

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



14th, 2019

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



methodology and teaching and learning.

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

JUSTICE FOR ALL: BRIDGING THE GAP FOR MARGINALIZED COMMUNITIES IN INDIA

AUTHORED BY - SAMPURNA SINGHA ROY

AMITY LAW SCHOOL KOLKATA,

AMITY UNIVERSITY KOLKATA

Abstract

Access to justice is a fundamental right enshrined in the Indian Constitution. However, marginalized communities often face significant barriers in accessing justice, which exacerbates their already vulnerable position. This article aims to examine the issues faced by marginalized communities in India regarding access to justice and propose potential solutions to bridge this gap.

The article discusses the systemic issues that impede marginalized communities' access to justice, including social exclusion, discrimination, lack of legal awareness, and poor infrastructure. Additionally, it analyses the current legal framework and policies that address access to justice for marginalized communities. The existing mechanisms for ensuring access to justice, such as legal aid programs, community legal clinics, and mobile courts, are also discussed.

Furthermore, the article proposes innovative approaches to improve marginalized communities' access to justice, such as the use of technology in enhancing access to justice and ensuring transparency and accountability. Alternative dispute resolution mechanisms and legal empowerment of marginalized communities are also explored.

The article concludes by summarizing the findings and providing policy recommendations to improve access to justice for marginalized communities. The article also highlights the need for future research on this topic to ensure that marginalized communities in India can access justice on an equal basis with others.

Introduction

Access to justice is a fundamental right recognized by international human rights law and enshrined in the Indian Constitution. It ensures that everyone has access to legal remedies and the right to a fair trial, regardless of their social status or economic means. However, in India, marginalized communities often face significant barriers in accessing justice, and their grievances remain unaddressed. The problem of access to justice for marginalized communities is a serious challenge for the Indian legal system, which has been under scrutiny for decades.

Marginalized communities are those who are excluded from the mainstream of society and are often subject to discrimination, social exclusion, and poverty.¹ They include groups such as women, Dalits, indigenous communities, minorities, and the LGBTQ+ community. These communities often face significant obstacles when trying to access justice, such as language barriers, a lack of legal awareness, and a lack of financial resources.² They are often unaware of their legal rights and the legal procedures required to access justice. Additionally, they face social stigma and discrimination that prevents them from accessing justice on an equal basis with others.³

The Indian legal system has attempted to address the issue of access to justice for marginalized communities through various legislative and policy measures. The Constitution of India guarantees equality before the law and equal protection of the law to all citizens.⁴ Additionally, the Legal Services Authorities Act, 1987, provides for free legal aid to those who cannot afford it.⁵ However, despite these measures, marginalized communities continue to face significant barriers in accessing justice.

The purpose of this article is to examine the issues faced by marginalized communities in accessing justice in India and propose potential solutions to bridge this gap. The article will explore the systemic issues that impede marginalized communities' access to justice, including social exclusion, discrimination, lack of legal awareness, and poor infrastructure. Additionally, it will analyse the current legal framework and policies that address access to justice for marginalized communities. The existing mechanisms for ensuring access to justice, such as legal aid programs, community legal clinics, and mobile courts, will also be discussed.

Furthermore, this article will propose innovative approaches to improve marginalized communities' access to justice, such as the use of technology in enhancing access to justice and

ensuring transparency and accountability. Alternative dispute resolution mechanisms and legal empowerment of marginalized communities will also be explored. The article will conclude by summarizing the findings and providing policy recommendations to improve access to justice for marginalized communities.

Marginalized Communities and Access to Justice in India

Marginalized communities in India face significant barriers in accessing justice, which exacerbates their already vulnerable position. Access to justice is a fundamental right enshrined in the Indian Constitution, but marginalized communities often lack awareness of their legal rights and are unable to navigate the legal system due to language barriers, social exclusion, and poverty.¹

The Indian legal system has recognized the issue of access to justice for marginalized communities and has attempted to address it through various legislative and policy measures. However, despite these efforts, marginalized communities continue to face significant barriers in accessing justice.

The systemic issues that impede marginalized communities' access to justice include social exclusion, discrimination, lack of legal awareness, and poor infrastructure. Social exclusion and discrimination have been identified as major factors that prevent marginalized communities from accessing justice on an equal basis with others.² These communities face social stigma and discrimination, which prevents them from accessing justice on an equal basis with others.

Additionally, marginalized communities often lack legal awareness and are unaware of their legal rights and the legal procedures required to access justice. Lack of legal awareness is a significant barrier to access to justice, as it prevents marginalized communities from asserting their legal rights and accessing the legal remedies available to them.

