

# Legal Aid and Criminal Justice Reform: Advancing Fairness and Equity

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## ABSTRACT

This paper discusses significant contribution that legal aid and criminal justice reform makes to ensure that the legal justice system is fair and equitable. Although several improvements have been made, criminal justice system still suffers from inequalities and discrimination that mainly affect those who are considered weaker segments of society. The research paper discusses the historical frame of legal aid and outlines the development of fairness and equity in justice, while laying concern on the problems of access to the legal aid and consequences of an unfair justice system. The present review of proposed and implemented reforms including bail, sentencing and policing reforms aims to cover experiential lessons from other jurisdictions. Moreover, the functions of legal aid services with respect to criminal justice reforms will be in the spotlight, highlighting the necessity of legal representation to achieve fair outcomes. The research ends with the analysis of the societal profitability of the reform and offers some policy recommendations to be implemented in future. Through incorporation of case studies, statistics and international perception, this study is aimed at giving ideas on best ways to the most just legal system.

**Keywords:** Legal Aid, Criminal Justice Reform, Fairness, Equity, Access to Justice, Inequalities in the justice system, Bail Reform, Vulnerable, Racial Bias, Socio-Economic Bias, Gender Bias, Wrongful Convictions, Legal Representation

## I. Introduction

India has in its legal system a conception of legal aid, of criminal justice reform, as well as fairness and equity and they are the most important concepts.<sup>3</sup> The evolution of legal aid in India has been phenomenal as it is a perfect marriage of the two systems: 'charity-based regime' and 'utilitarian model' which stresses on the instantaneous need to ensure maximum liberty through 'access to justice'. The paper on legal aid under India finds the status quo deficient for the control has not been exercised in handling the details well by lawmakers and this has led to inadequate compensation for the advocates as well as a lack of incentives for the practiced ones to appear pro bono in courts. Now, after this situation lawyers have a dilemma of choosing what they really need, and introduce some unprecedented duties

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<sup>3</sup> Sushant Chandra and N. Solanki. "LEGAL AID IN INDIA: RETUNING PHILOSOPHICAL CHORDS." *BRICS Law Journal*, 2 (2016): 68-85. <https://doi.org/10.21684/2412-2343-2015-2-2-15-21>. without enjoying the income to compensate all of them.<sup>4</sup>

However, the rights of the people involved in the criminal justice system such as police, suspects, accused persons, and prisoners, are put into provision and are protected under the Constitution of India. The compensation of victims and their dependents was not a significant function of criminal law until the end of the 20th century.<sup>5</sup> Nevertheless, there is a context of change as the Code of Criminal Procedure was amended with compensations considered through the scheme to implement comprehensive justice to victims of crime. Through their fervor judicial activism the Supreme Court has acted as a catalyst in changing the original position of the courts (which used to opt for not awarding monetary compensations for violation of fundamental rights) towards offering monetary compensations for violation of such fundamental rights. Such turn has resulted in development of Compensatory jurisprudence and this field has expanded the scope including payments to victims of the Criminal System which consists of accused, suspects, and prisoners. The plea of sovereign immunity has been adjudicated in negative by the court of law and the efficacy of fundamental rights and the need of awarding of monetary damages as compensation have been enforced.<sup>6</sup>

#### A. Definition of Terms Integral Concepts

- 1. Legal Aid:** Legal aid stands for rendering free or low-cost legal services to those who can't pay for their legal representation. It is the way to guarantee that a person should have justice and equal trial under the law, regardless of his or her economic status.<sup>7</sup>
- 2. Criminal Justice Reform:** The aim of criminal justice reform consists in increasing effectiveness, fairness, and justice value of the criminal justice system. This could be, for instance, the reconstruction of legislation, policies, approaches, and practices, in order to respond to various matters like, but not limited to, discrimination, inequality, and inadequacy within the system.<sup>8</sup>
- 3. Fairness:** The fairness concept means the unbiased and just treatment of the person, confirming that everyone enjoys equal rights and equal chances under the law.<sup>9</sup>

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<sup>4</sup> J. Goddeeris. "Compensating Differentials and Self-Selection: An Application to Lawyers." *Journal of Political Economy*, 96 (1988): 411 - 428. <https://doi.org/10.1086/261544>.

<sup>5</sup> Vijesh Bhanwarlalji Munot. "RIGHTS OF ACCUSED, SUSPECTS AND PRISONERS AS VICTIM OF CRIME UNDER CRIMINAL JUSTICE SYSTEM OF INDIA." *International Education and Research Journal*, 3 (2017).

