



Civils Cafe
IAS Study Circle
Lead by IAS, IPS, IAS officers

FREE LEGAL AID

**MOST IMPORTANT
TOPIC FOR MAINS**

" Coming together is a beginning;
keeping together is progress;
working together is success. "
-Sureshot Success quotes



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GS 2 -FREE LEGAL AID

Free legal aid is the provision of free legal services in civil and criminal matters for those poor and marginalized people who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any Court, Tribunal or Authority. These services are governed by **Legal Services Authorities Act, 1987** and headed by the **National Legal Services Authority (NALSA)**

Provisions of Free Legal Aid

- Representation by an Advocate in legal proceedings.
- Payment of process fees, expenses of witnesses and all other charges payable or incurred in connection with any legal proceedings in appropriate cases.
- Preparation of pleadings, memo of appeal, paper book including printing and translation of documents in legal proceedings.
- Drafting of legal documents, special leave petition etc.
- Supply of certified copies of judgments, orders, notes of evidence and other documents in legal proceedings.

Constitutional provisions, Legal provisions and Cases

- **Article 39 A:** The Constitution of India provides for free legal aid to the poor and weaker sections of the society and ensures justice for all.
- **Articles 14 and 22(1)** also make it obligatory for the State to ensure equality before the law and a **legal system** which promotes justice on a basis of equal opportunity to all.
- **Section 304 of the Criminal Procedure Code:** It provides that where in a trial before the Court of Session, the Court shall assign a pleader for his defence at the expense of the State
- **Hussainarakhatoon vs. State of Bihar:** It was held that if any accused is not able to afford legal services then he has a right to free legal aid at the cost of the state.
- **Madhav Hayavadanrao Hoskot Case:** The court laid down that a person entitled to appeal against his/her sentence has the right to ask for a counsel, to prepare and argue the appeal.
- **International Covenant on Civil and Political Rights** under Article 14 (3)(d) guarantees to everyone: "Right to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing.

Issues with Legal Aid

- **Lack of awareness:** The free legal aid cannot be achieved its goal so long as people are not aware of their basic rights
- **Perception:** There is a perception that free service is incompatible with quality service.
- **Poor capacity:** There are not enough lawyers delivered by the legal services authorities.
- **Lack of interest:** Lawyers assigned to provide legal aid and paid with public funds do not faithfully represent their clients.
- **56% of LAC** (Legal Aid Counsel) spends an average of 1 to 10 hours per week on legal aid cases whereas 58% LAC spend on an average of **20 hours** and above per week on **private cases.**(National Law university Delhi report)
- **Corruption by lawyers:** Assigned lawyers compel many innocent clients to pay additional amounts of money to them, even though services are free.
- **Inefficiency:** Another major challenge is that the delivery system for legal aid is far too inefficient.

Step to be taken

- **More number of lawyers:** More lawyers must be encouraged to deliver free legal aid and a campaign should be launched to inform people about the existence of free legal aid.
- **Awareness:** For successful implementation, India requires the government to embark on a campaign to inform and educate the public of its right to free legal aid.
- According to the **Commonwealth Human Rights Initiative's (CHRI) report:** India has one of the **highest lawyer population ratios** i.e. one lawyer per 736 persons which can be utilised for legal aid programs.
- **Minimize the assigned time:** The average time between application for legal aid and lawyer assigned was 11 days nationally, which can be minimized with help of ICT technology.
- **Honorarium:** The quality of legal aid can be achieved through decent payment to lawyers par with private cases.
- **Remuneration:** Remuneration towards the empanelled lawyers should be increased every year.
- **Use of Alternate Dispute Resolution(ADR) methods:** Legal Aid institutions at all levels should use proper ADR methods so that matters will be settled without further appeal.
- **As an essential service:** In many countries, like South Africa and Kenya, free legal aid and services are categorized as "**essential services**," so that they can be provided to the people of the country seamlessly.

Government Initiatives

- Pro bono legal services
- A tele law service
- 'Nyaya Mitra' scheme.

Free legal aid is not a freebee but is an obligation of the state and right of the citizens. The focus of legal aid is on distributive justice, effective implementation of welfare benefits and elimination of social and structural discrimination against the poor.

NATIONAL LEGAL SERVICE AUTHORITY

- **National Legal Services Authority (NALSA)** is a statutory body constituted under the **Legal Services Authorities Act, 1987** to provide free Legal Services to the weaker sections of the society.
- The Chief Justice of India is the Patron-in-Chief and the Senior most Judge of the Supreme Court of India is the Executive Chairman of the Authority.
- The Legal Services Authorities Act establishes statutory legal services authorities at the National, State and District level.
- It makes provisions in relation to **Lok Adalat**.

OBJECTIVE

- The principal objective of NALSA is to provide free and competent legal services to the weaker sections of the society and 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 for amicable settlement of disputes.

Eligibility for Free Legal Aid:

- The sections of the society as enlisted under Section 12 of the Legal Services Authorities Act are entitled for free legal services, they are:
 - A member of a Scheduled Caste or Scheduled Tribe
 - A victim of trafficking in human beings or begar as referred to in Article 23 of the Constitution.
 - A woman or a child.
 - **Senior citizens'** eligibility for free legal aid depends on the **Rules framed by the respective State Governments in this regard**.
 - A mentally ill or otherwise disabled person.
 - 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.
 - An industrial workman.
 - A person in receipt of **annual income** less than the amount as may be prescribed by the State Government, if the case is before a Court

other than the Supreme Court, and less than Rs 5 Lakh, if the case is before the Supreme Court. NALSA website provides income eligibility list for various states and UTs with most of them providing services to people below 1 lac annual income threshold.

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THE UNBEATABLES 2023

PRELIMS MAINS
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Mentored by Sasikanth
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