

An Empirical Research on Legal Aid System in India

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ABSTRACT:

The basic philosophy of legal aid is to ensure equal justice to all, especially to the poor, so that no one is deprived of equal rights in the eyes of the law or denied access to the court only because of poverty. The objective of legal aid lies in bridging the gap and making legal services accessible to all segments of our society. Its core aim is to protect the rights and interests of people. Legal aid is a step by which weaker sections of our country can become strong and enable themselves to live with confidence. Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability. Legal Aid said by Justice P.N. Bhagwati is an arrangement to have easy access to the justice delivery system for the poor and illiterate people in society. The research methodology used is empirical method, the convenient sampling method is used to collect the samples, where the total samples collected is 200 samples. The outcome of the research is to spread awareness about the legal aid system to the people who are unaware about the legal aid system which is empowered by the constitutional provision Article 39(A).

KEYWORDS: Legal Aid Facility, Article 39(A), Legal Aid system

INTRODUCTION:

Legal Aid implies giving free legal services to the poor and needy who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any court, tribunal or before an authority. Legal aid refers to the provision of legal assistance to individuals who are unable to afford legal representation or access to the justice system. It is typically provided by non-profit organizations, legal aid societies, or government agencies. The goal of legal aid is to ensure that everyone has equal access to justice, regardless of their financial situation. Legal aid may cover a range of legal issues, including criminal defense, civil litigation, family law, and immigration law. Legal aid may be provided through various means, such as legal clinics, pro bono services, or reduced-fee programs. In some cases, legal aid may also involve representing individuals in court or other legal proceedings. Legal aid is an important aspect of the justice system, as it helps to ensure that everyone has a fair and equal opportunity to pursue their legal rights and interests. Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability. As per the Legal Services Authorities Act, enacted in 1987, serves as the legal framework for the provision of legal aid in India. This

landmark legislation aims to provide free legal services to the economically weaker sections of society, as well as women, children, and other vulnerable groups. It establishes various legal aid mechanisms to achieve these objectives. Also, The Legal Services Authorities Act, 1987 incorporates several key features to ensure the effective delivery of legal aid. These include the establishment of legal aid authorities at the national, state, district, taluk, and village levels, as well as the provision of free legal services, legal literacy programs, and Lok Adalats. The Act also promotes alternative dispute resolution methods as a means of expeditious justice. In this research, It said the legal aid system in India has a significant impact in ensuring access to justice for marginalized communities.

OBJECTIVES:

- To know about the legal aid system.
- To know about the constitutional provision Article 39(A) providing the legal aid facility.
- To study about the awareness of the public about the Legal Services Authorities Act, 1987.
- To know the procedure to obtain the legal aid facility.
- To know about the benefits of legal aid facilities.

REVIEW OF LITERATURE:

1)Howard, H. (2021)-explains that Mentally vulnerable defendants who struggle to effectively participate in their trial in the magistrates' courts are not receiving the same protection as those who stand trial in the Crown Court. The Law Commission for England and Wales recognised this lacuna and suggested that the law relating to effective participation should be equally applicable in the magistrates' courts. On closer examination of the law, the legal aid system and perspectives of legal professionals on the 'front line', it is clear that improvements in policy are of greater importance than legal reform and are more likely to meet the needs of these vulnerable individuals. The aim of this paper will be to demonstrate that reform of the law will be insufficient to adequately protect mentally vulnerable defendants in the magistrates' courts and that changes in policy are needed in place of, or alongside, legal reforms.

2)Tomsen, S. (1992) explains that Profession-state relations are usually analyzed from an interventionist perspective in which the contemporary state acts as a unified and conscious subject, and threatens the autonomy of professionals by regulating and employing them. The recent history of debates and reforms to the legal aid system in Australia suggests there is a far more complex link between professional groups and sectors of the state. The legal profession has entered a phase of extended state engagement which runs parallel to major social changes and political conflict among lawyers. These changes include the rise of a new legal services segment of the profession, with its own ideal model of practice, distinct specialization and clientele, and a new response to public agency involvement in professional matters. The greater contemporary level of engagement with the public sector has threatened the power of the traditional elites among lawyers. But it has been of overall benefit for the profession; expanding work, career prospects and control and influence over sectors of the state. These developments reflect the increasing interdependence of the Australian welfare state and groups of new middle- class professionals, and the limits to the attainment of reform program goals that can result from this.

3)Chaara, I.(2022) explains that access to justice is often described as key for building and consolidating peace and enhancing socio-economic development in fragile and post-conflict states. Since the 2000s,

legal empowerment has been one of the most popular approaches to improve such access, and a growing literature has presented mixed evidence on the quality of its outcomes. We evaluate and discuss the impact of a locally provisioned legal aid program on justice-seekers' use of dispute resolution fora, legal agency, and trust in judicial institutions. The program was implemented between 2011 and 2014 in 26 municipalities of rural Burundi. We consider its effects on 486 beneficiaries using various propensity score-matching methods and data on non-beneficiaries from two distinct control groups ($n = 3,267$). Forty-eight interviews with key informants help discuss judicial practices. We find that the program increased the use of courts but not trust in the judiciary. It had no significant impact on the use of alternative dispute resolution mechanisms.

