



Unit-6: Legal Services

In the state of nature, indeed, all men are born equal, but they cannot continue in this equality. Society makes them lose it, and they recover it only by the protection of the laws.

- Charles de Montesquieu

A. Introduction

According to the Encyclopedia Britannica, 'legal aid' is giving to persons of limited means, grants or for nominal fees, advice or counsel to represent them in court for civil and criminal matters. It aims to create a bridge between the poor and rich in the society in order to provide equality to seek justice in the court of law.

Rawls first principle of justice is that each person should have an equal right to the system of equal basic liberties. Legal Aid is to ensure that no one is debarred from legal advice and help because of lack of funds. Thus, the provision of legal aid to the poor is based on humanitarian consideration and the main aim of these provisions is to help those who are socially and economically backward.

Reinald Heber Smith in his 1919 book, *Justice and the Poor*, promoted for the first time, the concept of free legal assistance for the poor. Smith challenged the legal profession to consider it an obligation to make sure that justice was accessible to all, without regard to the ability to pay. "Without equal access to the law", he wrote, "the system not only robs the poor of their only protection, but it places in the hands of their oppressors the most powerful and ruthless weapon even invented".

B. Brief History of Legal Services

The growth of legal aid movement is seen as one of the late conscious attempts in social adjustment that followed the slow and often unconscious process of social engineering. The real problem of social engineering was stated clearly when *Hammurabi*, the King of Babylon, announced his purpose in promulgating the code which he set up in the early years of the 20th century B.C. That purpose was "to establish justice in the earth... to hold back the strong from oppressing the weak".

Such social adjustment is also referred to as social engineering. Social engineering may be defined as the science and art of making appropriate adjustments to human relationships as well as to promote the welfare of the community as a whole. In the savage struggle for existence, it is natural for the strong to take advantage of their

strength. Of these adjustments, the most necessary as well as the most difficult is clearly indicated by the words of the wise autocrat of Babylonia: "It is to prevent the strong from oppressing and exploiting the weak".

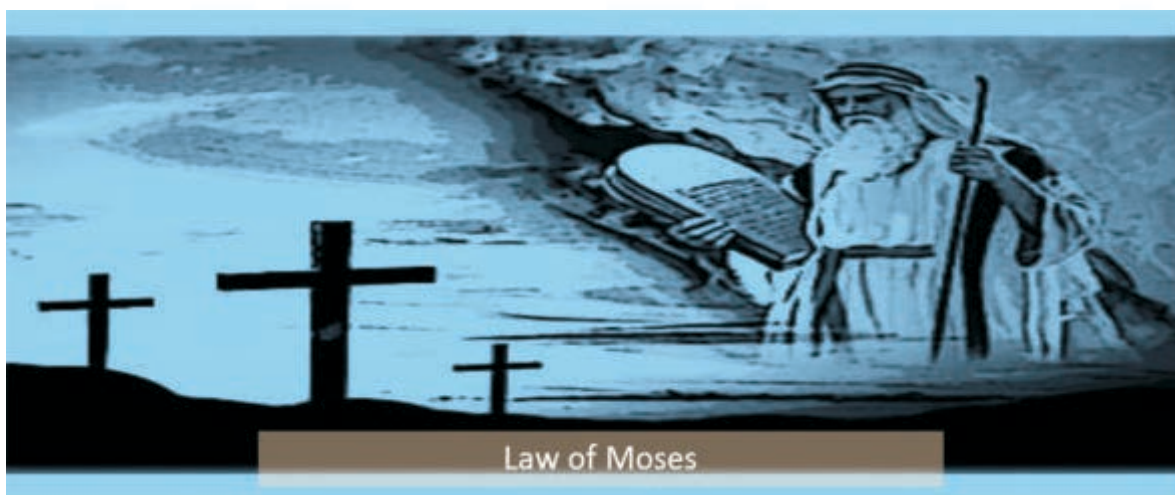
The Code of Hammurabi, written nearly 4000 years ago, had progressive laws such as minimum wage, the right to be born a free man, the need to work off your debt, and no incest. This was written 2000 years before the Bible.



There were three processes whereby the developing civilization progressively moved towards social engineering through free legal aid. The first was to grant aid to vulnerable communities; the second was to put restrictions upon the exercise of privileges accorded by law to those well-off; and the third was to strip those fortunate of their privileges and place the strong and weak on an equal footing before the law. But these three steps did not ultimately bring the society towards realizing its goal. There is one kind of weakness that is not adequately protected by restraints or by taking away the privileges from the fortunate. As law is not self-executing, the power of the society which gives sanction to law must be brought to bear upon the law-breaker before a wrong done is made right.

