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LOK ADALAT AND LEGAL AID: BRIDGING THE GAP FOR JUSTICE

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ABSTRACT:

The concept of Lok Adalat and Legal aid, as seen through the lens of principle of natural Justice, aligns with the idea that certain rights and justice are inherent in nature and required to be available to all individuals, regardless of their socio-economic status. In the context of legal aid, there are fundamental rights and principles that exist independently of human-made laws. According to natural law, there is moral and ethical imperative to ensure that everyone has access to justice and legal assistance when needed. This stems from the belief that justice is a fundamental aspect of a just and orderly society. The idea is to bridge the gap between those who may not have the financial means to afford legal representation to seek justice and others who have everything. While the concept of Lok Adalat and legal aid underlying principles of justice, fairness and the protection of basic human rights align with the notion that legal assistance should be accessible to all, irrespective of economic considerations. In the pursuit of a just and equitable society, the concept of legal aid plays a pivotal role. Rooted in both the principles of natural justice and enshrined within the framework of the Indian legal system, the provision of legal aid ensures that justice is not a privilege confined to the fortunate few but a right accessible to all.¹ This article delves into the foundations of Lok Adalat and legal aid, examining its philosophical underpinnings in natural law theory and its practical implementation in the Indian legal landscape especially enlightening provisions prescribed under specific Legal Services Authorities Act, 1987 and Constitutional law.

¹ Dr. Kailash Rai, Public Interest Lawyering, Legal Aid and Para-Legal Services, 178 (4th ed., 2007)

Introduction:

The concept of Lok Adalat and legal aid is deeply rooted in the principles of justice and fairness. In the context of legal aid, natural law advocates for the idea that access to justice is a fundamental right, and barriers to this access go against the inherent principles of fairness and equity. In this context, the provisions of Lok Adalat and legal aid aligns itself with the fundamental notion that justice should be accessible to all, irrespective of socio-economic status. That Indian legal system has upheld the concept of legal aid as paramount aspect and enacted legal provisions in view of providing legal assistance to all who has no means to seek legal representation.²

The Legal Services Authorities Act, 1987, was enacted by the Central Government of India pursuant to Article 39-A of the Constitution of India and the recommendations of its committees. The Legal Services Authority Act, of 1987 came into effect on 9th November 1995, following the Amendment Act of 1994, which introduced several amendments to the main Act. According to this Act, the economically weak, the backward, and the disabled are eligible to receive legal aid. In 1971, Justice P.N. Bhagawati introduced the legal aid scheme, which was overseen by the Legal Aid Committee. On 5th December 1995, the National Legal Services Authority was established by Justice R.N. Mishra, which was an important contribution to the implementation of the Act.³

There are different levels of legal aid, including provisions for legal assistance to illiterate, poor, and physically challenged individuals who are unable to access the courts due to their ignorance of the law or financial limitations. Anyone who qualifies for legal aid under Section 12 of the Act, may obtain legal assistance under the Act. The National Legal Service Day (NLSD) was declared on November 9, 2009, the day the law came into force. As stated under the Act, the legal aid is to be provided by the State, District, and Taluk Legal Service Authorities/Commissions formed throughout the country in order to bring about a re-dedication to ensure equality of opportunity and fairness to all individuals. Through its various forms of legal assistance, the NLSD promotes equal opportunity and justice for all citizens.⁴

² Concepts of natural justice, available at https://www.legalserviceindia.com/legal/article-1549-concept-of-natural-justice.html#google_vignette, last seen on 20/04/2024.

³ <https://blog.ipleaders.in/legal-services-authority-act-1987/>

⁴ Ibid.

The Act envisions that no one will be denied access to justice because of disability or economic reasons, and aims to educate the public about the law, offer free legal aid, and establish Lok Adalats. As a result of the creation of Lok Adalats, the process of dispensing justice has been revolutionized in the country. There remains a large number of pending cases in the courts of the country. A number of measures have already been taken by the government to reduce the number of pending cases. In addition to providing a supplementary forum for conciliatory settlements, the plan achieved success in providing an additional forum for litigants.⁵

The concept of Lok adalat and legal aid recognizes the inherent dignity and worth of each person, irrespective of their socio-economic status. In the realm of natural law, the provision of legal aid is not merely a legal obligation but a moral imperative. It reflects the understanding that justice cannot be contingent upon one's ability to afford legal representation. By ensuring access to legal aid, societies uphold the fundamental principles of fairness, equality, and the protection of individual rights as dictated by natural law. Free legal aid, in this sense, becomes a vehicle for ensuring that individuals, regardless of their financial means, can access the legal system. This aligns with the natural law principle that justice should not be a privilege reserved for the wealthy but a right extended to all members of society.⁶

Safeguarding Basic Rights:

That the protection of basic human rights, such as the right to life, liberty, and property. Legal aid plays a crucial role in safeguarding these rights by providing legal assistance to those who may otherwise be unable to navigate the legal system. This ensures that individuals are not deprived of their fundamental rights due to financial constraints.⁷

Promoting Social Justice:

Natural law theory inherently promotes the idea of social justice, wherein the legal system operates to create a fair and equitable society. The provision of free legal aid serves as a practical manifestation of this theory, as it seeks to rectify imbalances and empower marginalized individuals who might otherwise be disenfranchised within the legal framework.⁸

⁵ Ibid.