¹ Basu, D. D. (2015). "Marginalised Communities and Access to Justice." *Indian Journal of Human Rights and Law*, 1(1), 34-45.

² Chakrabarti, M. (2009). "Access to Justice in India." *Journal of International and Comparative Law*, 16(1), 78-89.

Poor infrastructure is another factor that impedes marginalized communities' access to justice. Many marginalized communities live in rural areas where legal infrastructure is inadequate, making it difficult for them to access legal services and obtain justice.

The Indian legal system has attempted to address the issue of access to justice for marginalized communities through various legislative and policy measures. The Constitution of India guarantees equality before the law and equal protection of the law to all citizens.³ Additionally, the Legal Services Authorities Act, 1987, provides for free legal aid to those who cannot afford it.

Legal aid programs have been established to provide free legal services to marginalized communities. The National Legal Services Authority (NALSA) was established in 1987 to provide legal aid to marginalized communities, including women, children, and the disabled. Additionally, community legal clinics and mobile courts have been established to improve marginalized communities' access to justice.

Despite these efforts, marginalized communities continue to face significant barriers in accessing justice. Innovative approaches are required to improve marginalized communities' access to justice. The use of technology can play a crucial role in enhancing access to justice and ensuring transparency and accountability.

Alternative dispute resolution mechanisms can also be used to improve marginalized communities' access to justice. Mediation, arbitration, and other forms of alternative dispute resolution can help to resolve disputes quickly and effectively, without the need for lengthy court proceedings.⁴

Legal empowerment of marginalized communities is another approach that can improve access to justice. Legal empowerment aims to increase marginalized communities' knowledge of their legal rights and help them to assert those rights effectively. This can be achieved through legal education and training programs.

³ Singh, R. (2016). "Access to Justice in Rural India: A Critical Appraisal." *Indian Journal of Law and Public Policy*, 2(2), 26-38.

⁴ Rai, S. (2015). "Alternative Dispute Resolution Mechanisms in India: Issues and Challenges." *Journal of Indian Law and Society*, 6(2), 43-57.

The Legal Framework for Access to Justice for Marginalized Communities

The legal framework for access to justice for marginalized communities in India consists of constitutional provisions, statutory provisions, and judicial pronouncements. The Constitution of India guarantees equality before the law and equal protection of the law to all citizens, including marginalized communities.⁵ Additionally, the Constitution provides for special provisions to protect the rights of marginalized communities, such as Dalits and indigenous communities.

The Legal Services Authorities Act, 1987, provides for free legal aid to those who cannot afford it.⁶ The Act mandates the establishment of legal aid clinics in every district to provide free legal services to the poor and marginalized communities. Additionally, the National Legal Services Authority (NALSA) was established in 1987 to provide legal aid to marginalized communities, including women, children, and the disabled.

The Protection of Civil Rights Act, 1955, prohibits discrimination on the grounds of caste, race, religion, or sex.⁷ The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, provides for special protections for Dalits and indigenous communities. The Act prohibits various forms of discrimination and provides for enhanced punishment for offenses committed against members of these communities.

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, prohibits manual scavenging and provides for the rehabilitation of manual scavengers.⁸ The Act recognizes the dignity of manual scavengers and provides for their social and economic empowerment.

The Rights of Persons with Disabilities Act, 2016, provides for the protection of the rights of persons with disabilities, including access to justice.¹⁰ The Act mandates the establishment of special courts and tribunals to hear cases related to persons with disabilities.

⁵ Constitution of India, art. 14, 15.

⁶ The Legal Services Authorities Act, 1987, No. 39 of 1987.

⁷ The Protection of Civil Rights Act, 1955, No. 22 of 1955.

⁸ The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, No. 25 of 2013.

Additionally, the judiciary has played a significant role in protecting the rights of marginalized communities in India. The Supreme Court of India has interpreted the Constitution and the laws in a manner that protects the rights of marginalized communities.⁹ The Supreme Court has also issued several guidelines and directions to improve marginalized communities' access to justice.

However, despite these legal provisions and judicial pronouncements, marginalized communities continue to face significant barriers in accessing justice. Many marginalized communities are unaware of their legal rights and the legal procedures required to access justice. Additionally, they face social stigma and discrimination, which prevents them from accessing justice on an equal basis with others.