The process of setting the machinery of the law in motion involves effort as well as expense. Those economically weak cannot bear this expense and hence we are to ask ourselves: what does it profit a poor and ignorant man that he is equal to his strong antagonist before the law? Or are the courts open to him on the same terms as to all other persons when he has not the wherewithal to pay the fee?


From the earliest times, there is evidence that law-makers had sensed the disability of the poor. They had addressed that the disability must be taken into account in any sound scheme of social engineering. Thus the *Code of Hammurabi* attempts to limit the charges made for the services to poor men providing an instance wherein a surgeon can exact subjectively from the poor and the rich.



Mosaic law (Law of Moses) gave to the poor man many privileges intending to aid him to escape from the bonds of debt and servitude. If the creditor took his poor debtor's cloak in pledge, he must return it by nightfall, for instance otherwise he would have no covering for the night. So prompt payment of wages to the poor was enjoined for he was poor.



According to *Herodotus*, justice in Egypt was administered without cost in order to give the greatest relief possible to those who were wronged. It is evident that court costs constitute the most obvious obstacle to the poor man seeking justice. Despite *Herodotus'* statement with respect to Egypt, it is probable that costs in some form have always been required of litigants. It may be that in early times when the *Hebrew* courts sat by the city gate, there was free and easy access to all suitors, but the fierce charges of the sale of justice made by the prophets suggests the toll of heavy costs.



Under the peculiar procedure before the praetor at Rome, costs took the form of *vodimonium*, security for appearance by the defendant, and the *sacramentum* which was in the form of a wager laid by each party, but in substance security to abide by the judgment of the court. No evidence is found of any special procedure by which a person too poor to bear these charges could secure the adjudication of his claims.

In the early years from 1876-1965, Civil legal assistance for poor people in the United States began in New York City in 1876 with the founding of the Legal Aid Society of New York. The legal aid movement caught on in urban areas. By 1965 virtually every major city had some kind of programme. One hundred and fifty-seven organizations had employed over 400 full time lawyers with an aggregate budget of nearly \$4.5 million. There was no national programme as such.

Since 1952, the Government of India also started addressing the question of legal aid for the poor in various conferences of Law Ministers and Law Commissions. In 1960, some guidelines were drawn by the Government for legal aid schemes. In different states, legal aid schemes were regulated through Legal Aid Boards, Societies and Law Departments. Although all are equal before the law, in practice some seem to be more equal than others, and this resulted in the denial of easily available opportunities to access justice.

Article 39A of the Constitution - inserted by the 42nd Amendment Act in 1976 - offered a remedy to this problem by directing the state to provide free legal aid by suitable legislation or schemes or in any other way, to ensure that opportunities to secure justice are not denied to any citizen by reason of economic or other disabilities. Legal aid schemes were floated across states through legal aid boards, societies and law departments thereafter.

C. Legal Background

In a participatory democracy, it is essential that citizens have faith in their institution. A judiciary that is as fair and independent is an important component in sustaining their trust and confidence. An impartial independent judiciary is the guardian of the individual rights in a democratic society. In order for citizens to have faith in their court system, all people must have access to the courts when necessary.

Citizens agree to a limitation on their freedom in exchange for peaceful coexistence, and they expect that when conflicts between citizens or between the state and citizens arise, there is a place that is independent from undue influence, that is trustworthy,

and that has an authority over all the parties to solve the disputes peacefully. It is also the responsibility of the State to ensure that fair and impartial justice is made available at the door steps of the poor and economically weaker sections irrespective of their caste, creed, religion, geographical position at free of cost.


The fundamental value of Indian system of justice is that the stability of our society depends upon the ability of the people to readily obtain access to courts, because the court system is the mechanism recognized and accepted by all to peacefully resolve disputes. Denying access to the courts forces dispute resolution into other arenas and results in vigilantism and violence. As envisaged under *Article 15 of the Constitution of India*, the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them. Based on this cardinal principle, no citizen shall on the grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability. *Article 14 of the Constitution of India* provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.



Human rights and human dignity form the premises for socio-legal foundations of free legal aid. As part of the human rights, it is necessary to recognize the principle of equality and ensure access to justice. These foundations reflect the incorporation of legal obligation in the international treaties, regional treaties, the working of monitoring bodies under these treaties or in the national legal systems.

I. Free legal aid under International Law

International law addresses the provision for free legal service from the perspective of human rights. An explicit provision for legal services is incorporated in the International Covenant on Civil and Political Rights (ICCPR).