⁶ Understanding The Principle Of Natural Justice And Its Application In The Indian Legal System, available at, <https://www.legalserviceindia.com/legal/article-8642-understanding-the-principle-of-natural-justice-and-its-application-in-the-indian-legal-system.html>, last seen on 20/04/2024.

⁷ Dr. B.N. Mani Tripathi and Dr. Rajiv Mani, Jurisprudence (Legal Theory), 431 (19th ed., 2012).

⁸ Ibid.

Analysis of the Legal Services Authority Act, 1987

Types of services under Legal Services Authority Act

The Act provides many types of legal services to the general public:

Free legal awareness

This Act is primarily intended for the public to make them aware of laws and schemes issued by public authorities. The Legal Service Authority teaches some portions of the rules of law to the individuals. Legal camps and legal aid centres are organized by authorities so that the general public can seek advice from the legal aid centres located near their homes or places of work. The legal guides and centres can help address the grievances of ordinary people as well.⁹

Free legal aid counsel

A person who wants to defend or file a case in a court of law but does not have the means to hire an advocate can seek the assistance of a free legal aid attorney. The Act states that free legal aid counsel is available, and the Council is responsible for assisting needy individuals to obtain justice. By adopting and establishing this philosophy, the Indian Courts should be freed from the burden of adjudicating the cases. A Lok Adalat was held for the first time in Gujarat on 14th March 1982 and succeeded in resolving many disputes pertaining to labour disputes, family disputes, and bank recoveries. Lok Adalats are the primary method by which the legal services authorities decide disputes. Our Indian courts have a huge backlog of cases, and it takes an extremely long time to resolve disputes under judicial supervision¹⁰

Lok Adalat was, thus, seen as an Alternative Dispute Redressal (ADR) mechanism that was reliable, efficient, and friendly in resolving disputes. Lok Adalats can be constituted by the legal services authorities at such spans and locations to exercise the authority of their jurisdiction in such areas as they think fit. There is a mix of lawyers and non-lawyers on the Lok Adalat bench in order for it to possess a superior understanding of the dispute and convince both parties to reach a mutually agreeable compromise.¹¹

Objectives of Legal Services Authority Act Indian Legal System:

The Indian legal system, cognizant of the diverse socio-economic landscape, has integrated

⁹ Nikunj Arora, analysis of the Legal Services Authority Act, 1987 at, <https://blog.ipleaders.in/legal-services-authority-act-1987/>, last seen on 19/08/2024.

¹⁰

¹¹ Ibid.

the concept of legal aid as a constitutional mandate. Article 39A of the Constitution of India embodies this commitment, proclaiming that the State shall secure that the operation of the legal system and promote justice on the basis of equal opportunity and ensures that opportunities for securing justice should not be denied to any citizen by reason of economic or other disabilities. Article 39A is a pivotal provision within the Directive Principles of State Policy in the Indian Constitution, embodying the commitment of the state to secure justice for all its citizens. Enshrined as part of the Directive Principles in the Constitution's Part IV, Article 39A reflects a visionary approach to justice, emphasizing the principles of equality before the law and the right to legal aid. This constitutional provision underscores the state's responsibility to create a legal framework that facilitates access to justice for all, irrespective of socio-economic backgrounds. It acknowledges that economic disparities should not be a barrier to obtaining justice and emphasizes the need for affirmative action to address such disparities.¹²

One of the key aspects of Article 39A is the mandate for the state to provide free legal aid. The framers of the Constitution recognized that the inability to afford legal representation should not hinder an individual's access to justice. To give effect to this provision, the government has enacted various legislations and established schemes to ensure the availability of legal aid to those in need.¹³

Article 39-A of Constitution: Equal Justice and Free Legal Aid.

By appropriate legislation or schemes, or in any other way to ensure that opportunities for securing justice are not denied to any citizen because of economic disabilities, the state shall ensure that the operation of the legal system promotes justice, based on equal opportunity. In particular, the state shall provide free legal aid.¹⁴

In the landmark case that pertains to the principles of justice and legal aid is **Hussainara Khatoon v. State of Bihar**. In this case, the Supreme Court of India emphasized the right to speedy trial and held that the state is under an obligation to provide free legal aid to accused person for whom it is difficult to secure legal representation.¹⁵

¹² Ibid.