4) McGrath, G. (1986) explains the arising out of the National Offender Survey for the Australian Law Reform Commission this paper presents the views of a sample of incarcerated Federal offenders towards the institution and personnel of Legal Aid. Such views are placed within the offender's assessment of the criminal justice system as being essentially malleable and illustrates diverse sources of sentencing disparity. Contextualizing the views of Federal offenders by reference to the views of 250 state offenders, the paper presents an assessment of Legal Aid as an institution whose purpose is betrayed by deficiency in attitude as distinct from competence of personnel. The criticism of Legal Aid extended by the respondent population is merely an extension of the assessment they extend to the legal profession generally.

5) Willey, P. (2014) explains the swingeing cuts to criminal legal aid may do irreparable damage to the defense side of the equality of arms. Coupled with this, the case of *R v Jones* gives the judge discretion to try in the defendant's absence without representation or being present as a litigant-in-person. It is arguable that the defendant's right to be heard will be chipped away at until the defense side is left legally crippled. The enactment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is insular and neglects the defendant's rights systemically. Without an adequate defense, squalid injustice will permeate and reverberate throughout the criminal justice system. Defendants cannot be corralled into court without the assistance of an advocate. The impact of the cuts falls on the litigant-in-person, thereby delimiting access to justice. Thus it disallows the opportunity to raise a proper defense. The sequel of the attack against the defense is a retreat back to the pre-1690s when defendants had very limited chances of being represented.

6) Jelinic, Z. (2018) explains the Croatian system of free legal aid in civil and administrative matters. The background of the system, its problems and deficiencies are firstly discussed. Primary attention is on the legal framework for legal clinics, their position within the system of legal education, the importance of their role within the system of free legal aid, types of legal assistance that legal clinics can provide and the way they are obtaining financial support for their operations. We shall also try to foresee the future of Croatian clinical legal education under the present normative scheme and propose some steps that, we firmly believe, have the actual capacity to promote further development of clinical legal education within the system of free legal aid.

7) Halai, A. (2016) explains the activities of legal clinics in Ukraine and also tries to analyze the indicators of the quality of their work. Theoretical categories that characterize the quality of their work have been investigated. Based on the results of the research, the models of evaluation of the activities of a particular

legal clinic have been compared with those of other legal clinics of the region, state and other states. Assessment tools used for evaluating the activities of the legal clinics have been described here in this article.

8)Cooke, E. (2022) explains the working culture of legal aid lawyers and develops a novel ‘Shared Orientation’ model to better understand contemporary legal aid work and its workers. Set within a context of changing professional identities, a shrinking industry and financial constraints, the paper draws on ethnographic and interview data conducted with a high-street firm, multiple courtrooms and a law centre. It examines the emerging relevance and applicability of this new conceptual lens, refocusing the gaze on working life in fissured legal workplaces. It is argued that the ‘Shared Orientation’ model upholds multiple functions. Firstly, it captures the cultural heterogeneity of the legal aid profession, across civil-criminal and solicitor-barrister remits alike. Secondly, the model functions as a form of cohesive coping mechanism in response to the changing professional identity of the legal aid lawyers. Moreover, the ‘Shared Orientation’ offers unity as a way of functioning in an otherwise fragmented profession through its preservation of working culture ideals.

9)Tushaus, D. W. (2015) explains the first is to provide a better legal education to students. The second is to provide access to justice in the community. This article will provide some background on the importance of both of these missions. We will then discuss the results of a study of legal aid clinics across India in 2012–13. Indian undergraduate law school students designed and conducted this study under the direction of Dr Shailendra K. Gupta and Fulbright-Nehru Scholar David Tushaus at Banaras Hindu University. The research team obtained both quantitative and qualitative data from legal aid clinic directors for a view of the state of clinical legal education in India at this time. The service learning process of forming the team and conducting the research is described here.

Findings show the global legal clinic movement has reached India. There are some excellent models for clinical legal education in India and abroad.

10)Cairns, R. (2013) explains the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) confirms the Sentencing Guidelines as the axiom of sentencing policy. This indicates the importance of probation services needing to respond proactively to this trend by ensuring offender managers (OMs) have a working knowledge of how to interpret and use the guidelines. Changes to community and suspended sentence orders simplify the pre-sentence assessment process and permit more OM discretion to allocate specific programmes to an offender post sentence based on need and present circumstance. The Rehabilitation of Offenders Act is returned largely to its original 1974 values and also extends the range of sentences eligible for rehabilitation. It is, however, the provisions relating to dangerous offenders and license release that contains the most significant changes. Sentences for public protection are abolished and replaced with the new ‘automatic’ life sentences (ALS) and extended determinate sentences (EDS).

11)Cooper, J. (1984) explains in this article, the new pressures placed upon legal services systems in different countries over the past few years through a combination of economic recession and political hostility. I seek to argue that, although the short-term effects of these pressures upon legal aid structures may well be very harmful, in the long term a number of benefits may accrue. I argue that there are three distinct ways in which legal services schemes can reap positive benefits from attack. First, cutbacks in

legal aid provide a real-life framework in which to test the validity of the theoretical and political critique of the philosophy of legal aid put forward by legal sociologists over the past decade; second, the need for a delivery system to be justified in terms of cost has led to surprising results that indicate the cost-effectiveness of more radical delivery models; third, economic restraint within the radical fringe of legal aid activity has itself stimulated a creativity of approach, and a forging of original and effective alliances, that would have been less likely in a more financially stable framework.

