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A COMPARATIVE ANALYSIS OF THE LEGAL FRAMEWORK RELATED TO ACCESS TO JUSTICE IN INDIA AND THE UNITED KINGDOM

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Abstract

Effective protection and enjoyment of legal and constitutional rights depend upon access to justice. In India, on the other hand, there is a different set of laws that is used to facilitate such access. Access to judicial remedies is guaranteed in the Constitution of India through Articles 14, 21 and 39A and is implemented through the Legal Services Authorities Act, 1987 that provides institutional mechanisms to deliver legal services and support the resolution of disputes. In the United Kingdom, because there is no constitution in a single code, the right to legal assistance has been established mainly by legislation, with the Legal Aid and Advice Act 1949, followed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). This paper tries to do a doctrinal and comparative analysis of the constitution and legal framework pertaining to justice access in India and UK. It explores its legal bases, structures, eligibility and statutory scope. The study does not look into practical implementation or empirical accessibility, but rather at the formal legal framework. The paper contrasts the two jurisdictions and points to important similarities and differences with regard to the formal processes in which access to justice is recognized and regulated.

Keywords: Access to Justice; Comparative Constitutional Law; India; United Kingdom; Legal Services Authorities Act, 1987; LASPO, 2012

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I. INTRODUCTION

A key component of constitutional democracy is the right to access justice, which means that the right to justice is not just declared in the Constitution, but is made available in practice.⁴ Both India and the UK have specific constitutional and legislative provisions to ensure the right to access justice, with India having a specific constitutional provision and some dedicated legislation,⁵ while the UK has specific legal aid mechanisms based on common law.⁶ While differing constitutionally, both countries share a commitment to securing the right to access justice irrespective of poverty or social disadvantages.⁷

The Indian approach is enshrined in Articles 14, 21 and 39A, which make access to justice a fundamental right and a state obligation and is supplemented by the Legal Services Authorities Act, 1987 and its execution through NALSA, SLA and DLA, Lok Adalat.⁸ The United Kingdom by contrast has no single codified constitution, but instead has had a series of statutes to define and limit the scope of legal aid available to its citizens which range from the Legal Aid and Advice Act, 1949 to the Legal Aid, Sentencing and Punishment of Offenders Act, 2012.⁹

This difference in legal structure merits a closer examination of the similarities and differences. By examining these constitutional and statutory provisions next to each other, within their legal traditions, this paper aims to understand how each country has chosen to include the right to access justice into its legal framework and what the various legal frameworks reveal about their respective conceptions of the right.

II. STATEMENT OF THE PROBLEM

Although the United Kingdom has a legislative role for access to justice and in India a constitutional one, they have taken very different approaches to ensure access to justice. Difference in legal form, namely, constitutional versus statutory basis, forces one to wonder about the comparative power, reach and comprehensiveness of the two systems. Although there

⁴ Valesca Lima & Miriam Gomez, *Access to Justice: Promoting the Legal System as a Human Right*, at 1 (2020).

⁵ Sukriti Pathak, *Constitutional Framework of Justice and Human Rights in India*, 12 Int'l J.L. 516, 516–19 (2026).

⁶ Daniel Newman, *Access to Justice Policy: Legal Aid in Post-War UK General Election Manifestos*, 32 Int'l J. Legal Prof. 271 (2025).

⁷ Marc Galanter et al., *"Bread for the Poor": Access to Justice and the Rights of the Needy in India* (2004) (unpublished manuscript); Heribert A. Hirte, *Access to the Courts for Indigent Persons: A Comparative Analysis of the Legal Framework in the United Kingdom, United States and Germany*, 40 Am. J. Comp. L. 91 (1991).

⁸ Ragini P. Khubalkar, *Contours of Legal Aid: Past, Present and Future*, 11 Asian J. Legal Educ. 121, 121–40 (2024); Karavi Barman & Gaurav Goswami, *Access to Justice: Examining the Impact and Challenges of Free Legal Aid in India*, 25 Genetics & Molecular Res., No. 16s (2026), <https://doi.org/10.4238/bjk9xv35>.

⁹ Newman, *supra* note 6; Abi Adams-Prassl & Jeremias Adams-Prassl, *Systemic Unfairness, Access to Justice and Futility: A Framework*, 40 Oxford J. Legal Stud. 561 (2020).

is a lot of literature discussing the concept of access to justice, very little literature has attempted to trace and contrast the constitution and statute laws of India and the United Kingdom side-by-side. This paper fills that gap, exploring the provisions themselves.