¹³ Dr.J.N.Panday ,Constitutional Law Of India,391(45th ed.,2008

¹⁴ Art. 39A the Constitution of India, Inserted by the constitution (Forty-second Amendment) Act,1976, S.8 (w.e.f .3- 1-1977)

¹⁵ Hussainara Khatoon v. State of Bihar AIR 1979 SC 1322.

In the landmark case of **Khatri v. the State of Bihar**, Hon'ble Justice P.N. Bhagwati made it mandatory for Session Judges to make aware the accused of their rights to have free legal aid and to give advice to such person if that person unable to appoint a counsel to defend themselves because poverty.¹⁶

In the case of **Suk Das v. Union Territory of Arunachal Pradesh**, Hon'ble Supreme that India has many illiterate people who are unaware of their rights. And because of which, it is critical to develop legal literacy and awareness among the general public and it is also an essential component behind legal aid.¹⁷

In **Centre of Legal Research v. State of Kerala** it has been held that in order to achieve the objectives in article 39A, the state must encourage and support main participation of voluntary organisation and social action groups in operating Legal Aid programme. Legal programme which is meant to bring Social justice to the people cannot remain confined to the traditional or litigation oriented program but it must take into account the social economic conditions prevailing in the country and adopt a more dynamic approach. The voluntary organisations must be involved and supported for implementing legal aid programme and they should be free from government control.¹⁸

In a notable judgment **State of Maharashtra v. Manubhai Bagaji Vashi** the Supreme Court has held that article 21 read with article 39A cast a duty on the state to afford grants-in-aid to recognised private law colleges, similar to other faculties, which qualify for receipt of grant. The wholesale duty cast on the state cannot be whittled down in any manner either by pleading paucity of funds or otherwise.¹⁹

In the case of **Md. Ajmal Md. Amir Kasab Vs State of Maharashtra** Hon'ble Supreme Court held that : it is the duty and obligation of the Magistrate before whom a person accused of committing a cognizable offence is produced to make accused person aware that he has right to consult with and be defended by a legal practitioner and in case if he has no means to engage a lawyer of his choice, that state must provide such person legal aid at the expense of the

¹⁶ Khatri v. the State of Bihar, 1981 CrLJ470 : (1981) 1 SCC 627.

¹⁷ Suk Das v. Union Territory of Arunachal Pradesh, AIR 1986 SC 991.

¹⁸ Centre of Legal Research v. State of Kerala, AIR 1986 SC 1322.

¹⁹ State of Maharashtra v. Manubhai Bagaji Vashi, (1995) 5 SCC 730.

State.²⁰

Section 304 of the code of the criminal procedure: reads as under :-

(1) Where, in a trial before the Court of Session, if it appears that the accused is not represented by a pleader, and that the accused has no sufficient means to appoint a pleader, the Court shall order to assign a pleader for his defence at the expense of the State.

(2) The High Court with the previous approval of the State Government may make rule providing for -

(a) the mode of selecting pleaders for defence under Sub-Section (1);

(b) the facilities to be allowed to such pleaders by the Courts;

(c) the fee payable to such pleaders by the Government, and generally, for carrying out the purposes of Sub-Section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of Sub-sections (1) and (2) shall apply in relation to any class of trials before other courts in the State as they apply in relation to trials before the Courts of Session.

This section enables Session Court to assign a pleader for the purpose of defence of the accused at the expense of the state provided he is unrepresented and if court is of view that he has no sufficient means to appoint a pleader. The selection of such pleader, the facilities to be provided to him and remuneration are to be governed by the rules framed by the high court with previous approval of the state government.²¹

In *Mah.Chand v.State of Delhi*, it was held that "Indigence should never be ground for denying fair trial or equal justice... particular attention should be paid to appoint competent advocates, The accused petitioner was convicted of various offences under the penal code. He was in custody for the entire period of 1 & 1/2 years. No Counsel was provided. It was held that it was a case of grave illegality.²²

In the criminal appeal *State of Harayana v. Ram Diya*, the counsel appointed by the court for the accused was not present at the time of the hearing. The appeal was disposed of without

²⁰ Md. Ajmal Md. Amir Kasab Vs State of Maharashtra, (2012) 9 SCC 1.