Article 14(3) (d) of the International Covenant on Civil and Political Rights outlines the requirement for free legal assistance as follows: *In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:*

(d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed if he does not have legal assistance, of this right and to have legal assistance assigned to him, in any case where the interests of justice require, and without payment by him in any such case if he does not have sufficient means to pay for it.

India has ratified the International Covenant on Civil and Political Rights which came into force in 1976 and is bound by the International obligation to provide free legal assistance as per the requirements of the Covenant. The Supreme Court of India has adopted the method of giving effect to international legal obligations when these obligations exist in the Indian legal system expressly. The Court also recognized international legal obligations as part of the law of the land when Indian law can be harmoniously interpreted as in conformity with international law.

A number of international treaties like International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on Elimination of Discrimination Against Women (CEDAW) and International Convention on Elimination of All Forms of Racial Discrimination may be interpreted as implicitly referring to the need for free legal services while aiming at effective legal remedy and access to justice.

There are a number of declarations and principles adopted by the UN which refer to effective legal remedy, of which free legal services (in genuine cases) form an essential component. For instance, Article 8 of the Universal Declaration on Human Rights (UDHR) provides that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the Constitution or by the law. Being a General Assembly resolution, some international law scholars describe UDHR as a soft law in terms of declaration, encapsulating lofty idealistic notions about human rights. Still, it creates right centric obligations of norm creating character for the members of the international community.

II. The Indian Legal System

The adversarial system that the colonial era brought in, made access to justice difficult because it ended the era of informal dispute settlement prevalent in the Indian society

leaving aside the quality of justice dispensation in the indigenous mode. The pre-British system was accessible as it was not technical or formal and was conducted in a language known to parties. The Supreme Court in the *M.H. Hoskot v. State of Maharashtra* ([1978] 3 SCC 544) observed: *Our judicature moulded by Anglo-American models and our judicial process, engineered by kindred legal technology, compel the collaboration of lawyer-power or steering the wheels of equal justice under the law.*

Adversarial system

- Prosecution proves defendant guilty before neutral judge or jury
- Witnesses called before judge and jury
- Judge can ask questions to clarify not investigate
- Truth is likely to be found when judge or jury decide if defendant is guilty (beyond reasonable doubt) or not guilty

The adversarial system is characterized by the technical nature of law, and been called as formal because it requires pleadings and court fees. Added complexities like bribery and poverty among the Indian masses makes access to justice highly problematic. In the words of B Sivarammaya, the observation of Anatole France that the majesty of law treats a millionaire and a pauper sleeping under the bridge alike held good in the case of dispensation of justice by the courts modeled on adversary system.

III. Free Legal Aid under Criminal Law

Section 340(1) of the Code of Criminal Procedure, 1898, provided that if a man was charged with an offence punishable with death, the court could provide him with a counsel upon his request. This was subjected to a twisted interpretation by the Supreme Court by classifying it as a privilege rather than the duty of the magistrate in *Tara Singh v. State* (1951 AIR 441). However, India in the Code of Criminal Procedure, 1973, facilitated statutory implementation of free legal aid subsequently. Section 304(1) provides that: In a trial before the sessions judge, if the accused has not sufficient means to engage a pleader, the court should assign a pleader for his defense at the expense of the State.

IV. Legal Aid by the State

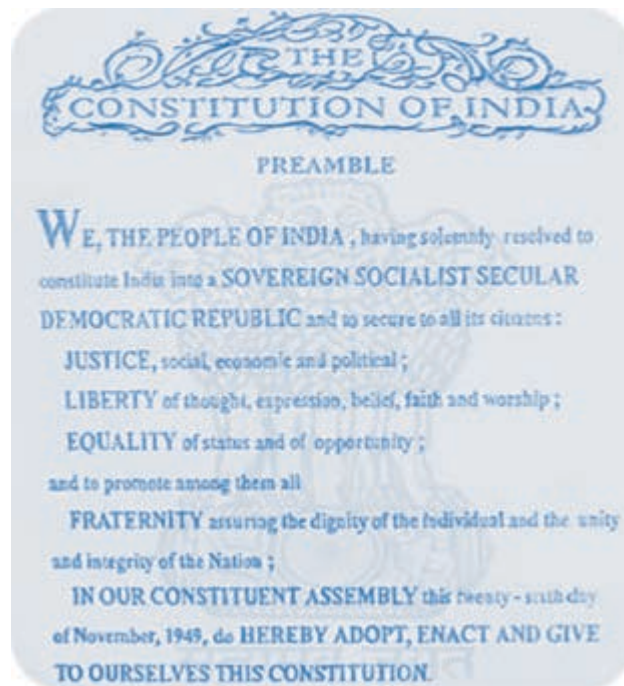
The 14th Report of the Law Commission of India mooted the idea of providing free legal aid to the poor by the State. The Report highlighted the responsibility of the legal community to administer legal aid scheme and the State to fund legal representation