III. RESEARCH QUESTIONS

- i. What is the scope of india's statutory and constitutional provisions pertaining to access to justice.
- ii. What are the legal aid and justice access statutes in the UK, and how have they evolved?
- iii. Compare the constitutional and the statutory framework of India and United Kingdom in terms of legal basis, scope and coverage.

IV. OBJECTIVES OF THE STUDY

The aims of this study are: To identify and explore the constitutional and legal framework relevant to access to justice in each jurisdiction; To analyse the type (constitutional or statutory) of the legal grounding; and to compare the scope and coverage of access to justice laws in each jurisdiction without going into practical implementation issues.

V. RESEARCH METHODOLOGY

In carrying out this study, the research had used a doctrinal method and comparative research. This is done based on primary legal sources, including the Constitution of India, Legal Services Authorities Act, 1987 (LSAA), and UK legal aid laws in order to give the interpretation and context. The comparative method is used to compare and contrast the actual language of the legal provisions and structures of the two jurisdictions, highlighting similarities and differences in the legal basis, scope and coverage of the two legal systems. This study is limited to textual and doctrinal analysis and does not include empirical, field or implementation-oriented research methods.

VI. SCOPE AND LIMITATIONS

This paper will only focus on the constitutional and statutory provisions that have been laid down in India and the United Kingdom with regard to access to justice. It does not attempt to analyse case law, interpret the provisions of the constitution, collect empirical data or assess the practical implementation and operation of the provisions on the ground or to evaluate the

effectiveness of such provisions on this basis. Nor does it attempt to assess the socio-legal and outcome of the functioning of these provisions in practice. The comparative analysis focuses on the text and scope of provisions, and the structure of the provisions themselves, and seeks to gain a better knowledge of how the right to access justice has been legally defined in each nation.

VII. MEANING AND SCOPE OF "ACCESS TO JUSTICE"

There is not a single, accepted definition for the term "access to justice". It evolved considerably from a narrow procedural guarantee to a broader substantive right.¹⁰ In its earliest formulation, access to justice was understood merely as the formal right to approach a court of law.¹¹ There are several parts to the concept of access to justice, it can be procedural (the right to take legal action), economic (the ability to afford legal representation and court costs), and substantive (the ability to achieve a fair and effective result).¹²

It has been recognised as a foundational element of the rule of law and constitutional governance, rather than a mere adjunct to it.¹³ However, the concept of access to justice has been given different meanings depending on the legal tradition in which it is applied: in countries with a written constitution, like India, it is often taken to mean a facet of fundamental rights;¹⁴ in common law countries, such as the United Kingdom, it is generally dealt with through legislation and judicial precedent.¹⁵

For the purposes of this paper, "access to justice" is defined as the constitutional and legal framework, a formal statutory measure which a State adopts to make sure that people have access to justice, irrespective of their socioeconomic status. This is a conceptual anchor that will help guide the analysis for the jurisdiction that follows in the following sections.

VIII. CONSTITUTIONAL AND STATUTORY PROVISIONS IN INDIA

Constitutional Basis: Articles 14, 21 and 39A

Access to justice is guaranteed by fundamental rights and directive principles of the Constitution of India, which provides the fundamental framework for obtaining justice. The right to equality of access to legal remedies are rooted in Article 14.¹⁶ If there are no substantive

¹⁰ Lima & Gomez, *supra* note 4.

¹¹ Ramanya M. Gayathri, *Access to Justice in Contemporary Society: A Holistic Approach* (2021).

¹² Galanter et al., *supra* note 7.

¹³ Pratiksha Baxi, *Access to Justice and Rule-of (Good) Law: The Cunning of Judicial Reform in India* (n.d.).

¹⁴ Pathak, *supra* note 5.

¹⁵ Newman, *supra* note 6.

