downtrodden, minorities and women. As evident from the speech of the Prime Minister, a democracy is meaningless, unless the people know their basic human rights like education, employment and the right to live a life of dignity and self respect. Such awareness is possible only through the mechanism of legal literacy. To remove the obstacles, such as complex legal language of the statutes, in understanding their rights, the Mission has been prepared as a weapon. In the words of the former Chief Justice of India RC Lahoti, “women, children, tribal and minority communities, victims of militancy, crime, disaster, drought- hit farmers, and sex workers needed urgent attention”. Legal literacy, being the first step towards knowledge of the law, the Mission aims at legal education of all sections of society. Objective of the Mission. NLLM was initiated with the aim of providing legal education to the underprivileged persons, including disabled people. The subject matter of the mission was to

educate the people about law, legal terminology and legal rights. Looking deep into the structure of the NLLM, it had following goals:

1. To achieve 100% legal literacy.
2. To target the most disadvantaged, distraught, disintegrated, vulnerable and victimized populace first and progress further in the grass-root level
3. To prepare State Specific Plan of Actions for implementation of objective of the Mission.
4. To undertake survey, research, documentation drive, social investigation reporting and social audit as a learning exercise of people's problems, grievances and to understand the nature of redressal required.
5. To sensitize the Judicial Officers to people's cause particularly to that of women and children, dalit and minorities, tribal and such other most vulnerable groups as well as persons in custody in addition to implementation of the Acts pertaining to mentally and physically challenged, the destitute and beggars, the orphans and neglected citizens, the abandoned elderly citizens, discrimination in case of any caste, communal violence, disaster and disease outbreak.

Target Groups. Taking into account the provision of the section 12 of the Legal Services Authorities Act, 1987, which prescribes the criteria for giving legal services to the eligible persons, following persons are covered under the target group of the Legal Aid services:

1. a member of a Scheduled Caste or Scheduled Tribe; 2. a victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitution; 3. a woman or a child; 4. a mentally ill or otherwise disabled person; 5. 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 6. an industrial workman; or 7. a person in custody, including in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956; or b. in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 or c. in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987; or 8. a person who receives an annual income of less than rupees nine thousand or such other higher amount as may be prescribed by the State Govt., if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Govt., if the case is before the Supreme Court. The Mission was launched, focusing those sections of the society which form the part of the most disadvantaged, distraught, disintegrated, vulnerable and victimized populace. In other words, following form the target groups for the Mission:

1. Weaker sections of the society that include women and children, dalit and minorities, tribal etc.;
2. Some most vulnerable groups such as persons in custody, persons suffering from mental and physical disabilities, the destitute and beggars, the orphans and neglected citizens, the abandoned elderly citizens; and
3. Persons, being the victims of discrimination on the ground of caste, communal violence, disaster and disease outbreak.

The main features of the Mission are as under: In line with the directives of the National Legal Services Authority (NALSA), State Specific Plan of Action for implementation of the Mission has been prepared having estimated cost of Rs.71.23 lakh and activities as per guide-lines of NALSA, in this regard are in progress to achieve the goal. Funding of the Mission. As far as the funding of the Mission is concerned, it had no funds allocated for it in the Budget.

IMPLEMENTATION OF THE MISSION. In the present scenario, the implementation of any reform policy in India does not merely depend upon the Government policies for its implementation. In this regard, the role played by the nongovernmental agencies can't be ignored as they have deeper contacts at the grass roots than official government machineries. The implementation of the legal literacy programmes as well as this Mission depends largely upon the NALSA, state legal service authorities, the non-governmental agencies (mainly NGOs) and the colleges. Therefore, in order to understand the significance of the bodies involved in the implementation of the legal literacy programmes, it is essential to know their working and modes of implementation adopted by them. A. National Legal Service Authority. The National Legal Services Authority (NALSA), as constituted under the Legal Services Authorities Act, 1987 has a paramount role to provide free Legal Services to the weaker sections of the society. Among its other functions, the Authority has an obligation to adopt measures for spreading legal literacy and legal awareness amongst the people and, also for educating weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures. Also, the NALSA has the duties pertaining to:

1. monitoring and evaluation of implementation of the legal aid programmes at periodic intervals
2. independent evaluation of programmes and schemes implemented in whole or in part by funds provided under the Legal Services Authorities Act, 1987

3. providing grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of legal services schemes under the provisions of this Act; and
4. Organizing legal aid camps, especially in rural area, slums or labour colonies with the purposes of educating the weaker sections of the society as to their rights and the settlement of disputes through 'Lok Adalats'

LOK ADALATS

'Lok Adalat' connotes people's court and is practically known as people's festival of justice, because of informal method of dispute settlement.

It is defined as a forum where voluntary effort aimed at bringing about settlement disputes between the parties is made through conciliatory and pervasive efforts. It has the social goal of ending quarrels and restoring family peace. According to Justice K.Ramaswamy, "Resolving disputes through Lok Adalat not only minimises litigation expenditure, it saves valuable time of the parties and their witnesses, and also facilitating inexpensive and prompt remedy appropriately to the satisfaction of both the parties.