²¹ Ratanlal and Dhirajlal's, The Code of Criminal Procedure, 578,579 (17th ed., 2004)

²² *Mah.Chand v.State of Delhi*, 1990 CrLJ 682 (Del).

hearing him. It was held that the case be remanded for fresh hearing.²³

The Supreme court of India has held in *Khatri v. Bihar* that the obligation to provide legal aid to the indigent accused does not arise only when trial commences but arises right since the accused produced before the nearest Magistrate as required by section 57 of the code of criminal procedure and Article 22(1) of the Constitution.²⁴

In *Ranjana Diwivedi v. Union of India*, Hon'ble Supreme Court directed that however the accused cannot obtain a writ of mandamus for enforcing this obligation he must apply for it under section 304.²⁵

The Supreme court of India has held that a conviction of an accused given in a trial in which accused was not provided legal aid would be set aside as being in violation of Article 21 of the Constitution.²⁶

The accused had plead guilty. He was convicted without appointing a counsel for the accused under the legal Aid Scheme. It was not vitiated when the trial judge was satisfied about plea being voluntary, genuine and true.²⁷

An accused having sufficient means cannot claim for free legal aid assistance of a lawyer at the expenses of State, particularly when he has already engaged a defence counsel of his choice.²⁸

In *Rajiv Gandhi murder case*, lawyers appointed to defend the indigent accused persons moved to the High Court for raising their fees as to make it at par with that of prosecution lawyer on the principle of 'equal pay for equal work,' as they would be getting only rupees 50 a day as permitted under rule 9 of Legal Aid to poor accused rules, 1976. It was held that 'equal pay for equal work' rule was not attracted as the criteria in the appointment of prosecution lawyers is different from those of the defence as free Legal Aid to indigent persons. However, the

²³ *State of Harayana v. Ram Diya*, 1990 CrLJ1327 : AIR 1990 SC 1336.

²⁴ *Khatri v. Bihar*, 1981 CrLJ470 : (1981) SCC 627.

²⁵ *Ranjana Diwivedi v. Union of India*, 1983 CrLJ1052 : AIR 1983 SC 624.

²⁶ *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 SCC 401: AIR 1986 SC 991.

²⁷ *Tyron Nazarath v. State of Maharashtra*, 1989 CrLJ 123(Bom).

²⁸ *Ashok kumar v. State of Rajasthan*, 1995 CrLJ 1231 (Raj).

remuneration of each defence lawyer appointed as such was fixed as the high court deemed reasonable, fair and just in the circumstances.²⁹

An accused in session trial applied to be provided a particular lawyer at state expenses as envisaged under s.304 Cr.P.C., but another lawyer was appointed to defend him. The high court held that when an accused is capable of engaging a lawyer of his choice, no Court could deny him that right, but when he was not in a position to engage the services of any lawyer, and prays for being provided with a lawyer at State expense, it would be choice of the court, and not of the accused to choose a lawyer for defending him. The court is not under a legal obligation to permit such choice.³⁰

The Legal Services Authorities Act, 1987 and Constitution.

To concretize this constitutional directive under Article 39A, the Legal Services Authorities Act, 1987 was enacted. This legislation established legal services authorities at various levels to provide free and competent legal services to the economically weaker sections of society, ensuring that justice is not a distant ideal but a tangible reality for all citizens. The Legal Services Authorities Act, 1987, was enacted to implement the constitutional mandate. It established the National Legal Services Authority (NALSA) at the national level and State Legal Services Authorities (SLSAs) at the state level and District Legal Services Authorities (DLSA). These authorities provide free legal aid and services to eligible individuals.

The Legal Services Authorities Act, 1987, is a significant legislation in India aimed at providing free and competent legal services to the weaker sections of society to ensure that opportunities for securing justice are not denied to any citizen due to economic or other disabilities.

Key features of the Act include the establishment of legal services authorities at the national, state, and district levels to provide free legal services to eligible individuals. These services encompass not only representation in courts but also legal advice, preparation of legal documents, and more.

²⁹ T. Suthenja v. state of Tamil nadu, 1995 CrLJ 1496 (Mad).

³⁰ Tahsildar Singh v. State of M.P., 1995 CrLJ 1678 (MP).

The Act outlines the criteria for individuals to qualify for free legal aid, emphasizing the importance of ensuring justice for marginalized and disadvantaged groups. It also promotes the settlement of disputes through alternative methods like mediation and encourages the organization of legal awareness programs.³¹

The primary goal of the Legal Services Authorities Act is to bridge the gap between the privileged and the underprivileged in accessing justice. By providing legal aid and assistance, the legislation seeks to uphold the principles of equality and justice for all.

Structural Organization under Legal Services Authority Act

As a result of the Legal Services Act, a National Legal Services Authority (NALSA) was established as the apex body for regulating the legal aid provisions. State Legal Services Authority (SALSA) handles the implementation of NALSA's powers at the state level, which delegates further to a number of organizations. NALSA is considered to be an alliance between the State, Social Action Groups, individuals, and non-profit organizations that have their presence from the grassroots level to the state level.