12) Hackler, J. (1992) explains the way in which legal aid services are provided can make a difference in the quality of that service. This paper argues that the fee-for-service model, which is profitable for lawyers, has considerable drawbacks for juvenile clients. By way of contrast, the Children's Court in Melbourne, Australia, illustrates how young, poorly paid lawyers can become skilled and effective in juvenile matters. Instead of going through the slow learning process experienced by new lawyers in the U.S. juvenile courts, and by duty counsels in Canadian youth courts, the young Melbourne lawyers take part in a training process that quickly familiarizes them with the subtleties of the system, gives them access to communication networks, and makes them part of a subculture that generates both competence and high morale. These young lawyers develop confidence and know that they are good at their job. In the Children's Court of Melbourne they accomplish more for their clients than the better paid, better dressed, higher status lawyers who occasionally appear in the juvenile system.

13) Brahams D, (2015) explains the original idea of Legal Aid, introduced in 1949, was to assist people who were too poor to pay for a decent lawyer if they were injured and sought to recover damages, or who had been accused of a significant criminal offense and did not fancy their chances with a "dock brief". But it has since been extended in scope to a range of situations, claims and disputes (as have "Human Rights" claims) that might have surprised its founders. It has burgeoned, often with small restraint on its mounting costs for the taxpayer, and caused unfairness to those at the other end of disputes who were not protected by insulation against costs that Legal Aid usually gives its clients. In a civil dispute, the test used to be if counsel considered that there was a reasonable chance of success for a hypothetical client of moderate means (later, the issue of proportionality was added).

14) Darin, C (2015) explains that Newman's research constitutes one of the largest ethnographic investigations into the health of the lawyer-client relationship under legal aid that has been undertaken within England and Wales in nearly two decades. Contextualized by the protracted political debate over appropriate remuneration for legally aided representation and motivated by a desire to counter the widely held stereotype of lawyers as greedy and self-centered, Newman endeavored to locate and highlight what he hoped would be countless instances of legal aid lawyers upholding and defending that most noble ideal of a democratic society: that justice requires the fair treatment of all before the institutions of the law. Unfortunately, despite giving the lawyers who participated in this study ample opportunity to demonstrate their allegiance to this ideal, Newman's research instead reveals a deeply troubling lack of respect for the dignity, humanity and autonomy of some of society's most vulnerable individuals – those who are both financially disadvantaged and criminally accused. Ultimately, the lawyers inadvertently condemned themselves through their own actions.

15) Desmond, M., (2013)- explains that The latter development has been accomplished by expansion of third-party policing policies; nuisance property ordinances, which sanction landlords for their tenants' behavior, are among the most popular. This study, an analysis of every nuisance citation distributed in Milwaukee over a two-year period, is among the first to evaluate empirically the impact of coercive third-party policing on the urban poor. Properties in black neighborhoods disproportionately received citations, and those located in more integrated black neighborhoods had the highest likelihood of being deemed nuisances. Nearly a third of all citations were generated by domestic violence; most property owners abated this "nuisance" by evicting battered women. Landlords also took steps to discourage tenants from calling 911; overrepresented among callers, women were disproportionately affected by these measures. By looking beyond traditional policing, this study reveals previously unforeseen consequences of new crime control strategies for women from inner-city neighborhoods.

16) Jordan, C. E. (2004)- explains that Nuisance property laws, which fine people for excessive 911 calls, have become increasingly popular in cities of all sizes. However, research into how these laws affect battered women is still in its early stages. This research study was designed to address the question of whether nuisance property laws harm battered women and, if so, how. Using a qualitative research design, in-depth semi-structured interviews were conducted with 27 primarily low-income African American battered women in the St. Louis metropolitan area who had come into contact with a nuisance property law because of domestic violence.

17) Hames, (2005)- explains that Women entering the court system face a challenging experience, in part, because a courtroom can be an intimidating and difficult place for any person, and in part because women victimized by crimes in which the offender is known to them face distinctive difficulties when they seek the court's remedies. The interface is also made more challenging for women as the literature offers disparate findings as to the efficacy of criminal justice responses and civil remedies. This article briefly explores the unique characteristics of intimate partner violence cases that influence the interface of these victims with the court system. A review is provided research on the criminal justice interventions in cases of intimate partner violence; and research on the efficacy of civil protective orders.

18) Wright, C. V (2009)- explains that Legal redress can play a critical role in interrupting the pattern of domination and control inherent in intimate partner violence (IPV), yet it remains an infrequent strategy among battered women. The current study employed a contextual framework for investigating the correlates for engagement in the criminal justice system for a sample of 227 sheltered battered women. Results indicated that individual, relational, and system-level factors were all associated with two legal help-seeking behaviors: having a civil protection order and criminal prosecution. In particular, posttraumatic stress disorder (PTSD) symptomatology, social support, and prior experience with police officers were significant correlates for legal help-seeking. Results highlight the need for a coordinated community response to IPV, addressing both legal needs and psychological needs simultaneously.

19) Chester, R. (1972)- explains that This paper examines the proposition advanced by some commentators that divorce petitioning in England and Wales fluctuates in accordance with the changing real value of legal aid. Direct evidence, from divorce figures and details of legal aid provision, is examined and shown not to fit the hypothesis. Indirect evidence drawn from Magistrates' Court proceedings and income

provision by the National Assistance Board also fails to support the proposition. It is concluded that the proposition is false, and that increased divorce petitioning reflects more fundamental social changes than amendments to legal aid provision.

