

# Provision of Legal aid in Law Schools

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## Abstract

India, with a population of approximately more than 1.3 billion and with a backlog of ‘n’ number of cases, paucity of courts / lawyers, availing legal services is no less than a luxury. Legal aid is very important for those people who cannot access legal services, majorly because of their ignorance or poor economic conditions or both. The purpose of legal aid is to provide free assistance to people, who are unable to access the court system and afford legal representation. To overcome this deficiency of access to legal services in our country, the law schools, being about 1200 in number, can play a very important role. Legal aid can be provided in the Universities under the supervision of the experts. It will directly benefit the people by educating them about their rights and duties. Article 14 of the Indian Constitution states “Equality before law” which suggests everyone is equal in the eyes of law and the state cannot deny any individual of his or her rights. Furthermore, the idea of free legal aid is enshrined in our Constitution, by virtue of Article 39A, which helps us ascertain the vision of the constitution makers, which perhaps was to secure free legal aid to every citizens of the nation. To achieve this objective of our Constitution, we must provide legal aid in the law schools. The incorporation of legal aid in the law schools will simultaneously help the students in developing the skills required to deal with clients. If the law students are exposed to legal aid services in the early years of their study, it will help them emerge as successful lawyers in their professional life. This will be real life training for the students. In this paper, the authors discuss need for legal aid and the active role which can be played by the law schools. With this mechanism, we can reach a position where majority of our population will get familiar with basic legal knowledge regarding their rights and duties and have free access to legal aid as and when required.

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## **Introduction**

*The glory of justice and the majesty of law are created not just by the Constitution - nor by the courts - nor by the officers of the law - nor by the lawyers - but by the men and women who constitute our society - who are the protectors of the law as they are themselves protected by the law.*

~ Robert Kennedy

Since time immemorial, law has been an essential component of the human society in India. Tracing from the idea of 'Dharma' during Vedic period, teachings in Quran in the Mughal period, setting up of law schools during the British rule to the post-Independence period and till date, we witness the presence of law. However, no matter how much egalitarian the concept of law may sound, there have always existed difficulties in its equal and uniform implementation, hence the concept of Legal aid evolved.

According to Black's Law Dictionary, Legal Aid can be defined as "*Free or inexpensive advice, assistance, or representation concerning the law. Given to those cannot afford it, based on jurisdictional criteria*".

Internationally, the idea of legal aid came in France. The government put in force an Act to help the needy. In India, it was post-independence, in the year 1952 when the government by way of various Law Conferences asked for legal help to poor. From then onwards government started creating committees like CILAS (Committee for Implementing Legal Aid Programs), statutes like Legal Services Authority Act, 1987 came into force, which gave impetus to the concept of Legal aid cell. Furthermore, steps such as Disposal of cases by the LokAdalats, Publicity to Legal Aid Schemes and programs to make people aware about legal aid facilities, Legal aid facilities in jails, accrediting NGOs and organizations for spreading legal awareness, etc are being taken.

However, the concept of legal aid through law schools was still alien in India. With the progression of time, it was required that legal scholars go beyond court case and out of the ambit of a courtroom. By virtue of the establishment law schools providing integrated law degrees, especially, National Law Universities, which brought in the concept of Mooting, Seminars, Debating, Paper writing, and gave a kick start to the idea of 'legal aid' through law schools. As on date, we have around 1200 law schools present in India which produces the second largest number of law students in the world.

This paper thus, will be touching upon various aspects like the legal education in India, importance of legal aid, the problems faced in the implementation and some suggestions to overcome the same.

### **Legal Education in India**

Legal education is a wide and a broad concept. Its multidisciplinary nature compels the law student to gain an in-depth knowledge of subjects like history, knowledge of current affairs, fundamental learning of science and everything else which concerns the welfare and intercourse of men in a civilized world.

In the constitution of India, By virtue of List II of the seventh schedule, the matters pertaining to education come under the arena of State. Though there is no entry specific for legal profession in the constitution, but, in the Concurrent list, the union and the states deal with professions like the medical profession including Legal Profession in it.

In India, majorly the regulation of Legal Education is done by the Bar Council of India, by virtue of the powers conferred to it under Advocates Act, 1961. The Act conferred upon BCI the responsibility to promote legal education and set up standards for the same. In pursuance of Section 49 of the Act, Bar Council of India Rules, 1965 were framed by the Bar Council of India. The Chapter-IV of these rules deals with the standards of legal education required. With time, the rules have been subjected to amendments, in order to improve the standards.