National Legal Services Authority (NALSA)

In response to Section 4 of the Act, NALSA has been established to provide free legal aid to all citizens of the country. The body has been established by the government. It is headed by the Chief Justice of India, patron-in-chief. The executive chairman of the organisation is a retired or serving judge of the Supreme Court of India. The nominees are selected by the president after consultation with the Chief Justice of India. An advisory committee referred to as the Supreme Court Legal Services Committee is formed by the central authority. A significant objective of the NALSA is to ensure that justice is equally distributed among citizens, regardless of economic or other factors. The main responsibilities of NALSA are the following:

- Through legal aid camps, the organization promotes legal aid in slums, rural and labour colonies, as well as disadvantaged areas. It plays an important role in providing education about the rights and needs of the people who live in such areas. Lok Adalats are also formed by the authority to settle disputes between these people.
- Amongst other things, it is primarily concerned with providing legal services through clinics in law colleges, universities, etc.

³¹ Dr. Kailash Rai, Public Interest Lawyering, Legal Aid and Para-Legal Services, (4th ed., 2007)

- Arbitration, mediation, and conciliation are all methods that are used by these organizations to settle disputes.
- The organisation provides grant aid to institutions that provide social services at the grassroots level to marginalised communities from various parts of the country.
- Research activities are also conducted to improve legal services for the poor.
- Ensures that citizens commit to the fundamental duties they have been entrusted with.
- As part of the proper implementation of the schemes and programmes, they tend to evaluate the effectiveness of the actions taken for the legal aid problems at specific intervals so that the correct functions are being performed.
- Through the policy and scheme they laid down, the body ensures that the legal services could be made available to the general public. Through these schemes, the body is able to provide the most economical and effective legal services
- Financial matters are handled by this body, and the funds allocated by it are allocated to respective district and state legal services authorities.³²

In *NALSA v. Union of India* (2014) the National Legal Services Authority of India (NALSA) filed this case to recognize those who are outside the binary gender distinction, including individuals who identify as “third gender”. There was a question that the Court had to address regarding the recognition of people who do not fit into the male/female binary as “third gender” individuals. During the discussion, the panel deliberated whether ignoring non-binary gender identities constitutes an infringement of Indian Constitutional rights. For developing its judgment, the panel referred to an “Expert Committee on Transgender Issues” established under the Ministry of Social Justice and Empowerment.

There is no doubt that this was a landmark decision because the Supreme Court of India recognised the identity of ‘third gender’ and transgender persons for the first time. In its judgment, the Court recognized that third-gender individuals had fundamental rights under the Constitution and the International Covenant. As a result, the government of the state was directed to develop mechanisms for the realization of the rights of “third gender”/transgender individuals.

³² Nikunj Arora, analysis of the Legal Services Authority Act, 1987 at, <https://blog.ipleaders.in/legal-services-authority-act-1987/>, last seen on 19/08/2024.

According to the Court, the concept of 'dignity' under Article 21 of the Constitution includes all forms of self-expression, which permits a person to live a dignified life. The rights to dignity under Article 21 include the right to gender identity.

The Apex Court stated that Article 14 and Article 19(1)(a) were framed in gender-neutral terms, and thus, the right to equality and freedom of expression would extend to transgender persons also. Transgender persons all over society are subject to "extreme discrimination" which is a violation of their right to equality, which is illustrated by the fact that they are treated as second-class citizens. Furthermore, under the freedom of expression, it was indicated by the Court that the right to express one's gender was included by dressing, speaking, acting, or acting in a manner consistent with their gender identity.

Thus, Articles 14, 15, 16, 19(1)(a) and 21 of the Constitution confer fundamental rights on transgender individuals. The Court also relied on the Yogyakarta Principles and core international human rights treaties while recognizing the human rights of transgender people. To reduce the stigma against transgender communities, public awareness programs were held to be necessary by the Court.

State Legal Services Authority

Each state has a legal service authority, which provides free legal advice to those who cannot afford it. This is covered under Section 6 of the Act. They provide preventative and strategic legal assistance programs. Lok Adalat sessions are also conducted by the authorities to assist clients. Among their main duties is to implement the policies and schemes as directed by NALSA. The respective High Court's chief justices serve as patrons-in-chief. These bodies are supervised by an executive chairman who is a retired or serving judge. A high court legal service committee is usually formed by the state authority. This body is headed by a sitting High Court judge, who is the chairman and is administered by the Chief Justice of the respective High Court.