<sup>6</sup> J. Finke. "Sovereign Immunity: Rule, Comity or Something Else?." *European Journal of International Law*, 21(2010): 853-881. <https://doi.org/10.1093/EJIL/CHQ068>.

<sup>7</sup> Eric F. Schweinburg. "Legal Assistance Abroad." *University of Chicago Law Review*, 17 (1950): 3. <https://doi.org/10.2307/1597994>.

<sup>8</sup> Aaron Gottlieb. "The Effect of Message Frames on Public Attitudes Toward Criminal Justice Reform for Nonviolent Offenses." *Crime & Delinquency*, 63 (2017): 636 - 656. <https://doi.org/10.1177/0011128716687758>.

<sup>9</sup> Barry M. Goldman and R. Cropanzano. "'Justice' and 'fairness' are not the same thing." *Journal of*

Organizational Behavior, 36 (2015): 313-318. <https://doi.org/10.1002/JOB.1956>.

**4. Equity:** 'Equity' is a concept of justice where justice is determined based on the individual's specific needs and unique circumstances, taking into consideration factors such as the socioeconomic level, race, gender and other vulnerable groups in society.<sup>10</sup>

**A. Addressing the state where the criminal justice system falls behind:** In the India, the system of criminal justice is facing multiple issues that hamper its performance in guaranteeing the fairness and justice. The feasibility of dealing with these obstacles in criminal justice system may range from the processes which take too long, full prisons with not enough free places for keeping newly convicted criminals, wherein the legal representation of socially disadvantaged communities is inadequate to the existing systematic biases in police and judiciary.<sup>11</sup> The consequence is that the individuals from the deprived backgrounds have to face the disproportionate difficulties in mounting cases. Hence, access to justice becomes biased and unjust with an unequal tendency, consequently resulting in injustice and inequalities within the system.

**B. Statement of purpose:** In the existing criminal justice framework, legal aid and criminal justice reform constitute top priorities to address the discrimination and imbalances which currently exist in the Indian approach to justice.<sup>12</sup> Through legal aid, disadvantaged people can benefit through giving them the opportunity to be represented in their courts of law, to defend their rights and seek for justice.<sup>13</sup> Concurrently, justice reform programs strive to tackle systemic problems like discrimination and ineffectiveness, allowing for a system that is more just and fair for everyone.

Therefore, legal aid and criminal justice are crucial in accelerating the fairness and justice movements in the Indian judicial system. Through the implementation of particular strategies and reforms, India will be able to take steps towards a society where equity and justice reign and where all citizens may have equal rights and opportunities under the law.

## 2. Historical Context

The act legal aid in India can be ascertained from colonial and post colonial era when the British introduced the idea of giving legal advice to the people who cannot afford itself

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<sup>10</sup> M. Deutsch. "Equity, Equality, and Need: What Determines Which Value Will Be Used as the Basis of Distributive Justice?." *Journal of Social Issues*, 31 (1975): 137-149. <https://doi.org/10.1111/J.1540-4560.1975.TB01000.X>.

<sup>11</sup> Divya B. Raviya and Dilip Mevada. "AN ANALYTICAL STUDY ON PUNITIVE AND RESTORATIVE JUSTICE UNDER CRIMINAL LAW IN INDIA." *Towards Excellence*. <https://doi.org/10.37867/te140279>.

<sup>12</sup> Ajit. "Criminal Justice System in India: Analytical Study." *SEARCH REVIEW International Journal of Multidisciplinary Research* (2023). <https://doi.org/10.31305/rrijm.2023.v08.n08.034>. (2022).

<sup>13</sup> Imane Chaara, Jean-Benoît Falisse and J. Moriceau. "Does legal aid improve access to justice in 'fragile' settings? Evidence from Burundi." *Journal of Peace Research*, 59 (2022): 810 - 827. <https://doi.org/10.1177/00223433211055633>.

through the Legal Aid and Advice Act, 1949.<sup>14</sup> Nevertheless, after the independence it was the subsequent process that led the legal aid to gaining grounds when the legal aid boards were established together with schemes that offered free legal services to the underprivileged segment of population.<sup>15</sup> In addition, the Indian justice system developed through ages under influence of indigenous legal traditions and culture followed by the colonialism. Through the British introduced adversarial concept and legislation, which are still being used in the Indian criminal justice system today.<sup>16</sup> Through the years, a lot of changes have been made to target the backlog of cases in the court system, free up prison cells, and address the inequality in access to justice.

