

ROLE OF ADVOCATES IN PROVIDING LEGAL AID

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ABSTRACT

Legal aid guarantees access to necessary services, helps defend human rights, and helps avoid the erroneous conviction of innocent people. It bridges the gap between those who can afford legal representation and those who cannot, so contributing to the development of a just and equitable society. Although receiving legal aid and counsel is a fundamental human right, many individuals and communities face significant barriers in this area. Equal access to the legal system is dependent on the availability of legal aid, and advocates play a critical role in making this service available. This study investigates the complex role that advocates play in delivering legal aid, highlighting their obligations, problems, and larger societal implications. Legal aid advocates work for justice on behalf of persons who lack the resources to navigate the complex legal system. They act as intermediaries, counsellors, and spokespeople to help people understand their rights, legal duties, and the intricacies of legal proceedings. Another essential duty of advocates in addressing systemic injustices and achieving legal reforms is the discovery and support of legislative measures that address laws and regulations that disproportionately affect vulnerable communities.

Keywords: *Advocates, Equitable society, Justice, Legal Aid and Rights.*

1. INTRODUCTION

Legal aid is provided by advocates in a number of legal domains, such as family, criminal, civil, and immigration law. They provide services including legal consultations, document preparation, settlement negotiations, and in-court client representation in each of these areas. This all-encompassing strategy guarantees that people who are confronting legal issues will be able to obtain just and equitable treatment under the law. Nonetheless, there are difficulties in the work of advocates who provide legal aid. Due to a lack of resources, a large volume of cases, and restricted funding, legal aid organisations frequently struggle to meet the high demand for services. The emotional toll of working with clients in difficult situations, such as victims of domestic abuse, refugees, or people falsely accused of crimes, must also be addressed by advocates. In order to better understand the complicated role advocates play in providing legal help, this study examines their responsibilities, challenges, and wider societal ramifications.

2. THE ACT ESTABLISHING THE FREE LEGAL AID PROGRAMME – THE LEGAL SERVICES AUTHORITIES ACT, 1987

The Legal Services Authorities Act, 1987 was passed in order to provide free legal aid in worthy situations, in accordance with the aforementioned constitutional requirement and Supreme Court directives.

Section 12 of the Act contains criteria for legal services¹. Giving legal advice on any subject and acting in any capacity while a case or other legal processes are being conducted before a court or other authority or tribunals are defined as legal services under Sec. 2(c) of the Act².

The Act also establishes a number of national, state, and local authorities to further advance the cause of legal services for the underprivileged, provide legal services to those who meet the Act's requirements, and carry out preventive and strategic legal aid initiatives. Legal services are needed for a variety of purposes, including getting advice and settling cases before courts, tribunals, or other judicial bodies.

¹ The Legal Services Authorities Act, 1987, § 12, No. 39, Acts of Parliament, 1987 (India)

² The Legal Services Authorities Act, 1987, § 2(c), No. 39, Acts of Parliament, 1987 (India)

3. LEGAL AID PROVISIONS

- In order to guarantee that no citizen's ability to obtain justice is restricted due to financial or other limitations, an act establishing legal service authorities is necessary. Additionally, Lok Adalat is to be established in order to guarantee that the legal system operates in a way that advances justice for all.
- As per the preamble of the constitution, financial, social, and governmental equity is a guarantee for every Indian citizen. The state is impliedly required by Article 14 and Article 16 of the Indian Constitution to ensure that no one fails to obtain legal help because of financial or other limitations, therefore guaranteeing that all citizens of the country receive equal justice.³
- The Indian Constitution's Article 39-A⁴ mandates that the state ensure that every citizen obtains free representation in court through relevant legislation, programmes, or other channels and that no one's access to justice is impeded by their inability to pay or by other barriers⁵.
- Legal assistance committees may be established by a bar council, and each committee will have a maximum of nine members and a minimum of five, as directed by the council. The requirements, the selection process, and the tenure of legal assistance committee members shall be as prescribed.
- Along with implementing preventative and strategic legal aid programmes, the law also advances the goal of providing legal assistance to the impoverished and offers legal services to those who satisfy its requirements.

