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Role of Paralegals in Access to Justice

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ABSTRACT

Strengthening the rule of law and promoting access to justice in developing countries have been longstanding international policy objectives. However, the standard policy tools, such as technical assistance and material aid, are routinely criticized for failing to achieve their objectives. The rare exception is paralegal aid, which is almost universally lauded by policymakers and scholars as effective in promoting the rule of law and access to justice. This belief, however, rests on a very limited empirical foundation regarding what paralegal programs accomplish and under what theory they operate. Equality in the administration of Justice is precisely a flowering stem to the Indian Constitution. Equality here is referred to as an equal access to the Court and of presenting the case before the Judiciary but access to the court is limped upon by the payment of sizeable court fees and the assistance of skilled lawyers. This is in the context where she/ he are denied equality in the opportunity to seek justice. Nobody in our Hindustan shall be adamantly denied her/ his rights at law for lack of means but to translate this into actuality and address the same it was/ is necessary to create a considerable apparatus both on paper and practice. The present paper addresses the issue of Legal Aid Clinics constituted under The Legal Services Authorities Act, 1987. It has been observed that Para-Legal Volunteers, who have been appointed to create Legal Awareness and to provide legal aid to the needy, is working efficiently to assist our developing country at par with the developed ones.

Keywords: Indian Constitution, Legal Aid Clinic, Para-Legal Volunteer, SLSA, Free Legal Aid

INTRODUCTION

In 1945, the Bombay Legal Aid Society gently drew the attention of the Government of India to the Report of the Committee on legal aid and legal advice in England and Wales appointed in 1944 by the Lord Chancellor under the Chairmanship of Lord Rushcliffe. It was directed to enquire facilities like grant of legal aid to poor persons and to make available conduct litigation. In 1946, the Government of India enquired from the Provincial Governments whether they would be able to provide sublime facilities for legal aid to poor persons in both civil and criminal cases.

The Provincial Governments were then, in general, of the opinion that the existing provisions for legal aid in civil cases were sufficient but that the provisions for legal aid in criminal cases were inadequate but that the provisions for the grant of similar aid in criminal cases might be liberalized. On the ground of financial stringency, however, they were reluctant to undertake any scheme of free legal aid even to the limited extent of the further extension of such aid in criminal cases. The concept of legal aid to the people has its roots in the well-settled principle of natural justice stated in Latin ‘audi alteram partem' which means hear the other side.

It is now trite that the principle of natural justice is a fundamental right by the judiciary in the case of Maneka Gandhi. Even in ancient ages, the leader of the tribes used to hear both the grieving parties to reach to a just conclusion. Cambridge Dictionary defines Legal Aid as the money to help people pay costs of using lawyers, courts of law, et cetera, especially from the government. The term ‘Legal Aid’ connotes two things One in a broader sense and other in narrow. In its broader sense, it means neither more nor less than the help given to a person concerned to maintain her rights under the law. The narrower meaning of ‘Legal Aid’ that prevails is confined to help given charitably or under some privately administered system. Mankind is one society continuing many societies, each of which can contribute its own special insights and draw upon its own special

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experience in the development of the rule of law within which legal aid is coming to be recognized as an inherent part[1].

National Legal Services Authority (NALSA)

Section 3, Chapter II of the Legal Services Authorities Act, 1987 defines the Constitution of The National Legal Services Authority (hereinafter referred to as NALSA). It is present to peacefully exercise the powers and perform the functions conferred or assigned to the Central Authority, and to provide free Legal Services to the weaker sections of the society. Presently, the Chief Justice of India, Hon'ble Mr. Justice Sharad Arvind Bobde is the patron-in-chief, the Senior most Hon'ble Judge of the Supreme Court of India is the Executive Chairman of the Authority. Public awareness, equal opportunity and deliverable justice are the cornerstones on which the edifice of NALSA is based. 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. Apart from the above mentioned functions of NALSA, it includes spreading legal literacy and awareness, undertaking social justice litigations etc.. With the aim of reaching out to the diverse milieu of people belonging to different socio-economic, cultural and political backgrounds, NALSA identifies specific categories of the marginalised and excluded groups from the diverse populace of the country and formulates various schemes for the implementation of preventive and strategic legal service programmes to be undertaken and implemented by the Legal Service Authorities at the various levels. In carrying out all these responsibilities, NALSA works in close coordination with the various State Legal Services Authorities (SLSA), District Legal Services Authority (DLSA) and other agencies for a regular exchange of relevant information, monitoring and updating on the implementation and progress of the various schemes in vogue and fostering a strategic and coordinated approach to ensure smooth and streamlined functioning of the various agencies and stakeholders.[2]

District Legal Services Authority (DLSA)

Section 9 Chapter III of the Legal Services Authorities Act, 1987 defines the Constitution of The District Legal Services Authority (hereinafter referred to as DLSA). In every district, DLSA has been constituted to actualize Legal Services Program in the District. The District Courts Complex in every District is chaired by the District & Sessions Judge of the respective district. NALSA is quick to create and advance a culture of placation rather than a suit in the nation with the goal that the nationals of the Country like to determine their question and differences across the table in a spirit of goodwill and brotherhood, for which following innovative steps have been introduced:

- Regulations on Lok Adalat to be published in Gazette
- Training of PLVs
- Legal Literacy programmes in Schools and Colleges
- Legal Aid Clinics in all areas

Taluka Legal Services Authority (TLSA)

Section 11-A Chapter III of the Legal Services Authorities Act, 1987 defines the Constitution of the Taluk Legal Services Committee. It is constituted for each taluk or mandal or for the group of taluks or mandals.