to the accused in criminal proceedings, appeals and jails. In 1960, the Union Government initiated the national legal aid scheme which faced financial shortages and died a natural death. In 1973, in the second phase, the Union Government constituted a committee under the chairmanship of Justice Krishna Iyer to develop a legal aid scheme for states. The Committee devised a strategy in a decentralized mode with legal aid committees in every district, state and the centre. A committee on judicature was set up under the chairmanship of Justice P N Bhagwati to implement the legal aid scheme. This Committee suggested legal aid camps and nyayalayas in rural areas and recommended the inclusion of free legal aid provision in the Constitution. In 1980, the Committee on National Implementation of Legal Aid was constituted with Justice Bhagwati as its head. Subsequently, the Parliament enacted the Legal Services Authorities Act, 1987.

V. Legal Aid under the Indian Constitution

The 1976 amendment of the Constitution inserted Article 39-A in the Constitution which is as follows: *Equal Justice and free legal aid: The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.*

As pointed out by *Granville Austin*, the portions of the Constitution detailing the fundamental and directive principles of state policy are meant for social revolution. The revolution intends to bring about social justice based on equality. The wording of Article 39-A reiterates that kind of an equality which shall promote access to justice for all by creating equal opportunity. That this constitutional guarantee that was often violated than observed is visible in many of the cases brought before the courts including the apex court. Among many crucial





reasons for this, it is evident that a technical application of statutory law or constitutional obligation is inadequate. Only a fair procedure can ensure the concept of equality and access to justice.


Maneka Gandhi v. Union of India (AIR 1978 SC 597) provided clarity on what procedure means under Article 21. The right to life or liberty could be violated only by a fair, just and reasonable procedure. In the adversarial system, the fairness requires legal representation. Creation of equal opportunity for accessing the courts is a dimension of the equality clause in Article 14. Denial of opportunities in public employment or education to different classes is not the only occasion when considerations about retaining equality go missing; the inadequacy of the legal system to provide an effective forum to the indigent in another. In the *MH Hoskot* case, the court observed: Judicial justice, with procedural intricacies, legal submissions and critical examination of evidence, leans upon professional expertise; a failure of equal justice under the law is on the cards where such supportive skills is absent for one side.

VI. NALSA Regulations, 2010

In 2010, the National Legal Services Authority (NALSA) of India adopted the National Legal Services Authority (Free and Competent Legal Services) Regulations in exercise of its power under Section 29 of the Legal Services Authorities Act, 1987. The Regulations are applicable to the Legal Service Committees of the Supreme Court, High Courts, the States, districts and taluks. Some broad features of the Regulation relevant in the context of the paper are as follows:

Selection of Panel Lawyers

The legal services institution is vested with the authority to invite applications from legal practitioners with requisite professional experience to indicate the types of cases as they may be entrusted with. The panel shall be prepared by the Executive Chairman of the legal service institution in consultation with the Attorney-General (for Supreme Court), Advocate-General (for High Courts), Government pleader (for districts/Taluks) and the Bar Association President. The legal practitioner shall have three years or more of experience at the bar for being considered for empanelment. The personal traits like competence, integrity, suitability and experience shall be given due consideration. Separate panels shall be maintained for different types of cases. The Regulations also



provide for retainer lawyers. The Panel has to be reconstituted every three years without disturbing the work of panel lawyers already representing on-going cases. In such cases where the panel lawyer wishes to withdraw from a case entrusted to him shall communicate this to the Member Secretary and the latter may permit him to do so. The panel lawyer is barred from taking any fee, remuneration or other valuable consideration from any person for whom legal services are rendered under the Regulation or Act. The panel lawyer may be withdrawn from a case or his name removed from the panel on account of non-performance of duties satisfactorily or for actions against the object and purpose of the Act or Regulations.

■ **Payment of Fee**

The Regulations specify the rules regarding the payment of fees for panel lawyers which shall be in accordance with the State regulations without any delay on receipt of completion of proceedings for them. It suggests periodic revision of honorarium for the different types of services provided by panel lawyers in legal aid cases.

■ **Senior Advocates**

The services of senior advocates may be availed if the Chairman of the legal services institution forms an opinion to that effect in cases of great public importance and where serious threats to life and liberty of the applicant exists.

The Legal Services Authorities Act of 1987 provides free legal aid to certain categories of citizens. The preamble of the Act says: "An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize lok adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity."