4. ROLE OF ADVOCATES

The rule on legal aid issued by the Bar Council of India reads like this:

³ INDIA CONST. arts. 14 & 16

⁴ INDIA CONST. art. 39-A

⁵ S. S. Upadhyay, *Role of Advocates in Administration of Justice*, 37(1) L. REV. (2018)

"Every advocate shall, in the practice of the profession of law, bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an advocate owes to society". All advocates are expected to fulfil their social obligations, according to the BCI rule on professional behaviour. To be sure, it's the greatest duty an advocate has to the community.

Legal aid must be given by advocates to underprivileged and marginalised groups in society, even if they are unable to compensate them fairly or at all for their services. This is necessary to ensure that justice is served⁶. The Legal Services Authorities Act of 1987 provides a variety of legal aid schemes, such as those that assist the impoverished and other marginalised groups in society, promote legal literacy, or facilitate the resolution of disputes through Lok Adalat⁷. In reality, the least that can be expected of an advocate is to honestly carry out his functions in these schemes. With the legal profession becoming monopolistic, the advocates' role in implementing these plans becomes crucial.

Only advocates are authorised to implement the different legal assistance programmes under the Act. A qualified advocate taking up an underprivileged client's case is the first step towards providing the less fortunate members of society with meaningful and effective legal aid.

5. THE ADVOCATES ACT, 1961

The court cannot function without lawyers. Court proceedings involve them as well. Consequently, for the legal system to operate effectively, solicitors have obligations that they must meet.

With the Bengal Permanent Establishment Regulations of 1793, the responsibilities of legal experts were first outlined in a number of successive pieces of legislation. Both the legal profession and the legal system have expanded in scope over time.

⁶ Nishita Kirty, *Equal Justice and Free Legal Aid*, 4(2) INT'L J. L. MGMT. & HUMAN. (2021)

⁷ S. S. Upadhyay, *supra* note 5

Following the recommendations of the All India Bar Committee, the Advocates Act was passed in 1961. The primary goal of the law was to control the Indian legal profession's code of ethics. This statute led to the establishment of the SBCI and the BCI. According to Section 2(1) of the act, anyone who meets the standards set forth in this section is considered an advocate⁸.

Section 24 of the Advocates Act⁹ specifies the necessary requirements for registering as an advocate:

- The individual is an Indian citizen.
- Has reached the age of 21.
- Awarded a law degree subsequent to March 12, 1967, following completion of a three-year legal education programme at an accredited Indian university.
- Currently, passing the All India Bar Council test is a requirement for enrollment as an advocate.

6. CONCLUSION

The Indian Constitution requires advocates to provide free legal assistance to the underprivileged and those in need. To sum up, advocates who offer legal aid are essential to maintaining the values of equity and justice. Their efforts help create a more equitable and just society overall by guaranteeing that those who are marginalised and vulnerable have access to the legal system. Notwithstanding the difficulties they encounter, advocates never stop having a profound effect on the lives of those they represent, which eventually strengthens the fundamentals of a fair and just judicial system.

Another article of the Constitution is the right to work in any capacity within Indian borders. As a result, anyone who lacks the essential knowledge or skills for that specific position should not apply. The Constitution guarantees people's rights, subject to reasonable limitations. As a result, under Section 32 of the Advocates Act¹⁰, a non-advocate individual is prohibited from contacting with the Court regarding their eligibility to present in court. The final major

⁸ Advocates Act, 1961, § 2(1), No. 25, Acts of Parliament, 1961 (India)

⁹ Advocates Act, 1961, § 24, No. 25, Acts of Parliament, 1961 (India)

¹⁰ Advocates Act, 1961, § 32, No. 25, Acts of Parliament, 1961 (India)

modification to the Indian legal system is the Advocates Act of 1961. The act has aided inclusivity in India's advocacy environment.

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