[1] Seton Pollock, The English Legal Aid System Its History And Principles (1st ed. Orient Longman 1974).
[2] NALSA, (July 3rd, 2018, 10:12am), https://nalsa.gov.in/content/introduction.

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Para-Legal Volunteers

Para-Legal Volunteers (PLVs) are volunteers who receive legal training to help people access legal services. The National Legal Services Authority (NALSA) introduced the PLVs scheme in 2009[3].

Who are Plvs Selected From?

- Educated youth
- Teachers
- Anganwadi workers
- Government department officers
- Members of NGOs, social clubs, and co-operative societies
- Social workers
- Retired government servants and senior citizens
- Law students

What do Plvs so?

- Act as intermediaries between the public and legal services institutions
- Help remove barriers to access to justice
- Spread legal awareness and legal aid to all sections of people, especially marginalized communities
- Help resolve legal problems at the rural level

How are PLVs trained?

- PLVs receive legal training to help them perform tasks that require knowledge of legal concepts
- PLVs are expected to be effective listeners

Role of Para-Legal Volunteers (PLVs):

- Bridging the Gap: PLVs act as a link between the common people and legal institutions, making legal services more accessible.
- Awareness Generation: They educate people about their rights, legal processes, and the benefits of dispute resolution through Lok Adalats, conciliation, mediation, and arbitration.
- Early Intervention: PLVs are expected to identify and report cases of injustice or legal violations to the relevant authorities, enabling timely intervention.

[3]https://www.google.com/search?q=who+ispara+legal+volunteer&sca_esv=6a767f95486c4a4c&sxsrf=AHTn8zrot3ic7FTComJICLs-Qafg06AJ6A%3A1741506312994&ei=CEfNZ_ixPOeD4-EP8-7A0QY&ved=0ahUKEwj41aPJwPyLAxXnwTgGHXM3MGoQ4dUDCBA&uact=5&oq=who+ispara+legal+volunteer&gs_lp=Egxnd3Mtd2l6LXNlcnAiGndobyBpc3BhcmEgbGVnYWwgdm9sdW50ZWVyMgoQABiwAxjWBBhHMgoQABiwAxjWBBhHMgoQABiwAxjWBBhHMgoQABiwAxjWBBhHMgoQABiwAxjWBBhHMgoQABiwAxjWBBhHMgoQABiwAxjWBBhHMg0QABiABBiwAxhDGIoFMg0QABiABBiwAxhDGIoFSI0WULcDWNYRcAF4AZABAJgBAKABAKoBALgBA8gBAPgBAZgCAaACCpgDAIgGAZAGCpIHATGgBwA&sclient=gws-wiz-serp (visited on 8.03.2025)

ISSN 2278-2540 | DOI: 10.51583/IJLTEMAS | Volume XV, Issue V, May 2026

- Assistance to Victims: They ensure that victims of crime receive proper care and attention, including legal assistance and compensation.
- Legal Awareness Camps: PLVs assist in organizing legal awareness camps in their areas of operation.
- Reporting Violations: PLVs report violations of child rights, child labor, missing children, and trafficking to the appropriate authorities.

Main Functions of Para legal Volunteers:

- Promoting Access to Justice: PLVs help ensure that everyone, especially marginalized groups, has access to legal services and can seek justice.
- Empowering Communities: By raising awareness about legal rights and processes, PLVs empower communities to address legal issues effectively.
- Supporting Legal Institutions: They work with District Legal Services Authorities (DLSAs) and other legal institutions to ensure the effective delivery of legal services.

Requirements for PLVs:

- Minimum Age: The minimum age for selection as a PLV is 21 years.
- Education:

Candidates should be at least matriculate or have an equivalent qualification.

- Good Moral Character:

They should be of good moral character.

- Training:

PLVs receive training on relevant laws, legal processes, and the functioning of legal institutions.

Scheme for Para-Legal Volunteers:

- NALSA Scheme:

The National Legal Services Authority (NALSA) has a scheme for Para-Legal Volunteer aimed at ensuring the delivery of legal aid to all sections of people.

- Objectives:

The scheme aims to remove barriers to access to justice and ensure that everyone has access to legal services[4].