20)Stoever, J. K. (2013)- explains that The dominant theories used in the law to explain domestic violence, namely, the Power and Control Wheel and the Cycle of Violence, provide only limited insight into intimate partner abuse. Both theories focus exclusively on the abusive partner's wrongful actions, consistent with recent decades' concentration on criminalization, but fail to educate about the survivor's needs and efforts to end violence. The Stages of Change Model, conversely, reveals that domestic abuse survivors seek an end to relationship violence through a five-stage cyclical sequence and identifies the survivor's needs and actions at each stage. This critical information should inform the representation of abuse survivors; however, this model remains unknown in the legal profession, and this article is the first scholarship to apply this model to lawyering. This article evaluates the contributions and shortcomings of the dominant models.

RESEARCH METHODOLOGY:

The present paper was analyzed through the non-doctrinal and empirical study descriptive method of research used for the study. . The present analysis was made through a convenient sampling where the survey was taken from common public, professionals, etc. The sample size in the present analysis is 223 samples. Research tools used in the present paper such as cross tabulation, chi-square and case summary and graphical representation were also used to analyze the study.

Independent variables:-

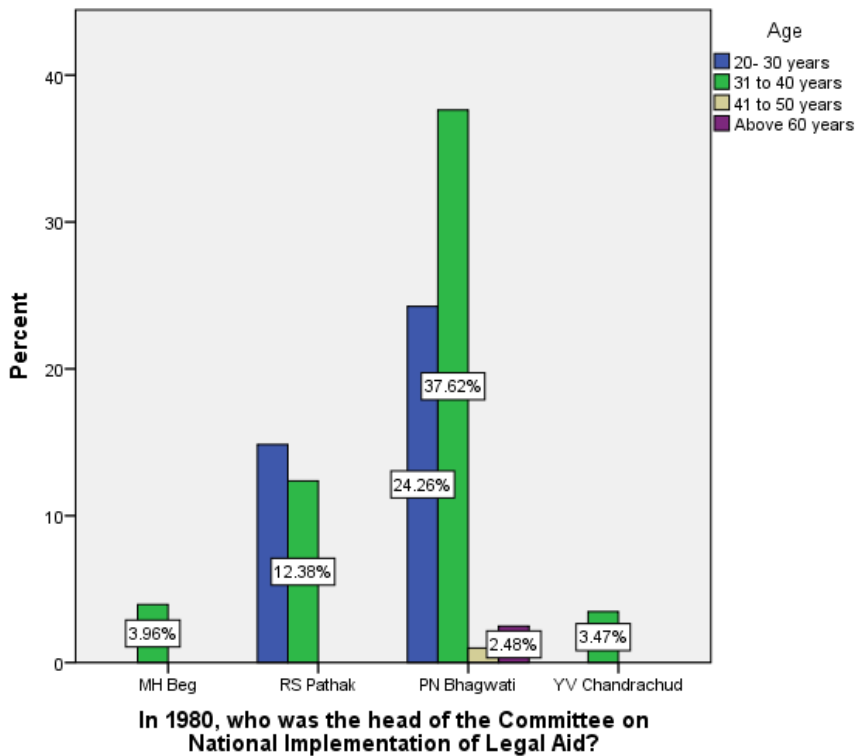
- Age
- Gender
- Marital status
- Educational qualification
- Occupation

Dependent variables:-

- In 1980 who was the head of the committee on national implementation of legal aid.
- Which of these categories is not entitled for free legal services.
- Whether legal aid facility is available to suits by indigent persons
- Do you agree that the legal aid facility is provided to the persons who are having an annual income of less than 5 lakh rupees
- Whether Article 39(A) of the Indian constitution guarantees the right to free legal aid services.
- On a rating scale of 1-10 rate the quality of standards of legal aid service provided for the people in India.

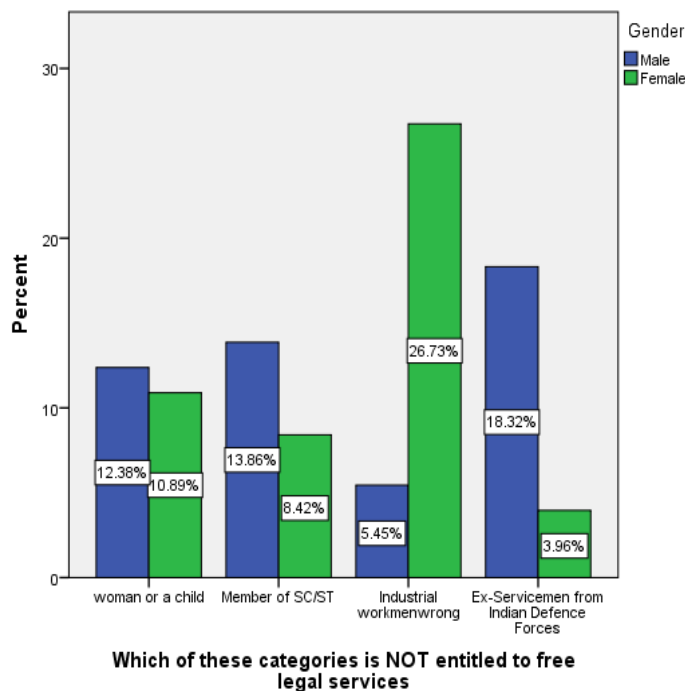
ANALYSIS AND INTERPRETATION:

GRAPH 1:



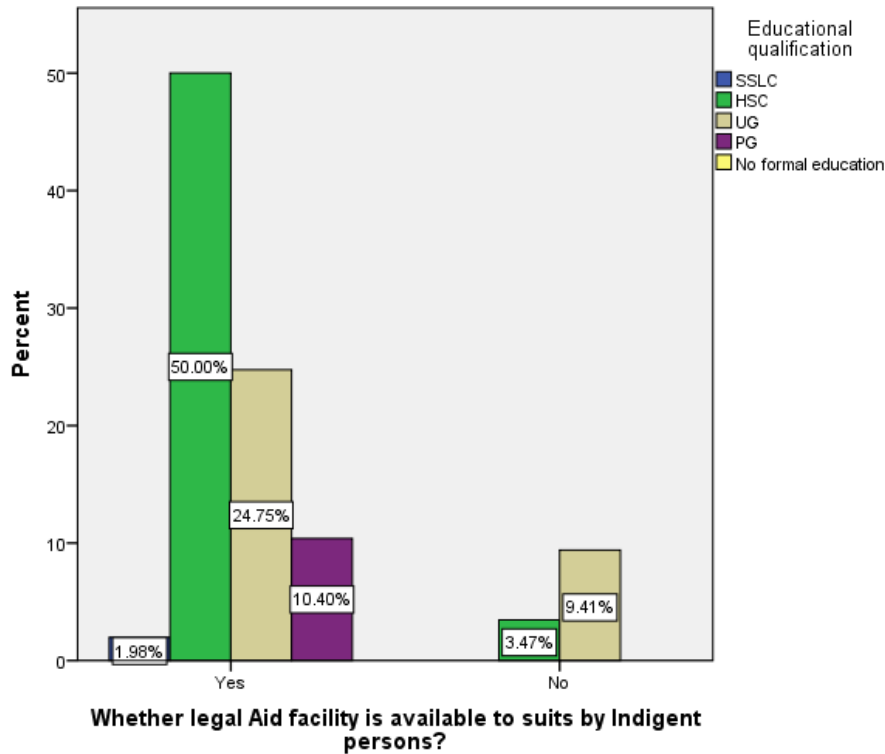
LEGEND-The graph 1 represents the relationship between the age and in 1980 who was the head of the commission on national implementation of legal aid.

GRAPH 2:



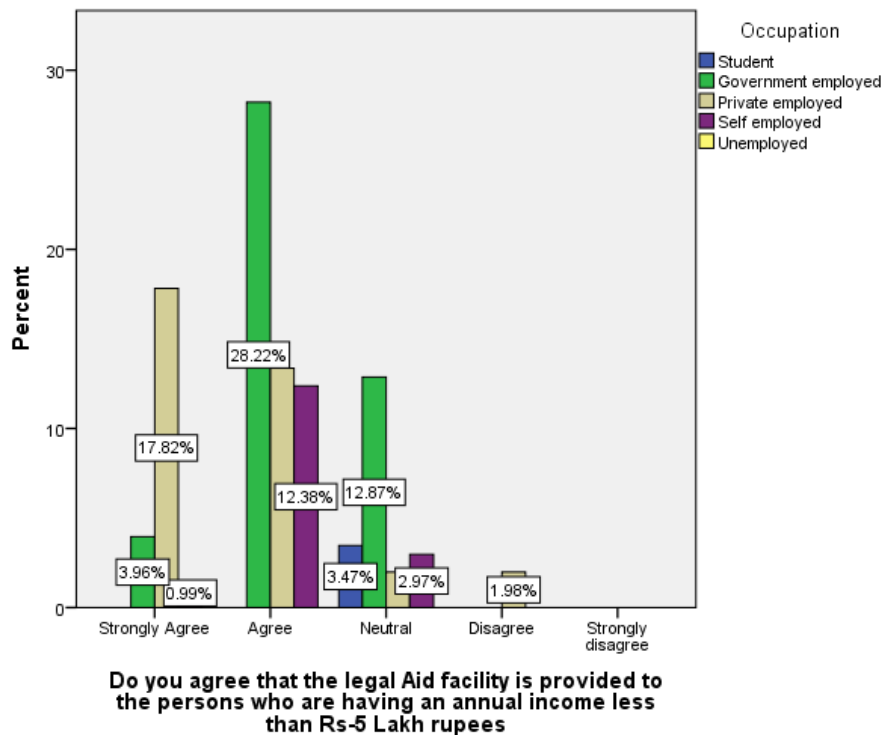
LEGEND-The graph 2 represents the relationship between gender and which of these categories is not entitled to free legal services.

GRAPH 3:



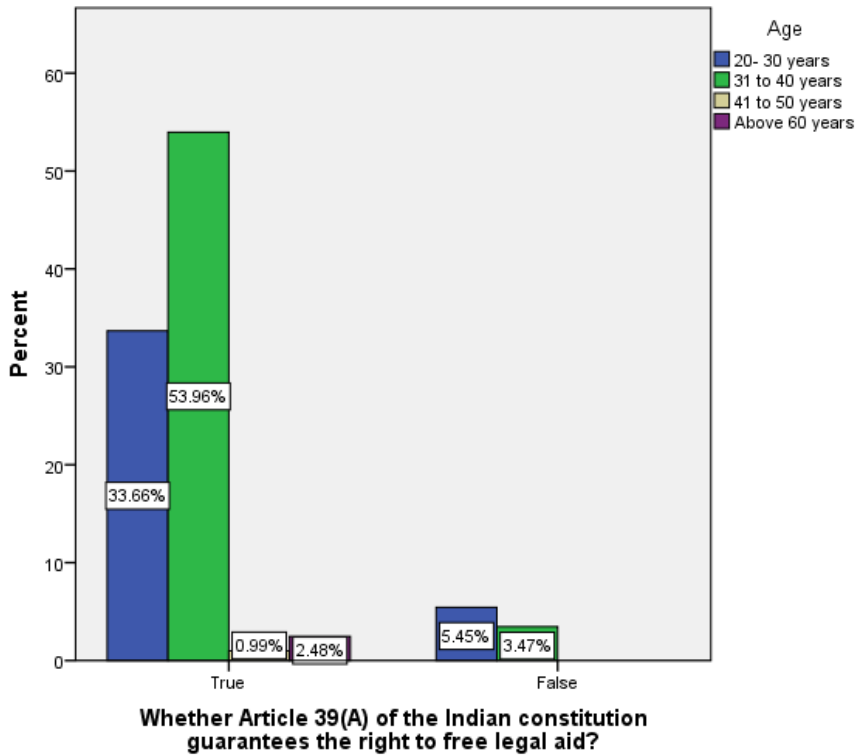
LEGEND- The graph 3 represents the relationship between education qualification and whether legal aid facility is available to suits by ingredient persons.

GRAPH 4:



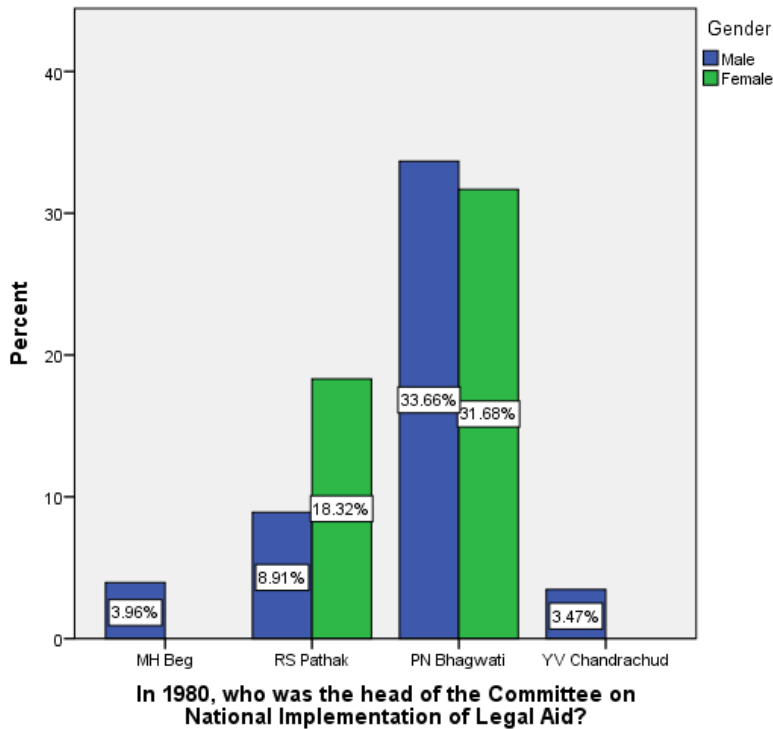
LEGEND- The graph 4 represents the relationship between occupation and do you agree that the legal aid facility is provided to the persons who are having an annual income less than 5 lac rupees.

GRAPH 5:



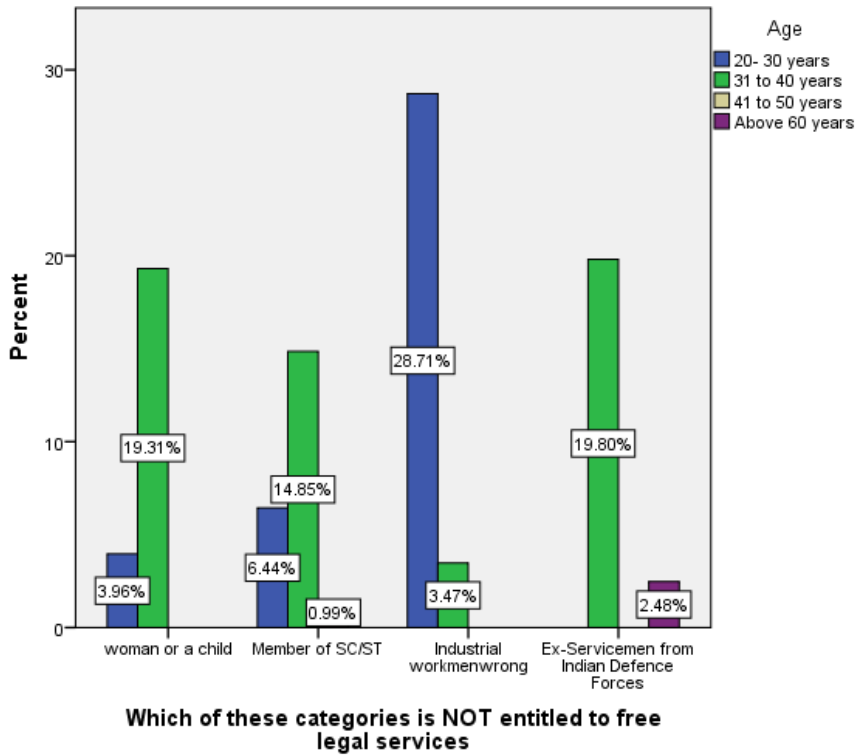
LEGEND-The graph 5 represents the relationship between age and whether article 39(A) of the Indian constitution guarantees the right to free legal aid.