The idea of the unbiased legal system that provides for equal justice under the law has undergone a profound transformation over the time, showing different trends of social norms and law philosophies, arguing methodical disputability and jurisprudence.<sup>17</sup>

1. Firstly, the legal systems implemented the concept of procedural justice, which harmonized with the idea that an individual must undergo a fair trial based on what had been outlined as rules and principles.<sup>18</sup>
2. Although, progress in human rights discourse and movement towards social justice resulted in the figurative change of concepts of equality and fairness to their substance and equity meaning.<sup>19</sup> The progress in this direction has brought the emergence of the concepts of socio-economic rights, nondiscrimination principle, and the necessity to tackle the pervasive inequalities within the scope of the law.<sup>20</sup>
3. Previous reforms of the Indian justice system focused on increasing the efficacy, accessibility, as well as impartialness. The reforms have taken the form of amendments in the legislation, procedural changes and improvement of the institutions.<sup>21</sup>

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<sup>14</sup> Legal Aid and Advice Act, 1949, c. 51 (U.K.).

<sup>15</sup> Kong Fan-hua. "The Essence and Developing Tendency of Legal Aid." (2006). *Tianshui College of*

<sup>16</sup> Sandra B. Freitag. "Crime in the Social Order of Colonial North India." *Modern Asian Studies*, 25 (1991): 227

- 261. <https://doi.org/10.1017/S0026749X00010660>.

<sup>17</sup> T. McMahon. "Transforming Justice: A Conceptualization." *Business Ethics Quarterly*, 9 (1999): 593 - 602. <https://doi.org/10.2307/3857937>.

<sup>18</sup> K. van den Bos, R. Vermunt and Henk A M Wilke. "Procedural and distributive justice: What is fair depends more on what comes first than on what comes next.." *Journal of Personality and Social Psychology*, 72 (1997): 95-104. <https://doi.org/10.1037/0022-3514.72.1.95>.

<sup>19</sup> Colleen E. Sheppard. "Mapping Anti-Discrimination Law Onto Inequality at Work: Expanding the Meaning of Equality in International Labour Law." *International Labour Review*, 151 (2012): 1-19. <https://doi.org/10.1111/J.1564-913X.2012.00132.X>.

<sup>20</sup> R. Yepes and S. Hernández. "Inequality, Human Rights, and Social Rights: Tensions and Complementarities." *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 10 (2020): 376 - 394. <https://doi.org/10.1353/hum.2019.0028>.

<sup>21</sup> Манси Дубей. "PROBLEMS OF ACCESSIBILITY TO JUSTICE AND LITIGATION IN INDIA." , 17 (2021): 212-216. <https://doi.org/10.33184/PRAVGOS-2021.1.17>.

Consequently, the development and application of additional resolution methods like mediation or arbitration help in re-distributing the load on courts and this way speeds up dispute resolution.<sup>22</sup>

Moreover, the improvement in the legal aid set-up, juridical literacy and judicial responsibility are all being enhanced. Although some transformations have yielded positive outcomes like immediate disposal of cases and access to justice for people that are disadvantaged, the obstacles of implementation, resource constraints, and systemic biases complexity cannot be overlooked.

### 3. Research Methodology

This research study utilizes the only approach which is a secondary data sources based, such as books, articles and yearbooks. A detailed analysis of literature review on institutional legal aid, criminal justice system, and the development of fairness and justice in the legal system to foster a preliminary idea of the historical background and theoretical aspect for the research. Bridgework represented by textual analysis in synchronization with concluding up of the main ideas of sources from academic articles will be the primary research analysis and discussion models.

### 4. Research Questions

1. How legal aid services have developed in India, and what milestones and obstacles it encountered during its operation?
2. What are the historical background and evolution of judiciary in India, how much have the past reforms influenced it and what is the current scenario?
3. How has the notion of justice and the quest for equity in the judicial system developed through ages, and what impacts does it have on access to justice and human rights?
4. What have been the repercussions of past law reforms on efficiency, avails, and fairness of Indian justice system especially the communities which are underprivileged?

1. What are the major insights obtained from the past reforms, and what approaches could be used to tackle current challenges and to establish the justice as well as equity in the Indian legal system?

<sup>22</sup> Stipanowich, T. (2004). ADR and the 'Vanishing Trial': The Growth and Impact of 'Alternative Dispute Resolution'. *Journal of Empirical Legal Studies*, 1, 843-912. <https://doi.org/10.1111/J.1740-1461.2004.00025.X>.

### 5. Literature Review

The intersection of legal aid and criminal justice reform is a critical element of research investigating fair and equitable systems of law all over the globe. Legal aid, as a principle to accessing justice, is an element that puts foundations on strengthening social classes affected and applying system practices towards fairness in criminal justice.