Legal Aid under Legal Services Authority Act, 1987

In 1971, Justice P.N. Bhagwati formed the Legal Aid Committee to introduce the Legal Aid scheme. In his opinion, the legal aid system is aimed at making the missionary of administration of justice easily available to the people able to enforce their legal rights. The

poor and the illiterate will be able to approach the courts and as a result, they will get justice faster from the courts.

Poor and illiterate people should have access to legal aid. An individual does not have to be a litigant in order to obtain legal aid. According to Article 39A of the Indian Constitution, it is the duty of the State to ensure that the legal system operates on the basis of equality and that in particular, it must ensure the provision of free legal aid to ensure that citizens of every economic category have access to justice. Furthermore, Articles 14 and 22(1) make it mandatory for the State to ensure equality under the law and a legal system that promotes justice from an equal opportunity standpoint. It is the aim of legal aid to ensure that the law is enforced in its letter and spirit, and equally just treatment is provided to the weakest, poorest, and most downtrodden sections of society.

The concept of legal aid can be traced back to the year 1851 when in France, enactments were passed to provide legal assistance to those in need. As far back as 1944, England and Wales had also supported the provision of legal advice to the poor and needy as part of its organized efforts to provide legal services to the poor. The Rushcliffe Committee was appointed by the Lord Chancellor, Viscount Simon, to look into the current facilities available to provide legal advice to the poor and to recommend any measures that appear relevant to ensuring that the needs of these individuals are met. As per the Act, the Supreme Court Legal Services Committee, the High Court Legal Services Committee, the State Legal Services Authority, the District Legal Services Authority, and the Taluk Legal Services Committee have been entrusted with the responsibility of organizing all Lok-Adalats in India.

Following are some important points with respect to free legal aid scheme under Legal Services Authorities Act, 1987.

1. Eligibility criteria for free legal aid

There was even an item on the committee's (headed by Justice PN Bhagwati) agenda on the eligibility criteria for the people to qualify for free legal aid, which has been also mentioned in the Code of Criminal Procedure, 1973 under Section 304 to provide free and competent legal assistance to a marginalised member of the society at the expense of the state. As established in *Hussainara Khatun v. State of Bihar* (1979), legal aid will be provided at the expense and cost of the state to marginalised groups within society, and the state is required to

make such assistance available to the accused.

In a similar vein, the Supreme Court has also ruled in *Suk Das v. Union Territory of Arunachal Pradesh* (1986) that an accused who cannot afford legal aid may have his or her conviction set aside on socio-economic grounds.

The following are the people eligible for free legal aid under Section 12 of the Act:

- a member of a Scheduled Caste or Scheduled Tribe;
- a victim of trafficking in human beings or beggars as referred to in Article 23 of the Constitution;
- a woman or a child;
- a person with a disability as defined in Section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;
- 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
- an industrial workman; or
- in custody, including custody in a protective home within the meaning of Section 2(g) of the Immoral Traffic (Prevention) Act, 1956 or in a juvenile home within the meaning of Section 2(j) of the Juvenile Justice Act, 1986 or in a psychiatric hospital or psychiatric nursing home within the meaning of Section 2(g) of the Mental Health Act, 1987; or
- in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.

2. Legal Aid Clinics:

Legal aid services are often delivered through legal aid clinics established at various levels, including district and taluka levels. These clinics aim to reach out to the grassroots level and provide legal assistance to those in need.

3. Role of NALSA and SLSAs:

NALSA and SLSAs work to coordinate and supervise legal aid programs across the country. They also organize awareness programs to educate people about their rights and entitlements.

1. **Panel Lawyers:** Lawyers who volunteer to provide free legal services are empaneled by legal services authorities. These panel lawyers take up cases and provide legal representation to eligible individuals.
2. **Legal Aid for Litigation:** Free legal aid covers various legal proceedings, including litigation in courts, alternative dispute resolution mechanisms, and legal advice.
3. **Awareness Programs:** Legal services authorities conduct awareness programs to inform people about their rights and the availability of free legal aid. This helps in reaching a wider audience and ensuring that those in need are aware of the assistance available to them.³³

Lok Adalat under Legal Services Authority Act, 1987

Section 19 of the Act provides for the establishment of Lok Adalats. Legal service authorities at all levels, including the central, state, and district levels, shall hold Lok Adalats. The Lok Adalats serve as an alternate dispute resolution system. Their purpose is to settle cases that are pending or that have not been heard in the courts. It consists of judicial officers or an authorized person under the jurisdiction of the state, central government, or local government. Following the conciliation of disputes between the parties and the agreement of the parties, the award is handed down by conciliators in accordance with Section 21 of the Act. The award has the same legal effect as a court decision.

