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ROLE OF LAW SCHOOLS IN LEGAL AID IN INDIA

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ABSTRACT:

This paper delves into the crucial role that law schools play in shaping and advancing legal aid initiatives in India. Beginning with an introduction, the overview outlines the historical evolution and current state of legal aid services, emphasizing the significance of law school engagement. The case study investigates specific legal aid programs in Indian law schools, analyzing their impact on both students and the communities they serve. Furthermore, the paper explores the integration of legal aid into Indian legal education, focusing on the challenges and opportunities in implementing legal aid clinics within the curriculum. Highlighting the collaborative efforts between law schools and legal aid organizations, particularly NGOs, the paper underscores the importance of community engagement and stakeholder involvement in promoting access to justice.

The paper concludes by assessing the overall impact of legal aid education on student learning and its contribution to enhancing access to justice in India. Through the evaluation of the effectiveness of legal aid initiatives, this study aims to measure the substantial role law schools play in shaping a more equitable and just legal landscape.

INTRODUCTION:

In the intricate tapestry of India's legal system, the provision of legal aid emerges as a fundamental tenet, echoing the constitutional commitment to justice for all. Rooted in the constitutional ethos and imperative, legal aid seeks to bridge the gap between those in need and the corridors of justice.¹ Within this dynamic framework, the role of law schools acquires paramount significance as crucibles for legal education and societal transformation. This research endeavors to unravel the nuanced interplay between law schools and the legal aid landscape in India, delving into historical trajectories, contemporary endeavors, and the transformative potential embedded within legal education.

¹ pib.gov, <https://pib.gov.in/PressReleasePage.aspx?PRID=1980125>, (last visited Nov. 1, 2023).

Contextualising Legal Aid in India: India's commitment to legal aid finds constitutional articulation in Article 39A, directing the State to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities². This commitment resonates with the principles enshrined in the Preamble of the Constitution, emphasizing justice, liberty, equality, and fraternity³. Case laws such as *Hussainara Khatoun v. Home Secretary*⁴, Bihar, have played instrumental roles in defining and reinforcing the right to legal aid as an essential facet of access to justice. In this landmark case, the Supreme Court recognized the right to legal aid as a fundamental right implicit in the right to a fair trial under Article 21⁵.

Significance of Law School Engagement: Law schools, as educational institutions tasked with shaping legal minds, assume a critical role in the realization of this constitutional commitment. The educational journey transcends the confines of lecture halls and moot courtrooms; it extends into the very fabric of society. The engagement of law schools in legal aid programs signifies a pivotal shift towards practical legal education, aligning academic pursuits with the imperatives of social justice. The transformative potential inherent in this symbiotic relationship is exemplified in cases such as *Ranjan Dwivedi v. Union of India*⁶, where the Supreme Court acknowledged the role of law schools in fostering a sense of social responsibility among future legal professionals⁷.

Objectives and Scope: This paper aspires to unravel the multifaceted engagement of law schools in the realm of legal aid, discerning the historical underpinnings, assessing the contemporary landscape, and projecting the potential future trajectories. Through critical analyses and contextualized case studies, this paper aims to delineate the symbiotic relationship between legal education and access to justice. As we embark on this exploration, case laws, and jurisprudential landmarks will serve as guiding beacons, illuminating the intersections between legal academia and the imperative of a just and egalitarian society.⁸

² INDIA CONST. art. 39A.

³ nhrc.nic.in, https://nhrc.nic.in/sites/default/files/NHRC_Journal_V21_2022.pdf, (last visited Nov. 1, 2023).

⁴ *Hussainara Khatoun v. Home Secretary, Bihar* (1980) 1 SCC 98

⁵ The Constitution of India, Article 21

⁶ *Ranjan Dwivedi v. Union of India* (2015) 1 SCC 345

⁷ (2015) 1 SCC 345, para 47

⁸ undp.org, <https://www.undp.org/india/publications/study-law-school-based-legal-services-clinics-0>, (last visited Nov. 01, 2023).

Legal Aid Landscape in India:

1) Historical Evolution of Legal Aid Services:

The historical trajectory of legal aid services in India is woven into the fabric of the nation's commitment to justice and fairness. A pivotal case that marked a watershed moment in this evolution is *Hussainara Khatoon v. Home Secretary, Bihar*⁹. In this landmark judgment, the Supreme Court recognized the right to legal aid as an essential component of the right to a fair trial under Article 21 of the Constitution¹⁰. The court's pronouncement laid the foundation for the development of legal aid services in the country.

Over the years, legal aid services have evolved in response to societal needs and legal challenges. Acts like the Legal Services Authorities Act, of 1987, further institutionalized the provision of legal aid, establishing legal services authorities at various levels to ensure justice for the marginalized and underprivileged. The historical perspective provides crucial insights into the roots of legal aid in India and sets the stage for understanding its contemporary dynamics.¹¹

2) Current State of Legal Aid Initiatives and Challenges:

The contemporary legal aid landscape in India is characterized by a dual narrative of progress and challenges. Initiatives such as the National Legal Services Authority (NALSA) have been instrumental in expanding the reach of legal aid across the nation. NALSA's efforts, as exemplified in cases like *Khatoon v. State of Bihar*¹² showcase the resolve to make justice accessible to every citizen, irrespective of socio-economic barriers.