GRAPH 6:



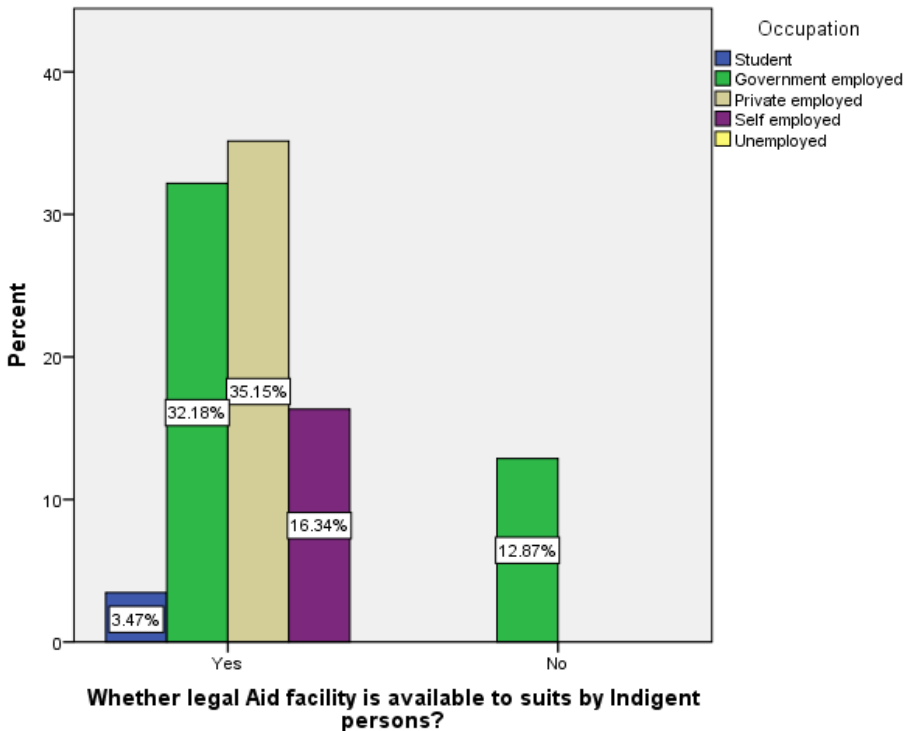
LEGEND- The graph 6 represents the relationship between gender and in 1980 who was the head of committee on national implementation of legal aid.

GRAPH 7:



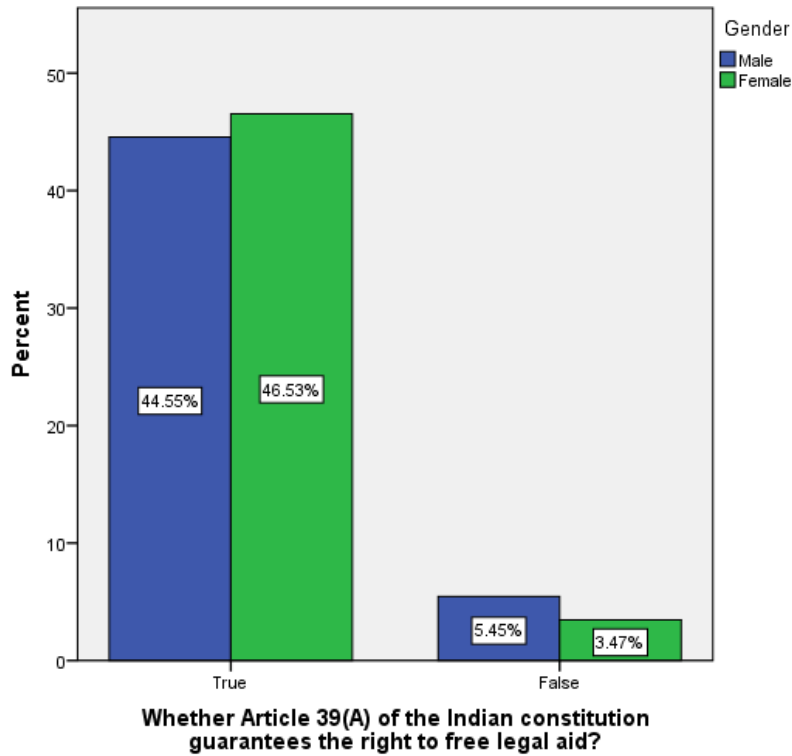
LEGEND-The graph 7 represents the relationship between the age and which of these categories is Not entitled to free legal services.