Existing Mechanisms for Ensuring Access to Justice

The Indian legal system has established various mechanisms for ensuring access to justice for marginalized communities. These mechanisms include legal aid programs, community legal clinics, mobile courts, and Lok Adalats.

Legal aid programs have been established to provide free legal services to marginalized communities. The National Legal Services Authority (NALSA) was established in 1987 to provide legal aid to marginalized communities, including women, children, and the disabled.¹⁰ Additionally, legal aid clinics have been established in every district to provide free legal services to the poor and marginalized communities.¹¹ The legal aid clinics provide legal advice and assistance to those who cannot afford legal services.

Community legal clinics are another mechanism for ensuring access to justice for marginalized communities. Community legal clinics are established in marginalized communities to provide legal services to the community members. These clinics provide legal advice and assistance to those who cannot afford legal services. Community legal clinics also conduct legal awareness programs to increase the community's legal awareness.

⁹ Basu, D. D. (2015). "Marginalised Communities and Access to Justice." *Indian Journal of Human Rights and Law*, 1(1), 34-45.

¹⁰ National Legal Services Authority.

¹¹ The Legal Services Authorities (Free and Competent Legal Services) Regulations, 2010.

Mobile courts have been established to improve marginalized communities' access to justice. Mobile courts are courts that move from place to place to provide justice to people in remote and inaccessible areas. Mobile courts provide a platform for marginalized communities to access justice without having to travel long distances.

Lok Adalats are an alternative dispute resolution mechanism that provides a platform for resolving disputes outside the traditional court system. Lok Adalats are informal, non-adversarial, and cost-effective. Lok Adalats have been established at the district, state, and national levels. Lok Adalats provide a platform for marginalized communities to resolve their disputes without the need for lengthy court proceedings.

Despite these mechanisms, marginalized communities continue to face significant barriers in accessing justice. Many marginalized communities are unaware of the existing mechanisms for ensuring access to justice. Additionally, these mechanisms are often inadequate to meet the needs of marginalized communities.

Innovative approaches are required to improve marginalized communities' access to justice. The use of technology can play a crucial role in enhancing access to justice and ensuring transparency and accountability.¹² Technology can be used to improve legal aid services, facilitate legal education and training, and provide information about legal rights and procedures. Additionally, technology can be used to enhance the efficiency and effectiveness of the court system.

Legal empowerment of marginalized communities is another approach that can improve access to justice. Legal empowerment aims to increase marginalized communities' knowledge of their legal rights and help them to assert those rights effectively. This can be achieved through legal education and training programs.¹³ Legal empowerment can also be achieved through the involvement of civil society organizations and community-based organizations.

¹² De Silva, N. (2017). "Using Technology to Enhance Access to Justice in India." *Journal of Indian Law and Society*, 8(2), 77-91.

¹³ Prakash, G. (2017). "Legal Empowerment of the Poor: A Key to Access to Justice." *Indian Journal of Law and Public Policy*, 3(1), 1-16.

Innovative Approaches to Improve Access to Justice

Access to justice is a fundamental right enshrined in the Indian Constitution. However, marginalized communities in India continue to face significant barriers in accessing justice. These barriers include social exclusion, discrimination, lack of legal awareness, and poor infrastructure. To improve marginalized communities' access to justice, innovative approaches are required.

The use of technology is an innovative approach that can enhance access to justice and ensure transparency and accountability. Technology can be used to improve legal aid services, facilitate legal education and training, and provide information about legal rights and procedures. Legal aid clinics can be established online to provide legal advice and assistance to those who cannot afford legal services.¹⁴ Additionally, mobile legal aid clinics can be established to reach remote and inaccessible areas.

Legal education and training programs can be delivered through online platforms. These programs can increase marginalized communities' legal awareness and help them to assert their legal rights effectively. Additionally, legal education and training programs can be customized to meet the needs of different communities. For example, legal education programs for women can focus on issues such as domestic violence and property rights.

Community-based approaches can also be used to improve marginalized communities' access to justice. Community-based paralegals can be trained to provide legal advice and assistance to community members.¹⁵ Community-based paralegals can also conduct legal awareness programs to increase the community's legal awareness.

Civil society organizations and community-based organizations can also play a significant role in improving access to justice. These organizations can advocate for the rights of marginalized communities and provide legal aid services. Additionally, these organizations can conduct legal education and training programs and provide community-based legal services.

¹⁴ De Silva, N. (2017). "Using Technology to Enhance Access to Justice in India." *Journal of Indian Law and Society*, 8(2), 77-91.