Legal Services Authority Act provides for organisation of Lok Adalat by the State Authority, District Authority, Supreme Court or High Court Legal Service Committee or Taluk Legal Service Committee at such intervals and places within its jurisdiction. The types of cases at Lok Adalats are mutation of land cases, compoundable criminal offences, family disputes, Motor Accident Claims and cases which are not sub judice. Parties to pending disputes or potential disputes may agree or apply to the court for referring disputes to Lok Adalat. The Award of Lok Adalat shall be deemed to be a decree of civil Court under section 21 of the Legal Services Authority Act, 1987.

PUBLIC INTEREST LITIGATION

In simple words, it means litigation filed in court of law, for the protection of public interest, such as pollution, Terrorism, Road Safety, Constructional Hazards etc. Public interest litigation is not defined in any statute or in act. It has been interpreted by judges to consider the intent of public at large. Although, the main and only focus of such litigation is only Public interest. There are

various areas where a public interest litigation can be filed. For e.g. – Violation of basic human rights of the poor. The Indian PIL is the improved version of the PIL of U.S.A. According to Ford Foundation of U.S.A, Public interest law is the name that has given to efforts that provide legal representation to previously, unrepresented groups and interests.

In 1979, Kapila Hingorani filed a petition and secured the release of almost 40000 undertrials from Patna's jails in the famous '**Hussainara Khatoon**' case (1979 AIR 1369, 1979 SCR (3) 532). Hingorani was a lawyer. This case was filed in the SC before a Bench led by **Justice P N Bhagwati**. Hingorani is called the 'Mother of PILs' as a result of this successful case. The court permitted Hingorani to pursue a case in which she had no personal locus standi making PILs a permanent fixture in Indian jurisprudence.

Justice Bhagwati did a lot to ensure that the concept of PILs was clearly enunciated. He did not insist on the observance of procedural technicalities and even treated ordinary letters from public-minded individuals as writ petitions. Justice Bhagwati and **Justice V R Krishna Iyer** were among the first judges in the country to admit PILs.

Significance of Public Interest Litigation (PIL) in India

The original purpose of PILs has been to make justice accessible to the poor and the marginalized.

- It is an important tool to make human rights reach those who have been denied rights.
- It democratizes the access of justice to all. Any citizen/agency who is capable can file petitions on behalf of those who cannot or do not have the means to do so.
- It helps in judicially monitoring state institutions like prisons, asylums, protective homes, etc.
- It is an important tool in judicial review.

Criticism of Public Interest Litigation (PIL) in India

Off late, PILs have become a tool for publicity. People file frivolous petitions which result in the wastage of time of the courts. People have used them with a political agenda as well. They unnecessarily burden the judiciary. Even if the petition is eventually dismissed, the courts spend time and effort on them before dismissing them.

At present, only judges have the power to dismiss a petition. The Registry of the SC or HC only

ensures that the technical requirements of filing a petition are fulfilled. As a result of which petitions are admitted to the court irrespective of the merits of the case.

Way Forward with Public Interest Litigation

1. The court should not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain political objectives.
2. The PIL activists should be responsible and accountable.
3. The court must be careful to see that the petitioner must be acting bona fide and not for personal gain.
4. In shaping the relief the court must take into account its impact on those public interests.
5. Since it is an extraordinary remedy available at a cheaper cost to all citizens of the country, it should not be used by all litigants as a substitute for ordinary ones or as a means to file frivolous complaints.

CASE LAWS

M.H HOSKOT V. STATE OF MAHARASHTRA ((1978) 3 SCC 544)

This case involved a special leave petition to appeal against three year sentence imposed by the High Court in a case of cheating. While dismissing the special leave petition, the court addressed the two issues it found emerged from the facts of the case: lenient sentencing in economic offences and the right to appeal. While discussing the latter, the court held there was a Constitutional right to legal aid. The court found that free legal services at the trial court and appellate levels, where deprivation of life or personal liberty is at stake, are a necessary component of procedural justice. Therefore, when a prisoner is disabled from engaging a lawyer, on grounds of such as indigence or incommunicado situation, the court shall, if the circumstances of the case, the gravity of the sentence, and the ends of justice so require, assign competent counsel for the prisoners defence, provided the party does not object to that lawyer. These services must be paid for by the state.

HUSSAINARA KHATOON v. HOME SECRETARY, STATE OF BIHAR (1979 AIR 1369)

This was a Public Interest Litigation filed regarding the rights of undertrial prisoners and the administration of prisons in Bihar. In this case the court discussed the problem of undertrial prisoners not being released on bail, and highlighted the needs 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 constitution right of every accused person who is unable to engage a lawyer on account of reasons such as poverty, indigence, 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) 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 making an application for bail. Finally it impressed upon the Government the need to introduce a comprehensive legal services programme.

CONCLUSION

It can be concluded that Access to justice is the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances. There is no access to justice where citizens (especially marginalized groups) fear the system, see it as unfamiliar, and do not access it; where the justice system is financially inaccessible; where individuals have no lawyers; where they do not have information or knowledge of rights; or where there is a weak justice system. The legal literacy and legal awareness programmes aims to empower the poor and disadvantaged sections of society to seek and demand justice services. The programmes also seek to improve the institutional capacities of key justice service providers to enable them to effectively serve the poor and disadvantaged

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