The society is rapidly progressing and the reflections of the same can be found on all fronts. Given the socio-economic changes in the last decade, the Preamble sets forth the need to address the grievances of weaker sections of the society. None should be denied justice for being a poor or being disabled, the evils in social hierarchy should also not affect anyone seeking justice.

D. Criteria for Giving Free Legal Services

Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is-

- (a) A member of a Scheduled Caste or Scheduled Tribe;
- (b) A victim of trafficking in human beings or beggar as referred in article 23 of the Constitution;
- (c) A woman or a child;
- (d) A person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (e) 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
- (f) An industrial workman; or
- (g) In custody, including in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a Juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986, or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987.

The Act renders a helping hand to all those categories of citizens mentioned in the above. Now the larger question arises whether an economically sound person who falls into these categories should he/she be allowed to seek free legal aid. If they are allowed to seek free legal assistance then such an approach and its ramifications on the system should be carefully analyzed. Thus, the million dollar question arises whether the wealthy and affluent in the society needs to be provided legal aid? The economically sound who falls into these categories, whose income runs into crores of rupees make use of the free legal aid. Thus, in a way they are hijacking the real sufferers for whom this enactment was made.

Those who have the financial means, who can afford to have a lawyer, should desist from taking the help of legal aid institutions. As far as the above scenario is concerned, the achievement of one is always at the expense of the other. Why the public treasury is being exhausted for providing legal assistance to a cross section which goes against the basic spirit of the said statute. Flaws in the system can only be identified when the



system turns fully functional; once such flaws are identified there should not be any delay in plugging the same.

Legal services

Legal services are of two types:

- ▣ Pre-litigation legal services, and
- ▣ Post-litigation legal services.

Pre-litigation legal services

It is rightly said that prevention is better than cure. In these days, the number of litigations is increasing day by day which is against smooth administration of justice. So far emphasis was given only on post litigation assistance or help but now it is being realized that pre-litigation legal services are more useful than post-litigation legal services. The pre-litigation legal services include:

- ▣ Legal education
- ▣ Legal advice
- ▣ Legal awareness
- ▣ Pre-litigation settlement etc.

Litigation is not a luxury but it should be used as a last resort. In criminal cases, prosecution is initiated by the State and when legal aid is provided to the accused, the expenditure of both the parties is managed by the State. Sometimes, it is criticized that legal aid in criminal cases is encouraging litigation.

E. Hierarchy of Legal Aid Service Authorities

I. The Central Authority


The Central Government constitutes the National Legal Services Authority (NLSA) and the Supreme Court Legal Services Committee (SCLSC) for exercising powers and functions as determined by the Central Authority. The NLSA consists of - the Chief Justice of India (CJI) as the Patron-in-Chief, a Judge of the Supreme Court nominated by the President as Executive Chairman, and other members nominated by the Government in consultation with the CJI. The SCLSC consists of - Judge of the Supreme Court as the Chairman, and other members prescribed by the Government and nominated by the CJI.



II. Functions of the Central Authority

The Central Authority shall perform all or any of the following functions, namely-

- a) Lay down policies and principals for making legal services available under the provisions of this Act.
- b) Frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act.
- c) Utilize the funds at its disposal and make appropriate allocation of funds to the State Authorities and District Authorities.
- d) Take necessary steps by way of social justice litigation with regard to consumer protection, environment protection or any other matter of special concern to the weaker sections of the society.
- e) Organize legal aid camps, especially in rural areas, slums or labour colonies.
- f) Encourage the settlement of disputes by way of negotiations arbitration and conciliation.
- g) Undertake and promote research in the field of legal services with special reference to the need for such services among the poor.
- h) To do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IV A of the Constitution.
- i) Monitor and evaluate implementation of the legal aid programmes at periodic intervals.
- j) Provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities.
- k) Develop, in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance.
- l) Take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of society.
- m) Make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level.
- n) Coordinate and monitor the functions of State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluka Legal Services Committees and voluntary social service



institutions and other legal services organizations and give general directions for the proper implementations of the legal service programmes.

III. The High Court Legal Services Committee

Section 8A of the Legal Services Authorities Act provides details of the High Court Legal Services Committee. The State Authority shall constitute a High Court Legal Services Committee for every High Court for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority. The Committee shall consist of a sitting judge of the High Court as a Chairman; and such number of other Members as may be determined by regulations made by State Authority to be nominated by Chief Justice of the High Court. The Chief Justice of the High Court shall appoint a Secretary to the Committee possessing such experience and qualifications as may be prescribed by the State Government. The terms of office and other conditions relating thereto, of the Members and Secretary of the Committee shall be such as may be determined by regulations, made by the State Authority.