¹⁶ Pathak, *supra* note 5.

equality of access to courts, the formal protection of legal rights will be a hollow one to many. Article 21 guarantees the right to life and personal liberty and, through a line of large and broadening judicial interpretations, has been read as conferring the right to a fair and impartial trial, speedy justice in addition to legal representation as essential components of a life lived with dignity.¹⁷ Through this, the judiciary has consistently held that a procedure which denies a person the practical means to seek justice cannot be regarded as "fair, just, and reasonable" within the meaning of Article 21. A fair trial is viewed as a part of a "fair and just" and "reasonable" process under Article 21 and in a series of progressive judicial interpretations, this has been extended to include speedy justice and counsel.¹⁸

In 1976, the Forty-second Amendment was introduced, and Article 39A is the most explicit expression of the right to access to justice. It places an affirmative obligations on the state to make sure that the justice system is run in a way that advances justice based on equal opportunity. It specifically requires the state to offer free legal help to citizens who are economically or otherwise disadvantaged in order to prevent them from being denied justice.¹⁹ Article 39A differs from Articles 14 and 21 as it is not a justiciable fundamental right but has gained an increasing amount of interpretive import and has been read together with Article 14 and 21 to ensure it has a 'enforceable content'.²⁰

Statutory Provisions under Legal Services Authorities Act, 1987 (NALSA, DLSA, Lok Adalats)

As the Constitution already lays down normative foundation, The Legal Services Authorities Act 1987 creates a framework of institutions and rules to implement the constitutional obligation of Article 39A.²¹

The Act provides for the establishment of the National Legal Services Authority (NALSA) at the apex level, headed by the Chief Justice of India as Patron in Chief to formulate policies, principles and efficient and affordable legal services programs across the nation.²² The State Legal Services Authorities (SLSAs) are established in accordance with the Act to carry out the policies of NALSA at the State level in a similar manner as stated above and on the district level, the District Legal Services Authorities (DLSAs) chaired by the District Judge, is

¹⁷ Baxi, *supra* note 13.

¹⁸ Pathak, *supra* note 5.

¹⁹ Khubalkar, *supra* note 8.

²⁰ Galanter et al., *supra* note 7.

²¹ Khubalkar, *supra* note 8.

²² Id.

responsible for coordinating legal aid activities and for identifying the eligible beneficiaries at the grass-root level.²³

Specific groups of people such as women, persons with disabilities, children, persons in custody, industrial workmen, victims of trafficking, and members of SC and ST's, have statutorily been given to obtain free legal assistance. Further, the income limit for those who earn below this amount as prescribed by the relevant State Government is also available as per section 12(h) and the income limit for Supreme Court cases is set at ₹5 lakh per annum. Persons who qualify independently under the other categories listed in Section 12, are exempt from the income criterion.²⁴

Another unique feature of the Act is the creation of Lok Adalats, forums for amicable and expeditious resolution of disputes whose awards are regarded as civil court decree and do not admit appeal.²⁵ The Act also introduces Permanent Lok Adalats for public utility services which have jurisdiction to adjudicate disputes even without parties consent.²⁶

Articles 14, 21, and 39A provide the constitutional foundation for access to justice as a right, while the Legal Services Authorities Act, 1987 provides the organizational framework in the form of NALSA, SLSAs, DLSAs and Lok Adalats, which provides the legal and institutional framework for the right to access justice.

IX. UNITED KINGDOM LEGAL FRAMEWORK AND PROVISIONS

In UK, however, which has no written constitution, access to justice has been dealt with almost solely through legislation: the legal assistance and counsel program is first originally established in the Legal Aid and Advice Act, 1949, was in a long sequence of such measures in Britain that recognised that legal rights were of little value if there were no means of enforcing them.²⁷ These were followed by the restructuring of this basic scheme under the framework of the Legal Aid Act 1988 as well as later under the Access to Justice Act 1999, which introduced the Community Legal Service (civil) and Criminal Defence Service (criminal) under the auspices of the newly founded Legal Services Commission.²⁸

The most important and most limiting piece of statutory legislation was the Legal Aid, Sentencing and Punishment of Offenders Act, 2012 (LASPO), which in essence reshaped the

²³ Id

²⁴ The Legal Services Authorities Act, 1987, § 12(h) (India).

²⁵ Khubalkar, *supra* note 8.

²⁶ Id

²⁷ Newman, *supra* note 6.