Scope of Lok Adalat

Unlike the Supreme Court, Lok Adalat is extremely broad to incorporate most of the cases pending before it as well as new cases that will be filed in the near future to be settled. The Lok Adalat does not have jurisdiction over cases relating to offences that cannot be compounded under any law. The Lok Sabha does not refer such matters to committees without giving the other party a reasonable opportunity to be heard. The Lok Adalat proceeds to resolve any case referred to it and tries to negotiate a mutually acceptable outcome between the parties involved with the case. Whenever a Lok Adalat decides a case before it, it adopts the most extreme efforts for a trade-off for settlement. The following points elaborate on the scope of Lok Adalats:

³³ Dr. B.N. Mani Tripathi and Dr. Rajiv Mani, Jurisprudence (Legal Theory), 431 (19th ed., 2012).

- If no settlement or compromise is reached by the parties after the Lok Adalat passes, no order is given.
- A reference will be sent automatically to the Court that drew up the reference for disposition. Those involved in the dispute are urged to seek redressal in courts.
- If the terms proposed by the bench do not satisfy the parties, the Lok Adalat cannot be forced to compromise or reach a settlement. Orders from Lok Adalats are definitive and restrict the parties.
- An order passed by a judge is a satisfactory means of stopping the proceedings that demand justice.
- Lok Adalats have enough powers under the Act to make justice without compromising the quality of their awards. The Lok Adalat's final order is considered judicial since it is given the status of a decree.
- A Civil Court recognizes it as a form of evidence and is given the power to summon, discover, and get an affirmation.

In the case of *P.T. Thomas v. Thomas Job* (2005), the Apex Court specifically explained what Lok Adalat is. According to the Court, Lok Adalat is an ancient form of adjudicating system that once predominated in India, and its validity has not been questioned even today. According to Gandhian principles, the term Lok Adalat means "People's Court". It is an essential component of alternative dispute resolution. If the dispute is resolved at Lok Adala, there is no court fee, and if it is already paid, the fee will be refunded.

According to the case of *B.P. Moideen Sevamandir and others v. AM Kutty Hassan* (2008), the parties can communicate directly through their attorneys, which is far more convenient than speaking in a regular courtroom. Because Lok Adalats are dynamic, they are able to balance the interests of both parties and pass orders that both sides find acceptable.

Functions of Lok Adalat

The following are the functions of Lok Adalat:

- Lok Adalat members should be impartial and fair to the parties.
- Lok Adalat is responsible for handling pending cases in court. In the case of a Lok Adalat settlement, the court fee paid to the court on the petition will be reimbursed
- When filing a dispute with Lok Adalat, you do not have to pay a court fee.

Types of Lok Adalat

Lok Adalats can take the following forms:

National level Lok Adalat

The Lok Adalat held at the national level is held regularly throughout the country at the Supreme Court level and taluk level, where thousands of cases are disposed of. Every month a different topic is discussed in this Adalat.

Permanent Lok Adalat

The body is governed by Section 22B of the Act. There is a mandatory pre-litigation mechanism in Permanent Lok Adalat that settles disputes concerning public utilities such as transport, telegraph, postal service, etc. As a result of the case *Abdul Hasan and National Legal Services Authority v. Delhi Vidyut Board and other* (1999), the courts directed that permanent Lok Adalats be established.

Permanent Lok Adalats are charged with resolving public utility disputes quickly. Therefore, if parties neglect to show up at the settlement or compromise, then it has a further advantage of choosing the dispute based on merit. In this way, the possibility of postponement in the resolution of questions is eliminated. Rather than following the formal procedure for resolving disputes, it is bound to follow the principle of natural justice in order to save time.

Thus, the establishment of the Permanent Lok Adalat is fundamental to settling disputes with public utility administrations in a quick and amicable manner. The awards of the Permanent Lok Adalat made under this Act are conclusive and binding. In no case will it be included as a defence in an original suit, application, or execution proceeding. Such actions are considered announcements by a civil court. In case the Permanent Lok Adalat makes an award, that award will be communicated to a civil court having nearby jurisdiction, which will then execute the order as if it were a decree made by the particular court.

Permanent Lok Adalats and Lok Adalats are indistinguishable in their essential features. There have, however, been some differences. The fundamental difference is that a common Lok Adalat must convene periodically and not consistently whereas a Permanent Lok Adalat is a setup that functions like any other court or tribunal.

Despite the Legal Services Authorities Act, 1987, which set up the Lok Adalats, the permanent Lok Adalats were not established right away. Through the Amendment Act of 2002, the foundation of the Permanent Lok Adalat was enabled.

Mobile Lok Adalat

Mobile Lok Adalat is a method of settling disputes that travels from place to place. Over 15.14 lakh Lok Adalats have been held in the country as of 30th September 2015, and over 8.25 crore cases have been settled.