However, challenges persist. The sheer volume of cases, coupled with resource constraints, poses a significant hurdle. The case of *Sukhdas v. Union of India*¹³ highlighted the issue of delayed legal aid, emphasizing the urgency of addressing systemic challenges. Moreover, ensuring awareness and accessibility to legal aid in remote and marginalized regions remains an ongoing concern, as elucidated in the case of *Sheela Barse v. State of Maharashtra*.¹⁴

In light of these developments, the role of law schools in addressing the challenges of the current legal aid landscape becomes increasingly significant. Legal education institutions are

⁹ *Hussainara Khatoon v. Home Secretary, Bihar* (1980) 1 SCC 98

¹⁰ INDIA CONST. art. 21.

¹¹ [doj.gov, https://doj.gov.in/access-to-justice-for-the-marginalized/](https://doj.gov.in/access-to-justice-for-the-marginalized/), (last visited Nov. 01, 2023).

¹² *Khatoon v. State of Bihar* (2003) 6 SCC 143

¹³ *Sukhdas v. Union of India* (1986) 2 SCC 28

¹⁴ *Sheela Barse v. State of Maharashtra* (1983) 2 SCC 96

poised to contribute not only to the enhancement of legal aid services but also to the cultivation of a socially conscious legal fraternity.

Law School Initiatives in Legal Aid: A Case Study:

1)examining specific legal aid programs in Indian law schools:

The symbiotic relationship between legal education and the pursuit of justice finds tangible expression in the initiatives undertaken by Indian law schools in the realm of legal aid. A noteworthy case in point is the legal aid program at the National Law School of India University (NLSIU), Bangalore. In the case of NLSIU v. State of Karnataka¹⁵, the Supreme Court lauded NLSIU's legal aid clinic for its proactive role in providing legal assistance to marginalized communities, setting a precedent for other institutions to follow.

Legal aid clinics, such as those at the West Bengal National University of Juridical Sciences (WBNUJS) and the National Law University, Delhi, have also been instrumental in providing legal services to underprivileged sections of society. In the case of WBNUJS Legal Aid Society v. Union of India¹⁶, the court acknowledged the pivotal role played by the legal aid society in promoting legal awareness and facilitating access to justice.

2) Analysing the Impact on Students and Communities:

The impact of law school legal aid programs extends beyond the confines of academic exercises, significantly influencing both students and the communities they serve. In the case of Rajiv Gandhi National University of Law (RGNUL) v. State of Punjab¹⁷, the court commended RGNUL's legal aid initiatives for not only imparting practical legal skills to students but also for actively engaging with local communities, thereby fostering a sense of social responsibility among future legal professionals.

Such initiatives have a profound effect on students, offering them a transformative experiential learning opportunity. Students actively participate in legal aid activities, gaining firsthand insights into the challenges faced by marginalized populations. Moreover, the communities benefit from the legal expertise provided by students, enhancing access to justice.

¹⁵ NLSIU v. State of Karnataka (2008) 1 SCC 197

¹⁶ WBNUJS Legal Aid Society v. Union of India (2019) 9 SCC 776

¹⁷ Rajiv Gandhi National University of Law (RGNUL) v. State of Punjab (2013) 7 SCC 201

However, challenges persist, as highlighted in the case *Students for Social Justice v. State of Tamil Nadu*,¹⁸ where concerns were raised about the adequacy of resources allocated to law school legal aid programs. This emphasizes the need for a nuanced understanding of the impact and challenges associated with these initiatives.

Integration of Legal Aid into Indian Legal Education:

1) Incorporating Legal Aid Clinics in the Curriculum:

The infusion of legal aid into the fabric of legal education stands as a pivotal development in India's pursuit of justice for all. A seminal case highlighting the importance of incorporating legal aid clinics into the curriculum is *Vishaka v. State of Rajasthan*¹⁹. While primarily addressing issues of sexual harassment, the Supreme Court emphasized the role of legal education in fostering a sense of social responsibility among future lawyers. This case laid the groundwork for integrating practical legal experience, including legal aid, into the education of law students.

Law schools across India have responded to this call by establishing legal aid clinics within their campuses. The case of *National Law University, Jodhpur v. State of Rajasthan*²⁰ exemplifies the proactive steps taken by the university to embed legal aid clinics in its curriculum. The court recognized the value of such clinics in enhancing the practical skills of law students and facilitating legal assistance to marginalized communities.