²⁸ Id.

legal aid landscape and significantly reduced the types of civil law cases for which legal aid funding is available, save in a few very limited contexts.²⁹ LASPO eliminated the Legal Services Commission and eliminated legal aid financing for the majority of civil matters, including those involving private family, welfare payments, employments, clinical negligence and immigration.³⁰ LASPO did not, however, and more significantly, remove legal aid from all criminal proceedings; as the right to a fair trial continues to have constitutional and common law importance in the criminal context, LASPO preserved funding for legal aid for criminal proceedings, subject to means and merits testing.³¹

LASPO also reorganized institutional structures related to the delivery of legal service provision. The UK government's executive agency is the Legal Aid Agency, headed by the Lord Chancellor, and directly responsible to the Ministry of Justice,³² as compared to NALSA in India which is a quasi-independent statutory body under the judicial control.

Under LASPO, the Lord Chancellor has wide powers of regulation to broaden or limit the range of civil legal services covered by legal assistance, and the powers to administer the Civil Legal Aid and Criminal Legal Aid schemes, and to contract with legal aid providers (solicitors' firms and not-for-profit legal advice bodies) to offer services for legal aid.³³ The Act also allows the Lord Chancellor to define, by regulation, the types of legal services that will be covered by legal aid, which will mean that the scope of legal aid can be expanded or contracted as a matter of executive discretion. The Act also provides the Lord Chancellor with broad powers to regulate the types of civil legal services to be provided for legal aid, and therefore significant statutory discretion to broaden or narrow the scope of legal aid provision.³⁴

One key difference between the UK framework and the Act-based entitlement categories in India is that the UK framework does not rely on the categorisation of entitlements based on social or economic status but instead, has a statutory means test (income and capital) and a statutory merits test (likelihood of success and reasonableness of public funding).

These elements, combined with the evolution of legislation from the Legal Aid and Advice Act 1949, to the Access to Justice Act 1999 and on to LASPO 2012, demonstrate the legislative framework that has increasingly narrowed and expanded the definition of state-funded legal assistance, and has left the Legal Aid Agency as the key statutory entity to administer legal aid.

²⁹ Adams-Prassl & Adams-Prassl, *supra* note 9.

³⁰ *Id.*

³¹ Newman, *supra* note 6.

³² *Id.*

³³ *Id.*

³⁴ Adams-Prassl & Adams-Prassl, *supra* note 9.

Figure 1 below traces this institutional pipeline for both jurisdictions in diagrammatic form, from the foundational basis of legal aid down to the level at which it is actually delivered, before the discussion turns to a tabular comparison of the substantive dimensions of each framework.