GRAPH 8:



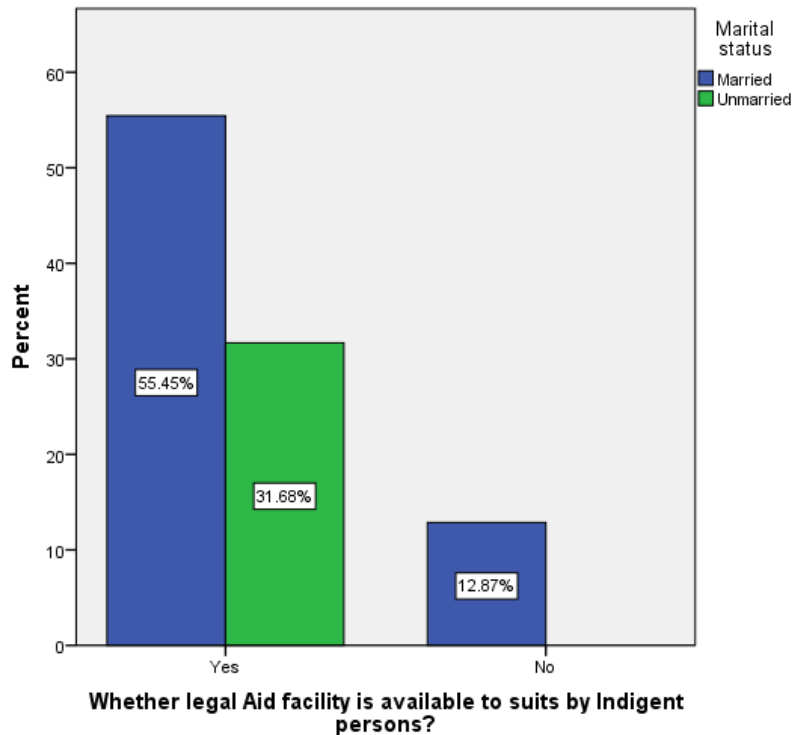
LEGEND-The graph 8 represents the relationship between the occupation and whether a legal aid facility is available to suits by indigent persons.

GRAPH 9:



LEGEND-The graph 9 represents the relationship between gender and whether article 39(A) of the Indian constitution guarantees the right to legal aid.

GRAPH 10:



LEGEND-The graph 10 represents the relationship between the marital status and whether legal aid facility is available to suits by indigent person.

RESULT:

Graph 1- The majority of 31-40 year old people say (37.62%) PN Bhagwati for the head of committee on national implementation of legal aid. **Graph 2-**The majority of female gender say industrial workmen wrong (26.73%)for the categories is not entitled to free legal services.**Graph 3-** The majority of HSC (50%) say yes for the legal aid facility is available to suits by indigent person.**Graph 4-**The majority of government employed occupation people(28.2%) say legal aid facility is provided the persons who are having an annual income less than 5 lakh.**Graph 5-**The majority of 31-40 years age group people (53.96%) say true for the article 39(A) of the Indian constitution guarantees the right to free legal aid service.**Graph 6-** The majority of male gender (33.66%) say PN Bhagavathi justice is the head of the committee of national implementation of legal aid.**Graph 7-**The majority of 20-30 years age group people (28.71%) say industrial workmen wrong is not entitled for the free legal aid services.**Graph 8 -**The majority of privately employed occupation people (35.15%) say legal aid facility is available to suits by indigent person.**Graph 9-**The majority of female gender people say (48.53%) true that the article 39(A) of constitution guarantees the right to free legal aid services.**Graph 10-**The majority of married people (55.45%) say yes for the legal aid facility available to suits by indigent persons.

DISCUSSION:

Graph 1-The majority of 31-40 year age group people has said JUSTICE PN Bhagavathi is the committee head for national implementation of legal aid, It may be true because the legal aid committee was introduced in the way of nation wide by him.**Graph 2-**The majority of female gender say industrial workmen wrong not entitled as legal aid, it may be true because the free legal aid is not provided to some exempted people where it mandated under the free legal aid services.**Graph 3-** The majority of 50% higher education qualification people say yes for the legal aid facility is available to suits by indigent person, it may be true because the school students has also got knowledge about the free legal aid facility.**Graph 4-** The majority of government employed occupation people say legal aid facility is provided the persons who are having an annual income less than 5 lakh,it may be true because the persons who are unable to appoint and lawyer for the case or the person is only allowed for free legal aid system in India. **Graph 5-** The majority of 31-40 years age group say that the article 39(A) of the Indian constitution guarantees the right to free legal aid service, it may be true because the people in the public are aware of the free legal aid system available in India by the constitutional provision 39(A). **Graph 6-** The majority of male gender say PN Bhagavathi justice is the head of the committee of national implementation of legal aid, it may be true because the justice PN Bhagavathi struggled to establish the free legal aid system for people who are poor in economic status to seek justice.**Graph 7-**The majority of 20-30 years age group people say industrial workmen wrong is not entitled for the free legal aid services, it may be false because the free legal aid service has only one condition that the free legal aid is Avis liable to person having annual income less than 5 lakh rupees are Eligible for getting legal aid facility.**Graph 8 -**The majority of privately employed occupation people say legal aid facility is available to suits by indigent person, it may be true because the indigent person satisfies the condition of free legal aid system facility. **Graph 9-**The majority of female gender people say that the article 39(A) of the constitution guarantees the right to free legal aid services, it may be true because many people in the society are aware of the free legal aid system in India.**Graph 10-**The majority of married people say yes for the legal aid facility available to suits by indigent persons, it may be true because the free legal aid system is enabled for the indigent person especial..

CONCLUSION:

The legal aid movement in India, the government needs to take an applicable way by spreading mindfulness and educating the people about their introductory abecedarian rights. The only ideal or end of the government should be to give ‘ equal justice to all ’. The Legal Services Authority Act needs proper perpetration, by addressing the major problem or issue of lack of mindfulness and legal education among the people. However, etc, If people are educated and apprehensive of the rights there will be proper utilization of free legal aid services. Due to all this, it leads to the exploitation of rights and privation of rights by the indigent bones .There should be proper operation and monitoring of the legal aid services

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