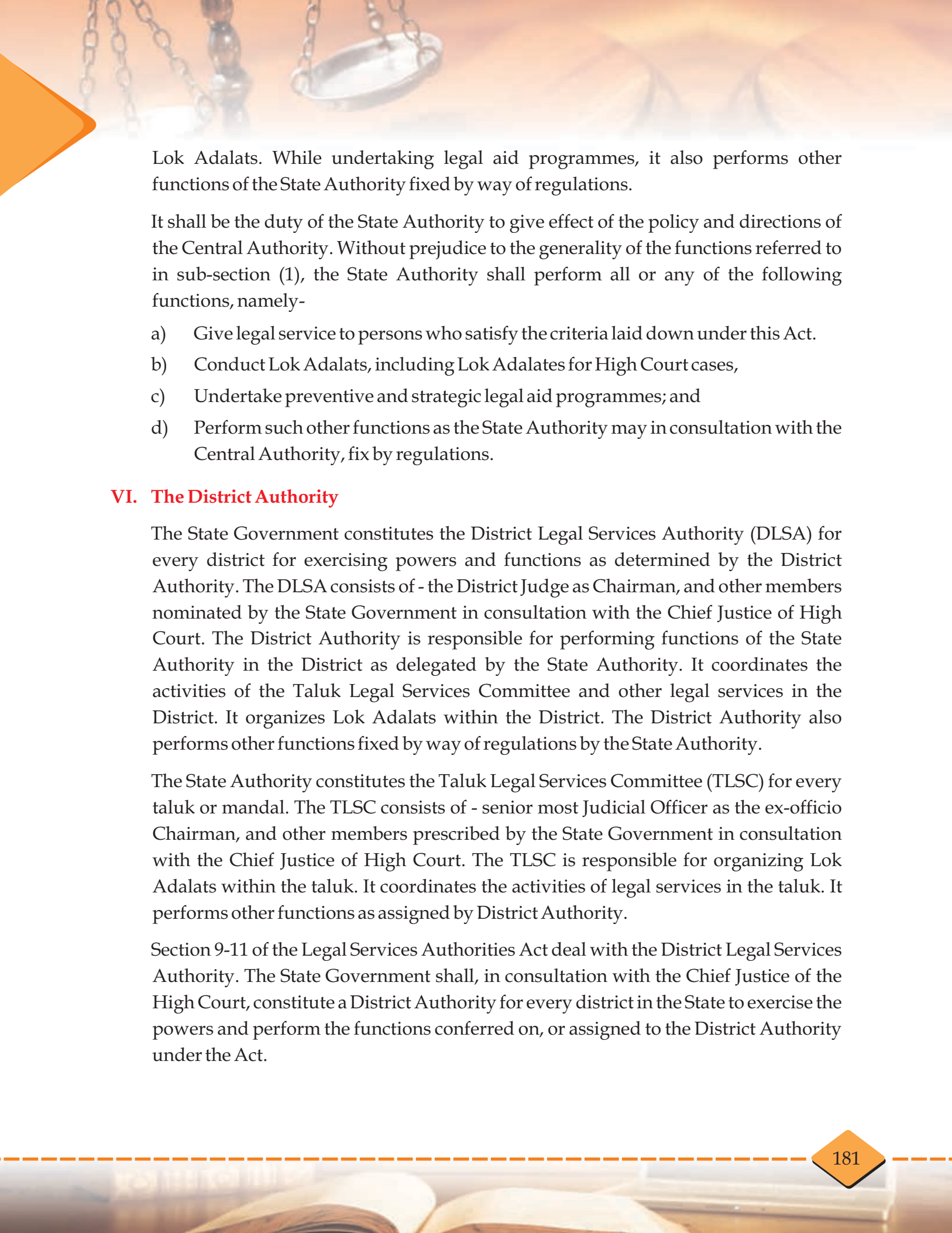
The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions. The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

IV. The State Authority

Every State Government constitutes the State Legal Services Authority (SLSA) and the High Court Legal Services Committee (HCLSC) for exercising powers and functions as determined by the State Authority. The SLSA consists of - the Chief Justice of High Court as the Patron-in-Chief, a Judge of the High Court nominated by the Governor as Executive Chairman, and other members nominated by the State Government in consultation with the Chief Justice of High Court. The HCLSC consists of - Judge of the High Court as the Chairman, and other members prescribed by the State Authority and nominated by the Chief Justice of High Court.

V. Functions of the State Authority

The State Authority is responsible for giving effect to the policy and directions of the Central Authority. It provides legal services like the Central Authority and conducts



Lok Adalats. While undertaking legal aid programmes, it also performs other functions of the State Authority fixed by way of regulations.