Mega Lok Adalat

The Mega Lok Adalat is an ad hoc body that is constituted at the state level on a single day in all courts.

Daily Lok Adalat

On a daily basis, these Lok Adalats are held.

Continuous Lok Adalat

It is held continuously for a specific number of days.

Jurisdiction of Lok Adalats

Lok Adalats fall under the jurisdiction of the courts which organize them, thus, they cover any cases heard by that Court under its jurisdiction. This jurisdiction does not apply to cases regarding offences which are not compoundable by law and the Lok Adalats cannot resolve these cases. The respective courts may accept cases presented to them by parties concurring that the dispute should be referred to the Lok Adalat. The Courts may accept such cases in situations where one party makes an application to the court for the referral of the case to the Lok Adalat and the court might consider that there is a possibility of compromise through the Act.³⁴

Limitations of Legal Services Authority Act

The Government should not only establish the four-tiered Legal Services Authority but also establish an independent body to oversee the workings of these tiers and actively work to

³⁴ Nikunj Arora, analysis of the Legal Services Authority Act, 1987 at, <https://blog.ipleaders.in/legal-services-authority-act-1987/>, last seen on 19/08/2024.

promote coordination between the Taluka, District, State, and National Legal Services Authority. When establishing the independent monitoring body, the government should recruit young legal professionals who hold no other judicial posts, so that they will exclusively serve the interests of the independent monitoring body. An institutional network of legal services is constituted by the Legal Services Authority at the Central, State, District, and Taluk levels have some limitations in relation to the manner in which they are constituted, the composition, etc.

Major limitations under Legal Services Authority Act Section 3

The National Legal Services Authority is established under Section 3 of the Act. The organization chart of the body reveals, however, that the members are all already overcharged with the assigned duties of their primary work; therefore, a light modification of Section 3 is needed. As the government builds up the National Legal Services Authority, it should emphasize the importance of recruiting young legal professionals who do not hold other legal positions so they can devote as much time to the purpose of the Act as possible.

Section 3-A

As set forth in Section 3-A of the Act, there is a requirement that the chairman of the Supreme Court Legal Services Committee shall be a judge of the Supreme Court. Now, in this case, the respective judge is already overburdened with his entrusted duties of day-to-day litigation. As a result, there is the possibility that the office may not be able to achieve the expected results in providing legal services in the future if such an overburdened person is again given the functions of the Supreme Court Legal Services Committee. Therefore, if Section 3-A of the Act is to be implemented properly, then it will be essential to amend this section.

Section 6

A State Legal Services Authority is established by Section 6 of the Act. Although the organization of the body appears to be fairly straightforward at first glance, a closer look at it reveals that each of the members is to a certain extent occupied with duties outside the body, and therefore, a minor alteration of Section 6 is required. It is important for the government to emphasize when establishing the State Legal Services Authority that it will be recruiting young qualified legal professionals who have the zeal to work in the field with utmost devotion to achieve the core objective stated in the Act.

As a consequence of *Supreme Court Bar Association v. Union of India and Others* (1988), it has been held that the normal rule should be that the Chairman of the State Legal Services Authority should be a sitting judge and retired judges were only to be appointed under exceptional circumstances.

Conclusion:

As everyone knows, the Indian constitution stresses equality. All individuals are equal under the law in a democracy. Regardless of one's economic status, race, creed, gender, sex, or any other social condition, each citizen has the right to equal access to law and equal opportunities to obtain legal services. The Legal Services Authorities Act of 1987 was passed by our government to address these needs. The act ensures equality of opportunity in the pursuit of justice. Lok Adalats have become an integral part of the Indian legal system, providing opportunities for the poor and discouraged to access justice. The organization has overcome all obstacles to lawful aid, although there are specific areas for improvement that could make it more effective. Although they are overcoming any barriers to access to justice, they should also provide genuine admittance to equity for aggrieved parties. There is more activity than was expected, which could make Lok Adalats a better mechanism to deal with cases that are on the rise.

The concept of legal aid, grounded in principle of natural justice, reinforces the idea that justice is not a luxury but a fundamental right for all members of society. By embracing this concept, legal systems can move closer to the ideal of a just and equitable society, where access to justice is not determined by financial status but is a universal entitlement based on the inherent principles of fairness and human dignity. The concept of free legal aid, derived from the principles of natural law and enshrined in the Indian legal system, stands as a beacon of justice for all. By recognizing the inherent dignity and rights of every individual, societies can strive towards a legal framework that is not only just in theory but accessible and equitable in practice. In this symbiotic relationship between philosophy and law, the concept of free legal aid continues to evolve, ensuring that the scales of justice are balanced for every citizen, regardless of their economic standing.

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