The Bar Council of India also established three supplementary organs to achieve its statutory mandate, namely:-

1. Legal Education Committee. : Formed under the Section 10(2) (b) of the Act, the BCI established this committee. Despite the motive being purely academic, there is only member from academia in this committee.
2. Bar Council of India Trust: This was created for maintaining professional standards and for improvising legal education. It was entrusted upon the task to establishing Law schools of excellence and promotes legal research.
3. Directorate of Legal Education : The BCI set up this directorate, in 2010, for the purpose of organizing, running, conducting, holding and administering (a) Continuing Legal Education (b) Teachers Training (c) Advanced Specialized Professional Courses (d) Education Program for Indian students seeking registration after obtaining Law Degree from a Foreign University (e) Seminar and Workshop (g) Legal Research and (h) any other assignment that may be assigned to it by the Legal Education

Committee and the Bar Council of India. With an assistance of above three organs, the Bar Council of India regulates and maintains the legal education in India.

Legal education is facilitated by various law colleges and universities in India, some of which are aided by the Government, some are privately run, some financially aided by government but managed privately, and University Law Colleges managed by the University Departments receiving government aid.

With the advent of the concept of National Law Universities, in the last two-decades, there is a trend of choosing 5 year law course in India, which may be pursued even after your higher studies. This has brought into domain activities like Mooting, Debating, Research papers, and Legal Aid. In almost every law school, there is a body or a cell or a committee devoted towards the idea of legal aid and awareness.

Therefore, Legal education is no longer restricted to the concept of litigating in court rooms but has extended its boundaries to various aspects, legal aid being one of them, bringing dynamism to into the profession.

### **Importance of Incorporation of Legal Aid in Law Schools**

1. The legal education plays a very important part in making a law student equipped with communication skills and other legal techniques which are required in the field of law for being a good lawyer. As a lawyer, a person must have the qualities of good listening, speaking, interpretation and interacting skills. All the above mentioned skills are required to transform a law student into a good lawyer and this can be accomplished if provision of legal aid to common people is made compulsory in the law schools.
2. The incorporation of legal aid will make students travel to the people who don't have access to free legal aid and struggle to understand their legal issues and helping them overcome the same. The legal education learnt by the students in the law schools can be applied in real life situations and will be a practical exercise to help people aware who have no idea of their legal rights.
3. The incorporation of legal aid in law schools will build a strong foundation for the law students that will benefit the students, legal community and the society. These steps will enhance the reputation of the law profession. .
4. India is a country with a population of 1.3 billion and with many people in dire need of free legal aid services. Even though our constitution grants free legal aid to all (Article 39-A), many don't have access to free legal aid. To overcome such problem of people who don't get free legal aids, the law schools can play a very crucial role to incorporate

legal aid in their curriculum and by this initiative help the people in need. This will also help the legal community in India to network, develop and work together with law schools to bring a positive change to help everyone in need of free legal aid.

5. Lack of awareness is one of the reasons people do not claim their legal rights. The law schools can launch legal literacy programmes to make the people aware of the legal aid services. The Bar Council of India has been playing a significant role in the integration of legal aid in law schools in India. This needs to be continued and expanded as the students learn and progress only when they apply the acquired knowledge in real life situations. The integration of legal aid not only helps student but also the teachers who are with them and who represent their clients in court. We need to think and act if we need a new change that can help people.

### **Challenges Faced by Law Schools**

#### **Budget**

One of the main concerns of every law department is the funding required for the legal aid cell to function. Due to the monetary issues associated with the working of legal aid cell, it becomes difficult to conduct week to week field trips, experiments and functioning of the legal aid committee of law schools. When there is poor funding of money, the law schools legal aid committee is not able to meet the conditions to survive and work with full force.

#### **Lack of Effective Supervision**

The lack of proper supervision by the teachers of legal aid committees forces the students to become diffused in their actions and this result in the failure to achieve the goals of legal aid cells. This becomes as a burden for the legal aid committee to solve all issues smoothly and the committee becomes comes to a grinding halt. The need is for active teachers who will guide and have a check on the committee.