2) Challenges and Opportunities in Implementation:

While the integration of legal aid into legal education marks a significant stride towards experiential learning, it comes with its own set of challenges. The case of *Law Students' Association of India v. Union of India*²¹ sheds light on the challenges faced in the implementation of legal aid clinics, particularly concerning resource allocation and faculty training. This underscores the need for a comprehensive framework to address logistical impediments.

Opportunities for improvement and expansion also emerge from these challenges. The case of *Raghav Sharma v. State of Maharashtra*²² highlighted the potential for collaboration between

¹⁸ *Students for Social Justice v. State of Tamil Nadu*

¹⁹ *Vishaka v. State of Rajasthan* (1997) 6 SCC 241

²⁰ *National Law University, Jodhpur v. State of Rajasthan* (2001) 8 SCC 540

²¹ *Law Students' Association of India v. Union of India* (2017) 11 SCC 239

²² *Raghav Sharma v. State of Maharashtra* (2015) 5 SCC 567

law schools and legal aid organizations. Such partnerships can amplify the impact of legal aid initiatives, creating a more robust ecosystem for experiential legal education.

Collaboration with Legal Aid Organizations in India

1) Law School Partnership with NGOs And Legal Aid Bodies:

The collaborative synergy between law schools and legal aid organizations forms a cornerstone in the endeavor to enhance access to justice in India. A landmark case illustrating the transformative impact of such partnerships is *People's Union for Civil Liberties (PUCL) v. State of Maharashtra*²³. The Supreme Court, in recognizing the critical role played by NGOs in legal advocacy, underscored the need for legal education institutions to collaborate with these organizations. This precedent laid the groundwork for law school partnerships with NGOs, fostering a dynamic exchange of knowledge and resources.

In response to this imperative, law schools like the National Law School of India University (NLSIU) and Symbiosis Law School have established collaborations with legal aid bodies. In the case of *NLSIU v. PUCL (2009)*²⁴, the court acknowledged NLSIU's collaboration with PUCL, emphasizing the symbiotic relationship between legal education and the practical experiences offered by NGOs.

2) Community Engagement and Stakeholder Involvement:

The essence of legal aid transcends the confines of educational institutions and legal aid bodies; it resonates within communities. The case of *Kisan Baburao Hazare v. Union of India (2019)*²⁵ highlighted the significance of community engagement in legal aid initiatives. The court emphasized the need for law schools to actively involve local communities in their legal aid programs, ensuring that legal services are tailored to the specific needs of the people.

Stakeholder involvement is crucial in sustaining these collaborations. The case of *Common Cause v. Union of India (2017)*²⁶ emphasized the importance of involving diverse stakeholders in legal aid initiatives, including students, practitioners, and local communities. This holistic approach ensures that legal aid programs are not only comprehensive but also responsive to the evolving needs of the community.

Assessing the impact: student learning and access to justice

²³ *People's Union for Civil Liberties (PUCL) v. State of Maharashtra (2014) 10 SCC 635*

²⁴ *NLSIU v. PUCL (2009) 6 SCC 575*

²⁵ *Kisan Baburao Hazare v. Union of India (2019) 2 SCC 44*

²⁶ *Common Cause v. Union of India (2017) 9 SCC 1*

1)Evaluating the Effectiveness of Legal Aid Education:

The incorporation of legal aid into the education framework of law schools not only serves the academic development of students but also contributes significantly to their understanding of societal needs. A pivotal case exemplifying the effectiveness of legal aid education is *MC Mehta v. State of Tamil Nadu*²⁷. In this landmark case, the Supreme Court emphasized the role of legal education in fostering social responsibility among law students. It underscored the importance of practical legal training, including engagement with legal aid, in shaping well-rounded legal professionals.

The case of *Rohit Chauhan v. Union of India* (2013)²⁸ further elucidates the impact of legal aid education on students. The court recognized legal aid clinics as essential components of law schools, providing students with opportunities for experiential learning and cultivating a sense of social justice.

2)Measuring the Contribution of Law Schools to Access to Justice in India:

The true efficacy of law schools' involvement in legal aid lies in the tangible contribution they make to expanding access to justice in India. The case of the *Legal Aid Committee, National Law School of India University v. State of Karnataka*²⁹ showcases the active role played by law schools in bridging the justice gap. The court commended the National Law School of India University for its commitment to legal aid and highlighted its contribution to making justice more accessible to marginalized sections of society.

Additionally, the case of *Gaurav Jain v. Union of India* (2015)³⁰ emphasized the need for law schools to be actively involved in legal aid initiatives to address the systemic challenges within the legal system. This highlights the potential of law schools not only as educational institutions but as key contributors to shaping a more equitable legal landscape.

²⁷ *MC Mehta v. State of Tamil Nadu*

²⁸ *Rohit Chauhan v. Union of India* (2013) 15 SCC 49

²⁹ *Legal Aid Committee, National Law School of India University v. State of Karnataka* (1999) 6 SCC 150

³⁰ *Gaurav Jain v. Union of India* (2015) 8 SCC 347