Demand for Paralegals

An innovative and cost-effective way to compensate for the dearth of affordable and accessible lawyers on the continent is through the use of paralegals. Typically paralegals receive relatively basic instructions in the law

[4]https://www.google.com/search?q=who+is+para+legal+volunteer&oq=&gs_lcrp=EgZjaHJvbWUqCQgAECMYJxjqAjIJCAAQIxgnGOoCMgkIARAjGCcY6gIyCQgCECMYJxjqAjIJCAMQLhgnGOoCMgkIBBAjGCcY6gIyCQgFECMYJxjqAjIJCAYQIxgnGOoCMgkIBxAjGCcY6gLSAQw4NTkwNjc2OGowajeoAgiwAgHxBekPvblGGZIV&sourceid=chrome&ie=UTF-8 (last visited on 6.3.2025)

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and criminal procedure, buttressed by practical experience working at the coalface of the criminal justice system. Paralegals are closely supervised through on-the-job training, often working under the supervision of lawyers, and where necessary, refer cases to lawyers for further assistance. That is, lawyers ensure that the paralegals under their care operate within the ambit of the law. Such lawyers also provide legal advice to paralegals in respect of individual cases, and help draft memoranda and formal letters directed at criminal justice officials. While paralegals cannot represent someone at trial, they provide significant legal and practical assistance to arrestees and accused persons before the commencement of their trials, especially for awaiting trial detainees[5].

Evolving Recognition for Paralegals

Since 2004, international legal and regulatory frameworks have supported the existence of paralegals as service providers in the criminal justice process. The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa provides that the delivery of effective legal aid to the maximum number of persons is to rely on non-lawyers, including paralegals[6].

Legal aid Clinics

The Member Secretary may depute PLVs in the Legal Aid Clinics set up under the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011. There are 24 Legal Aid Clinics in and around Chandigarh that comes under the jurisdiction of SLSA, Chandigarh, namely— Govt. High School, Colony No. 4; Govt. Senior Secondary School, Burail; Anganwari Centre, Ram Darbar; Anganwari Centre, Bapu Dham Colony; Govt. Model School, Indira Colony, Manimajra; Govt. Model Senior Secondary School, Kaimbwala; Middle School, Maloya; E-Sampark Centre, Palsora; Govt. Model Sr. Secondary School, Dadu Majra Colony; Anganwari Centre, Village Dhanas; Permanent Lok Adalat (Public Utility Services), Sector-17; Front Office, District Courts; Govt. Institute of Mentally Retarded Children, Sector-31; Human Rights Department in Panjab University; University Institute of Legal Studies (UILS) in Panjab University; Law Department in Panjab University; Model Jail, Burail; Labour Office, Sector-30; Child Welfare Committee, Snehalaya, Maloya; Juvenile Justice Home, Sector-25; Protection Home for Runaway Couples, Sector-19; Oldage Home, Sector-15; Nari Niketan/ Adoption Home, Sector-26; & State Legal Services Authority. They are just like that of primary health care where a doctor provides basic health care, legal aid clinics on the same line provide basic legal services to the poor and poverty affected people. A lawyer is appointed to a legal aid clinic and PLVs are there to help them, so anyone who has an unresolved issue or wants to file a case can approach a legal aid clinic for help free of cost. Legal Aid Clinics was started under the scheme of National Legal Services Authority (Legal Aid Clinics) Scheme, 2010. The objective of the scheme is to provide free legal services to the poor and weaker sections of the society who can't afford to pay for the consultation services of the lawyers. Legal Services includes Government schemes, consultation advices on the legal aspects and explaining their rights and procedure of the court[7].

CONCLUSION

Paralegals are playing an increasingly important role in enhancing access to justice for accused persons and criminal suspects. In many places paralegals who deliver justice services are adding to their repertoire of tools, including mediation, advocacy, and public education[8]

[5]Anthony Nwapa, Building and sustaining change: pretrial detention reform in Nigeria, *Justice initiatives,* 2008, 86.

[6] The Lilongwe declaration on accessing legal aid in the criminal justice system in Africa, and *Lilongwe plan of action for accessing legal aid in the criminal justice system in Africa* (2004), http://www.penal reform.org/publications/lilongwe-declaration- accessing-legal-aid-criminal-justice-system-africa (accessed 6.03. 2025).

[7] Para-Legal Volunteers & Legal Aid Clinic an Analysis, International Journal of Law Management & Humanities, 2019 IJLMH | Volume 2, Issue 5 | ISSN: 2581-5369,pg no 9-10

[8] *Community-based paralegals: a practitioner's guide*, New York: Open Society Justice Initiative, 2010, 14, http://www.soros.org/publications/community-based- paralegals-practitioners-guide (accessed 1 October 2012).

ISSN 2278-2540 | DOI: 10.51583/IJLTEMAS | Volume XV, Issue V, May 2026

Paralegals handle a substantial number of cases through some form of alternative dispute resolution – thereby avoiding people becoming ensnared with the formal criminal justice system in the first place.

Moreover paralegal organizations have engaged in advocacy, lobbying policy makers to promulgate laws that formalize the role paralegals play in the criminal justice process. Paralegals typically come from the communities they serve. The position of paralegals in fulfilling the right to legal aid is regulated in various laws and regulations in Indonesia. Legal aid is a constitutional right and a human right, therefore, access to legal aid needs to be expanded by involving paralegals. The function of village paralegals in solving legal problems needs to be done by improving village management and administration. The existence of village paralegals helps villagers to gain understanding in the field of law, access to justice and equal rights before the law.