It shall be the duty of the State Authority to give effect of the policy and directions of the Central Authority. Without prejudice to the generality of the functions referred to in sub-section (1), the State Authority shall perform all or any of the following functions, namely-

- a) Give legal service to persons who satisfy the criteria laid down under this Act.
- b) Conduct Lok Adalats, including Lok Adalates for High Court cases,
- c) Undertake preventive and strategic legal aid programmes; and
- d) Perform such other functions as the State Authority may in consultation with the Central Authority, fix by regulations.

VI. The District Authority

The State Government constitutes the District Legal Services Authority (DLSA) for every district for exercising powers and functions as determined by the District Authority. The DLSA consists of - the District Judge as Chairman, and other members nominated by the State Government in consultation with the Chief Justice of High Court. The District Authority is responsible for performing functions of the State Authority in the District as delegated by the State Authority. It coordinates the activities of the Taluk Legal Services Committee and other legal services in the District. It organizes Lok Adalats within the District. The District Authority also performs other functions fixed by way of regulations by the State Authority.

The State Authority constitutes the Taluk Legal Services Committee (TLSC) for every taluk or mandal. The TLSC consists of - senior most Judicial Officer as the ex-officio Chairman, and other members prescribed by the State Government in consultation with the Chief Justice of High Court. The TLSC is responsible for organizing Lok Adalats within the taluk. It coordinates the activities of legal services in the taluk. It performs other functions as assigned by District Authority.

Section 9-11 of the Legal Services Authorities Act deal with the District Legal Services Authority. The State Government shall, in consultation with the Chief Justice of the High Court, constitute a District Authority for every district in the State to exercise the powers and perform the functions conferred on, or assigned to the District Authority under the Act.

VII. Functions of the District Authority

It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority. Without prejudice to the generality of the functions referred to in sub-section (1) the District Authority may perform all or any of the following functions, namely-

- a) Co-ordinate the activities of the Taluk Legal Services Committee and other legal services in the District,
- b) Organized Lok Adalats within the District; and
- c) Perform such other functions as the State Authority may fix by regulations.

VIII. Taluk Legal Services Committee


Section 11A and 11B of the Legal Services Authorities Act deal with Taluk Legal Services Committee. The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each Taluk or Mandal or for a group of Taluk or Mandals. The Committee shall consist of the senior Civil Judge operating within the jurisdiction of the Committee as an ex-officio chairman and such number of other Members as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court. The Taluk Legal Services Committee may perform all or any of the following functions, namely-

- a) Co-ordinate the activities of legal services in the Taluk;
- b) Organize Lok Adalats within the Taluk; and
- c) Perform such other functions as the District Authority may assign to it.

Entitlement to Legal Services

Section 12 and 13 of the Legal Services Authorities Act, deal with the criteria of eligibility to the legal services and its procedure. Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is-

- a) A member of a Scheduled Caste or Scheduled Tribe;
- b) A victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitution;
- c) A women or a child;
- d) A mentally ill or otherwise disabled person;

- 
- e) A person under circumstances of under circumstances of underserved want such as being a victim of a mass disaster, ethic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
 - f) An industrial workman; or
 - g) In custody, including custody in protective home within the meaning of clause (g) of Section 2 of the immoral Traffic (prevention) Act, 1956 (104 of 1956); or in a Juvenile Justice Act, 1986 (53 of 1986); or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of Section 2 of Mental Health Act, 1987 (14 of 1987); or
 - h) 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 if before a court 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.

IX. Lok Adalats

Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committees or, as the case may be, Taluk Legal Services Committees may organize Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit. A case may be referred to Lok Adalat when the parties thereof agree or one of the parties thereof makes an application to the court for referring the case to the Lok Adalat for settlement.

1. Powers of Lok Adalats

The Lok Adalat shall for the purpose of holding any determination under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:

- a) The summoning and enforcing the attendance of any witness and examining him on oath.
- b) The discovery and production of any document.
- c) The reception of evidence on affidavits;

- d) The requisitioning of any public record or document or copy of such record or document from any court or office; and
- e) Such other matters as may be prescribed.

2. The Legal Services Authorities (Amendment) Act, 2012

The Parliament of India realized that litigation oriented legal services cannot bring out desired result, therefore, for encouraging pre-litigation legal services specially in public utility service, the Parliament has made certain amendments in Legal Services Authorities Act by passing an Act known as the Legal Services Authorities (Amendments) Act, 2002. The purpose of this amendment is to bring out certain changes in the Legal Services Act, 1987 (hereinafter referred to as the principal Act) especially for the establishment of permanent Lok Adalats to settle disputes concerning public utility services at pre-litigation state.