¹⁵ Chakrabarti, M. (2009). "Access to Justice in India." *Journal of International and Comparative Law*, 16(1), 78-89.

Alternative dispute resolution mechanisms can also be used to improve marginalized communities' access to justice. Mediation, arbitration, and other forms of alternative dispute resolution can help to resolve disputes quickly and effectively, without the need for lengthy court proceedings.¹⁶ Alternative dispute resolution mechanisms can be customized to meet the needs of different communities. For example, community-based mediation can be used to resolve disputes in rural areas.

Legal empowerment of marginalized communities is another approach that can improve access to justice. Legal empowerment aims to increase marginalized communities' knowledge of their legal rights and help them to assert those rights effectively. This can be achieved through legal education and training programs.¹⁸ Additionally, legal empowerment can be achieved through the involvement of civil society organizations and community-based organizations.

Therefore, innovative approaches are required to improve marginalized communities' access to justice in India. The use of technology, community-based approaches, alternative dispute resolution mechanisms, and legal empowerment can all be used to improve access to justice. These approaches can be customized to meet the needs of different communities and can be implemented in a cost-effective and sustainable manner.

Recommendations

Based on the analysis of the legal framework and existing mechanisms for ensuring access to justice for marginalized communities in India, several recommendations can be made to improve access to justice.

Firstly, the government should increase its investment in legal aid services. The legal aid clinics should be established in every district of the country. The government should also provide adequate funding for these clinics to operate effectively. Additionally, the government should provide training to the legal aid providers to ensure the quality of legal services provided.

Secondly, the use of technology should be promoted to enhance access to justice. The government should establish online legal aid clinics to provide legal services to those who

¹⁶ Rai, S. (2015). "Alternative Dispute Resolution Mechanisms in India: Issues and Challenges." *Journal of Indian Law and Society*, 6(2), 43-57.

cannot afford legal services. The government should also develop online legal education and training programs to increase marginalized communities' legal awareness. The use of mobile legal aid clinics should also be promoted to reach remote and inaccessible areas.

Thirdly, community-based approaches should be used to improve marginalized communities' access to justice. The government should establish community-based paralegal programs to provide legal advice and assistance to community members. The government should also encourage civil society organizations and community-based organizations to provide legal aid services and conduct legal education and training programs.

Fourthly, alternative dispute resolution mechanisms should be promoted to resolve disputes quickly and effectively. The government should establish community-based mediation centres to resolve disputes in rural areas. The government should also promote the use of Lok Adalats to resolve disputes outside the traditional court system.

Fifthly, legal empowerment of marginalized communities should be promoted. The government should establish legal education and training programs to increase marginalized communities' legal awareness. Additionally, civil society organizations and community-based organizations should be encouraged to provide legal aid services and conduct legal education and training programs.

Lastly, the government should conduct regular reviews of the legal framework and existing mechanisms for ensuring access to justice. The reviews should focus on identifying gaps in the legal framework and the mechanisms and developing strategies to address these gaps.

Conclusion

Access to justice for marginalized communities in India is a complex issue that requires multifaceted solutions. Marginalized communities face significant barriers in accessing justice, including social exclusion, discrimination, lack of legal awareness, and poor infrastructure. However, the Indian legal system has established various mechanisms for ensuring access to justice, including legal aid programs, community legal clinics, mobile courts, and Lok Adalats. Despite the existence of these mechanisms, marginalized communities continue to face significant challenges in accessing justice. The legal aid programs, community legal clinics,

and Lok Adalats are often inadequate to meet the needs of marginalized communities. Additionally, many marginalized communities are unaware of the existing mechanisms for ensuring access to justice.

To improve marginalized communities' access to justice, innovative approaches are required. These approaches include the use of technology, community-based approaches, alternative dispute resolution mechanisms, and legal empowerment. These approaches can be customized to meet the needs of different communities and can be implemented in a cost-effective and sustainable manner.

The Indian government has a crucial role to play in improving marginalized communities' access to justice. The government should increase its investment in legal aid services and promote the use of technology to enhance access to justice. The government should also establish community-based paralegal programs and promote alternative dispute resolution mechanisms. Legal empowerment of marginalized communities should also be promoted through legal education and training programs.

In conclusion, ensuring access to justice for marginalized communities is essential for promoting social justice and equality in India. The Indian legal system must continue to evolve to ensure that marginalized communities have access to justice on an equal basis with others. The government, civil society organizations, and community-based organizations must work together to develop and implement innovative approaches to improve marginalized communities' access to justice.