#### 1. Legal aid and access to justice:

The empirical study by Dehaghani and Newman (2021) phlegmatically show the effects of cutting funds on legal aid on the well-being of both the legal professionals and their clients. Such research emphasizes the role of law aid provision in reinforcement of access to justice. It shows how the cuts to funding degrade quality of client's representation as well as have rippling effects on the integrity of the criminal justice system. It is the central element of the philosophy through which we can see the significant contribution that legal aid services have for those who are in need and for promoting a balanced justice society.<sup>23</sup>



## 2. Educational Models and Equity:

The Gardner et al. (2023) study look into the possible adjustments of transfer learning across institutions, which center on their model performances, fairness, and equity. Such a research will be relevant for those who want to get an insight into the educational approaches in legal education aimed at democratizing legal education services and making the system more just and fair. The results indicate that justizations are advanced through implementing equitable education methods in legal aid which contributes to more effective and just legal practitioners, that is, it's key to equity in the criminal justice system.<sup>24</sup>

## 3. Bureaucracy, Fairness, and Social Justice:

Meier (2023) describes Bureaucracy, bias, fairness and efficiency representational of social equity and bureaucracy relationship are investigated by him. This paper offers input into the literature by giving the effect that bias and other institutionalise the prejudice present in legal or administration systems that affect fairness and the essentiality of the legal process. It is thus essential to understand the connection between these phenomena and build criminal justice systems which are not only just but also efficient.<sup>25</sup>

## 4. Genomics Governance and Ubuntu:

Genomics governance as an African communitarian ethic concept which is known as Ubuntu is promoted by Munung et al. (2021) in pursuit of these three dimensions: justice, fairness, and equity. Whilst obvious, this research shows that reviewing and improving our legal systems, we need to have a sensitivity and achievement of

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<sup>23</sup> Dehaghani, R., & Newman, D. (2021). Criminal legal aid and access to justice: an empirical account of a reduction in resilience. *International Journal of the Legal Profession*, 29, 33-52.

<sup>24</sup> Gardner, J., Yu, R., Nguyen, Q., Brooks, C. A., & Kizilcec, R. F. (2023). Cross-Institutional Transfer Learning for Educational Models: Implications for Model Performance, Fairness, and Equity. *Proceedings of the 2023 ACM Conference on Fairness, Accountability, and Transparency*.

<sup>25</sup> Meier, K. (2023). Representative Bureaucracy and Social Equity: Bias, Perceived Fairness and Efficacy. *Journal of Social Equity and Public Administration*. the community ethics and values. Ubuntu principles that give prominence to the communal aspect of the society would help in making sure that people from one community receive equal treatment under the justice system without bias and irrespective of their groups affiliation.<sup>26</sup>

## 5. Legal assurances and free secondary legal aid.:

Shatrava et al. (2023) perceive the legal safeguards of lawyers acting free of charge with the object of rendering the secondary legal aid inside the administrative court. The legal aid service improvement is referred to this research as a remark of a chance and a challenge that will help to ensure equitable access to justice. The study results will assist in the enactment of the legislation for the reassurance of the legal aid provisions and administrative reforms in establishing a better mechanism that is fair and allows more efficiency in the legal aid services.<sup>27</sup>

The legal and judicial fabric of India is characterized by an enormous population, multifaceted socio-cultural effects, and significant economic differences which all in their own way forms the main roadblock in implementing the system of Legal aid, and the functioning of the criminal justice system. The connection between the legal services and criminal justice reform in India cannot be separated from

the aim of providing access to justice for all, and as well as resolving the social problem that hinder the fairness in the justice system.

**1. Legal Aid in India: Dilemmas and Advances:** In India the legal aid is administered by means of the Legal Services Authority Act, 1987, which aims at provision of free legal service to deserving sections of society.<sup>28</sup> Nonetheless, the law's foundations have not always been enough, and the magnitude and performance of legal aid programs regularly become a topical issue. Research indicates that there are a number of obstacles such as ignorance among population about legal aid programs, limited resource and the kind of a legal representation one gets.<sup>29</sup> But technology made its way to legal aid and amid the proliferation and legal literacy campaigns and the creation of Lok Adalats (people's courts) for Alternative Dispute Resolution which in turn have minimized case backlog and made justice more available to everyone.<sup>30</sup>

**2. Criminal Justice Reform: Recognizing and Confronting the Systemic Biases:** Indian criminal justice scheme is often criticized for being biased, slow and ineffective which

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<sup>26</sup> Munung, N. S., de Vries, J., & Pratt, B. (2021). Genomics governance: advancing justice, fairness and equity through the lens of the African communitarian ethic of Ubuntu. *Medicine, Health Care and Philosophy*, 24, 377-388.