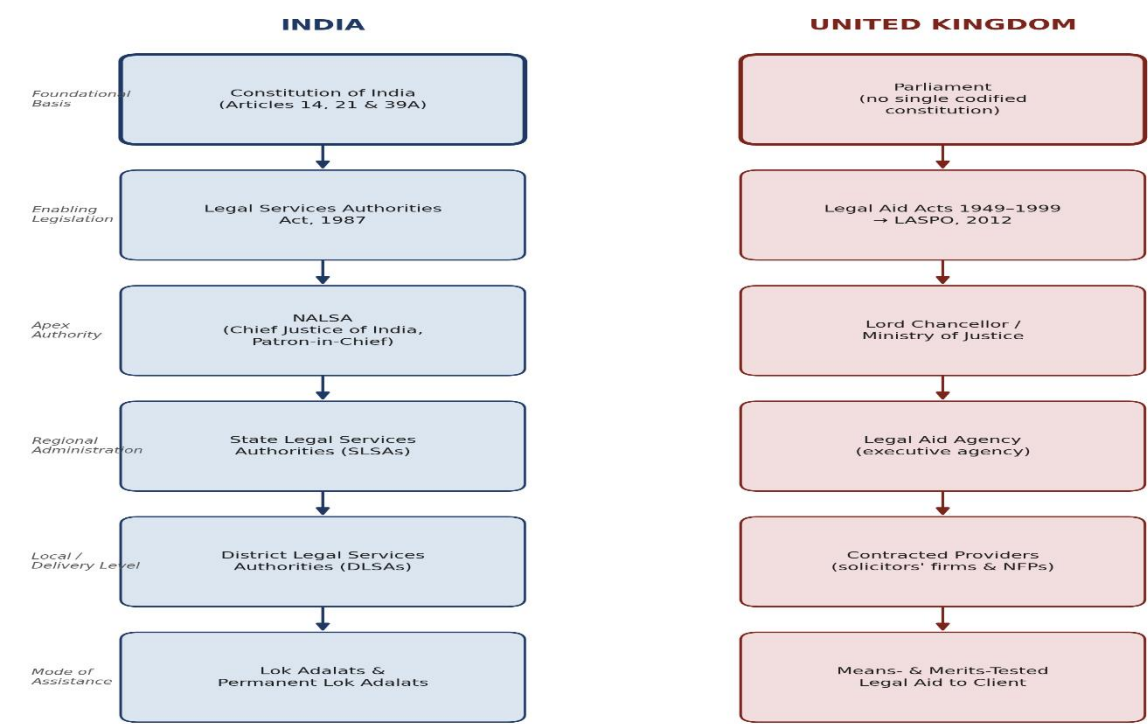


Figure 1: Institutional Hierarchy Legal Aid in India & United Kingdom

X. COMPARATIVE ANALYSIS OF PROVISIONS: INDIA AND THE UK

Prior to the discussion of each point of divergence individually below, Table 1 below summarizes the comparison in respect of each of the key dimensions investigated in this paper, legal basis, founding statutes, institutional design, eligibility criteria and subject-matter coverage, so as to see the structural difference between the two jurisdictions at a glance before the discussion is unpacked in the text below.

Table 1: Comparative Summary of Access to Justice Frameworks in India and the United Kingdom

Dimension	India	United Kingdom
Legal Basis	Constitutional (Article 14, 21 and 39A)	Statutory only (no single codified constitution); primarily parliamentary legislation

Dimension	India	United Kingdom
Founding Statute(s)	Legal Services Authorities Act, 1987	Legal Aid and Advice Act, 1949 → Legal Aid Act, 1988 → Access to Justice Act, 1999 → LASPO, 2012
Nature of the Guarantee	Justiciable fundamental right (Arts. 14 & 21) reinforced by a Directive Principle with enforceable content (Art. 39A)	Ordinary statutory entitlement; subject to parliamentary sovereignty and executive discretion
Apex Institution	NALSA headed by the Chief Justice of India as a chief	Legal Aid Agency, an executive agency headed by, and answerable to, the Lord Chancellor / Ministry of Justice
Institutional Character	Quasi-judicial statutory body under judicial leadership (NALSA → SLSA → DLSA)	Executive body under direct governmental oversight
Eligibility Model	Categorical entitlement – defined classes (women, children, persons with disabilities, SC/ST, trafficking victims, industrial workmen, etc.) qualify without a means test	Statutory means test (income and capital) combined with a merits test (likelihood of success and reasonableness of public funding)
Income Threshold	₹5 lakh per annum for Supreme Court cases under s.12(h); persons in listed categories are exempt from the income criterion	No fixed categorical exemption; eligibility recalculated case-by-case under the means and merits tests
Subject-Matter Coverage	Broad – spans civil, criminal, family, labour and welfare matters, aided further by Lok Adalats and Permanent Lok Adalats	Narrow after LASPO – most private family law, welfare benefits, employment, clinical negligence and immigration matters excluded; criminal legal aid preserved

Dimension	India	United Kingdom
Dispute-Resolution Fora	Lok Adalats (consensual) and Permanent Lok Adalats (compulsory jurisdiction over public utility services); awards are final and non-appealable	No equivalent statutory alternative dispute-resolution forum tied to the legal aid framework
Scope-Setting Authority	Constitutionally anchored; alteration of the core guarantee would invite constitutional scrutiny	Lord Chancellor holds broad regulatory power to expand or contract the scope of civil legal aid by executive regulation
Trajectory of Reform	Expansive – judicial interpretation has progressively widened Art. 21 to include fair trial, speedy justice and legal representation	Contractive in the civil sphere – LASPO (2012) significantly narrowed the categories of civil legal aid available
Overall, Character	Broad, constitutionally entrenched and comparatively insulated from legislative roll-back	Narrower, statutorily contingent and more vulnerable to legislative and executive amendment

Read together, the rows of Table 1 present a consistent pattern rather than a set of isolated differences. In the United Kingdom, where the guarantee is statutory and not constitutionally entrenched, monitored and categorized, India has a guarantee which is constitutionally secured, judicially supervised and categorically defined. This pattern is repeated in both the nature of the legal basis and in the institutional nature and in the design of the eligibility and the scope of the rights and interests protected; it is the recurring pattern that is the subject of the discussion below, not any individual provision of law.