Chapter VIA provides certain provisions dealing with pre-litigation conciliation and settlement pertaining to public utility services. Section 22A provides that in this Chapter and two the purpose of section 22 and 23 unless the context otherwise requires: "permanent Lok Adalant" means a permanent Lok Adalat established under sub-section (1) of Section 22 B. "Public utility service" means any-

- 1) Transport service for the carriage of passengers of goods by air, road or water; or
- 2) Postal, telegraph or telephone service; or
- 3) Supply of power, light or water to the public by any establishment; or
- 4) System of public conservancy or sanitations; or
- 5) Service in hospital or dispensary; or
- 6) Insurance service.

It also includes any service which the Central Government or the State Government, as the case may be, may in the public interest, by notifications, declare to be a public utility service.

F. Legal Aid in Context of Social Justice and Human Rights

There are millions of people who are denied human rights only because, they cannot afford the cost required for the enforcement of their rights. Merely to talk about



human rights from an elitist platform is not sufficient. In order to do social justice to them and to make human rights meaningful, legal aid becomes essential. The Human Rights which cannot be enforced due to poverty are meaningless and worthless. A right to access to justice is sine-qua-non for social justice. The access to justice itself is one of the most basic human rights, and without it, the realization of many other human rights may become difficult. Indeed, the right to access to justice or Legal Aid is evolved by judicial creativity for the benevolence of poor persons. Now, neither is it possible nor is it proper to isolate the right to legal aid from range of human right.

The reason is obvious, mere declaration and passing of resolutions about human rights are not enough, the guarantee for the enforcement of these rights is equally essential. Hence, it will not be incorrect to say that right to legal aid stands first in the specie of human rights. Human rights are only mere pious declaration without legal aid. They become lucrative only when they are enforced. The right to legal aid enables accomplishment of these human rights and makes them worthwhile for the poor masses in the world.

In the present legal system of most of the countries, justice is not given but sold. The consumers of justice have to pay the counsel for representing them, bear expenditure for court fees and also other contingent charges. Indeed, the poverty is an obstacle in the way of getting justice and due to this reason the poor becomes the sufferer of social injustice. Legal aid is only a way for providing social justice to all. Legal aid indeed, is an integral part of human rights and it requires urgent considerations, otherwise there is an apprehension that someday the patience of the poor may be exhausted and that will endanger the world peace.

G. Funding

The Central Government by way of grants provides funding to the Central Authority for providing legal services. Similarly, the State Government by way of grants provides funding to the State Authority and the District Authority for providing legal services.

I. The National Legal Aid Fund

The National Legal Aid Fund established by the Central Authority includes sums of money given as grants by the Central Government, any grant or donation made to the Central Authority by any other person for the purpose of legal services, and amounts



received by the Central Authority under the orders of any court.

The National Legal Aid Fund shall be utilized towards the cost of legal services provided by the SCLSC, grants made to the State Authorities, other expenses of the Central Authority.

II. The State Legal Aid Fund

The State Legal Aid Fund established by the State Authority includes sums of money given as grants by the Central Authority, any grant or donation made to the State Authority by any other person for the purpose of legal services, and amounts received by the State Authority under the orders of any court.

The State Legal Aid Fund shall be utilized towards the cost of functions of State Authorities, cost of legal services provided by the HCLSC, other expenses of the State Authority.

III. The District Legal Aid Fund

The District Legal Aid Fund established by the District Authority includes sums of money given as grants by the State Authority, any grant or donation made to the District Authority by any other person for the purpose of legal services, and amounts received by the District Authority under the orders of any court.

The District Legal Aid Fund shall be utilized towards the cost of functions of District Authorities and Taluk Legal Services Committee, and other expenses of the District Authority.


H. Exercise

Activity Based Learning

Activity based learning provides opportunities to students with direct observation and learning about some aspect of the practice of law.

In this activity, students are required, in groups or individually, to provide answers to the questions below to observe their knowledge on the functioning of legal services in India. This is only a learning activity for class discussion.

- Make a chart as to how legal aid camps are organized in your area and how frequent are they organized. List out different organizations that provide legal aid camps. See the people who come for these camps. Make a note of their problems and the remedies available to them through the legal aid camps.

- 
- The background of the page features a warm, orange-toned image. At the top, a pair of metal scales of justice is visible, with one pan hanging lower than the other. Below the scales, an open book with yellowed pages is partially visible. The overall aesthetic is professional and legal.
- Go to the Court and see if there is any lawyer specifically appointed for giving legal services. Schedule a meeting to see how legal services are provided. Does the lawyer get paid for the free legal services that he provides?
 - Apart from free legal aid, list out the other legal services provided by different organizations in your area.