#### **Lack of Motivated Students**

If the students in the committees are not sincere towards their work it can result in problems within the committee and its end outcome will be poor functioning of the legal aid committee. Selecting students who have the passion and commitment is also an important part for smooth functioning of the legal aid cells.

#### **Lack of Professional Responsibility**

Many perceive that it is hard to rely on the law students, as they don't have any professional responsibility when compared with the working lawyers. But people need to be informed that

the students are under supervision of their teachers and hence the responsibility is also on the teacher. It is one of the challenges that they question of responsibility of the law schools.

### **Lack of Student Participation**

Many students are not willing to take part and contribute to the legal aid committees. Some are not aware of what is happening in their universities, this creates an environment not conducive to the growth of legal aid cells in law schools. The importance given to the legal aid is minimal and it is up to the department to make the students aware of the importance of legal aid in law schools.

The students are sometimes not given due credit for their work which de-motivates them to not do any further activity. Also, under the Advocates act, the law teachers as well as law students cannot represent clients in the courts. This creates a factor of differentiation between lawyers and law students / teachers.

Lack of infrastructure, resources also forces the legal aid cells to not perform to its full potential. To overcome these challenges we must find out alternatives so the legal aid is incorporated in law schools with ease. Challenges are a part of life and we need to work to find out solutions so everything is stable and in order.

### **Suggestions**

1. Mass Media-The media is such an important organization of society which can influence the way we think and act. Media is an organization which can highlight the current scenario of the society as a whole. Whatever news we hear we tend to believe it and we also make sure we tell people and discuss/ debate on such issues. Simply by reporting the work of law schools in media, it would motivate other law schools to act and create a positive change. It would make the government think how law schools can help create a change in the society. Media makes us see the reality. It acts as a guardian to protect the citizens of the country. Based on what media broadcasts to the public, the governments act and plans its moves. Media can motivate students and can effectively highlight how law schools are helping the people in need to achieve justice.
2. Responsibilities of teachers –The teachers play a very important role in the professional development of students throughout their law school. The teachers need to assign projects, collaborate with students and select the interested students for field trips to make them understand the situation of people who can't afford legal services. It is the teachers, who need to train the students regarding the skill to interact with people. Hence, the

teachers need to be committed to make students aware of their role to help the people in need.

3. The legal services authority – Must work and constitute legal committees in each state which would have law teachers, N.G.O`s and law students to act and help the people in need.
4. Responsibilities of the management –Without proper funding and support from the management, nothing is possible. Hence, the management needs to provide ample money required to conduct such field trips and trust the teacher in charge by providing full support from the law schools. The management needs to accept legal aid is a part of law school curriculum and work towards bringing a change that would help all the people in need for legal aid in India.
5. Following the United Nations Principles and guidelines on access to legal aid in criminal justice – Adopted by United Nations General Assembly 2012, December clearly states that the state shall set up nationwide legal aid cells in law universities to help the students develop the skills required in the field of law. It is internationally agreed and must be followed. If law schools follow these guidelines, we can overcome the challenges; the people are facing to get free legal aid services.

### **Conclusion**

Legal aid is the idea of providing aid so as to ensure uniform application of laws and facilitate fair legal system by providing aid to the unequal. It targets those who cannot afford legal remedy for themselves, which can be attributed to financial inability, unawareness, etc. Despite the presence of provisions such as Article 39-A, which confers a duty upon the state to provide free legal aid to the needy, it still remains a pipe dream in a country of 1.3 billion to ensure free legal aid. However, this huge population can prove to be a blessing in disguise, if the human resource in the legal field is utilized properly. With just approximately 1200 law schools, that produces the second largest number of legal scholars in the world, next to USA, the vision of the constitution makers can be put into the mould of actuality. There exists a statute such as Legal Services Authority Act, which makes it compulsory for all the law schools to contribute for providing free legal aid to the society. Law schools and law students can play a big role in bringing about this change, if their efforts and skills are given a right direction. This would also give shape to their career and future aspects, ultimately, enhancing the quality of legal system in the nation.

Concluding with Gandhi's golden words “ *Be the change you want to see*”, if the whole legal profession unites with a stern belief of bringing about this change, no force can stop the implementation of the idea of free legal aid, thereby, putting the vision of the constitution makers into reality.