Constitutional vs. Statutory Grounding

The most basic difference between the two systems is the source of their law. Access to justice in India is guaranteed by the Constitution, which invests it with the status of a justiciable fundamental right through Articles 14 and 21, and the right to equality of opportunity to participate in public life through the judicially expanded Article 39A, which, although a DP,

can be construed as a fundamental right.³⁵ In this sense, access to justice cannot, in principle, be restricted by ordinary legislation without encountering constitutional challenge.

In the United Kingdom there is no single written constitution, and lack of codification of the right to legal support. Its framework is purely statutory from the Legal Aid and Advice Act, 1949 right up to LASPO, 2012. The scope of legal aid is therefore a question of ordinary parliamentary sovereignty and can be extended or curtailed simply by legislative amendment.³⁶

The difference is all important as the scope of legal aid in the UK is entirely legislative, and can be extended or limited by simple acts of Parliament, while in the Indian context it is endowed with a measure of constitutional protection against legislative roll-back including the substantial curtailment of civil legal aid coverage in the UK in 2012, brought about by LASPO.³⁷

Scope and Coverage of Each Framework

The two frameworks also have a large discrepancy in their definition of entitlement. The model adopted by the Legal Services Authorities Act, 1987 (LSA 1987) in India is one of categorical entitlement, that is, certain categories of individuals qualify for complimentary legal assistance without undergoing a means assessment, including women, children, individuals with disabilities, industrial, labourers, and trafficking victims while other do not.³⁸ This approach is based on a rationale of substantive equality: the entitlement to seek justice as a remedial action to rectify the social and economic inequities faced by specific groups.

The scope of LASPO's coverage, in terms of subject matter coverage, is also significantly narrower than India's: while the Indian model covers most matters of civil law, including social security, welfare, employment, and immigration, LASPO excludes most areas of civil law, with coverage limited to priority cases such as domestic violence. Further, the Indian model does not include the same broad subject-matter exclusion of the UK model with Lok Adalats and Permanent Lok Adalats providing a wider scope of dispute resolution than the UK model.

This institutional difference in the two frameworks extends to their constitutional structure as well; NALSA, along with its state and district counterparts, is a quasi-judicial, statutory body led by sitting judges, whereas the UK's Legal Aid Agency is an executive entity under the

³⁵ Pathak, *supra* note 5; Baxi, *supra* note 13.

³⁶ Newman, *supra* note 6.

³⁷ Adams-Prassl & Adams-Prassl, *supra* note 9.

³⁸ Khubalkar, *supra* note 8; Farzana Akter, *The Standard of Assistance from Legal Aid Lawyers: An Indian Perspective*, 5 Indian L. Rev. 189 (2021).

Ministry of Justice, with increased degree of direct governmental oversight.³⁹

Overall, the UK's purely statutory foundation and means-tested approach yield a narrower and more vulnerable statutory guarantee compared to India's constitutional foundation and categorical entitlement approach, which imparts a broader and more entrenched guarantee.

CONCLUSION

The aim of this paper was to study the constitution and statute law related to access to justice in India and the UK, without getting into the implementation of these provisions. Comparing the two jurisdictions, the emphasis is on the fact that they have both reached the same commitment that justice should not be denied because of economic disadvantage in very different ways. The framework is built on constitutional guarantees (Articles 14, 21 and 39A in India) and articulated in the definitive provisions of the Legal Services Authorities Act 1987, that gives certain normative permanence and wide coverage. By contrast, the framework in the United Kingdom is completely statute based and the scope of it is determined and redefined by statute from time to time, most recently, with the scope-reductive amendment of LASPO, 2012. The legal form of access to justice chosen entrenchment vs malleability of the statute, categorical entitlement vs means testing eligibility has a material effect on the durability and scope of the guarantee. Whilst both the Indian model is very strong in terms of its constitutional framework, it might have been useful to the UK to draw upon the statutory demarcation of eligibility requirements, the UK model may have taken lessons from India's approach of having a wider and more generic eligibility category. Future studies could develop this doctrinal basis to explore its implementation, which was not addressed in the current research.

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³⁹ Koustubh Sharma, D.R. Anil & Kumar Dixit, *The Comparative Analysis on Judicial System in Indian and UK* (2024).

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