<sup>27</sup> Shatrava, S., Vylkov, S., Sobol, Y.Y., Maksymenko, N., & Zelenko, I. (2023). Legal guarantees of lawyers' activities with respect to the provision of free secondary legal aid in the administrative court system. *Cuestiones Políticas*.

<sup>28</sup> Legal Services Authority Act, 1987.

<sup>29</sup> Pamungkas Satya Putra, Rani Apriani, Bambang Sutedja, Adyanata Lubis and Wahyu Utamidewi. "Management of Legal Aid the Challenges in Guarding Law and Justice." (2020): 332-337. <https://doi.org/10.2991/AEBMR.K.210311.066>.

<sup>30</sup> Riya Sil, Alpana and Abhishek Roy. "A Review on Applications of Artificial Intelligence Over Indian Legal System." *IETE Journal of Research*, 69 (2021): 6029 - 6038. <https://doi.org/10.1080/03772063.2021.1987343>.

creates doubts whether justice can be executed equally for all in the country.<sup>31</sup> Changes occur around police realm, forensic science, and the simplification of the judicial system processes.<sup>32</sup> Research has evidenced the necessity for broad-based reforms that touch on the fundamental factors of the delays and biases among citizens, for example, custodial interrogations, noncustodial methods that are not well utilized, and agency law enforcement need training and increased resources.<sup>33</sup> Apart from these, the role of technology in criminal justice system has been utmost mentioned particularly in the e-courts and virtual hearings which have been in the limelight especially due to covid-19 pandemic.<sup>34</sup>

**3. Socio-Legal Exploration and Policymaking:** The social-legal issues related to legal aid and the criminal justice reform in India have been researched to the extent of providing the insights of the specific socio-cultural and economic conditions of the country.<sup>35</sup> The research has put forward the idea of an integrated approach about the role of gender, caste, class and religion in justice and the overall hurdles encountered by the lower classes and marginalized groups.<sup>36</sup> Policies are developing with a growing understanding that the rule of law is no longer an acceptable justification for changes unattended to cultural and social sensitivities.

The literature review has set forth several future directions pertaining to improving effectiveness of legal aid and reforming the criminal justice system in India. The main objective of this research is there is the rise in community involvement and the justice process participation, the utilization of the modern technology to improve the public access and the operational efficiency of the system as well as development of the comprehensive approaches that includes the crime prevention programs, rehabilitation and reintegration measures. In addition, it is necessary to assign more research and data-related practices to policy-directed actions for better understanding and evaluating reforms.

Legal aid is one of key element of criminal justice in India that necessitates intervention to bring justice, equality and fairness. Whilst still facing many shortcomings, the enactments to better legal aid systems and reform the criminal justice system are encouraging signs of an emerging consciousness that everyone deserves justice. The ongoing research, policy-making, and the execution of the reforms must be based on the problems in the socio-legal system of India to make the justice system more sensitive to the needs of its population throughout several classes and castes.

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<sup>31</sup> E. Maguire, Gregory J. Howard and G. Newman. "Measuring the performance of national criminal justice systems." *International journal of comparative and applied criminal justice*, 22 (1998): 31-59. <https://doi.org/10.1080/01924036.1998.9678607>.

<sup>32</sup> S. Kassin, I. Dror and Jeff Kukucka. "The forensic confirmation bias: Problems, perspectives, and proposed solutions.." *Journal of applied research in memory and cognition*, 2 (2013): 42-52. <https://doi.org/10.1016/J.JARMAC.2013.01.001>.

<sup>33</sup> Hayley M. D. Cleary and T. C. Warner. "Police training in interviewing and interrogation methods: A comparison of techniques used with adult and juvenile suspects.." *Law and human behavior*, 40 3 (2016): 270-84. <https://doi.org/10.1037/lhb0000175>.

<sup>34</sup> Sandhy Handika and Muh. Ibnu Fajar Rahim. "'Virtual Court' in the Perspective of Criminal Procedure Code." <https://doi.org/10.24940/ijrd/2020/v9/i6/jun2020068>. *Research and Development*

<sup>35</sup> S. Chaudhary. "Indian Criminal Justice System and Human Rights." *International Journal for Advance Research and Development*, 3 (2018): 271-274. (2020).

<sup>36</sup> Supurna Banerjee and Nandini Ghosh. "Caste and Gender in Contemporary India." (2018). <https://doi.org/10.4324/9780429434099>.

## 2. The Role of Legal Aid in Promoting Fairness and Equity

The evolution of legal aid services in India is a story made up with a number of very important milestones and with its shares of the existing and needed problems of the developing state of the Indian legal system and the fight of all people for better equity and justice. The Legal Services Authorities Act, 1987, which represents to legal aid as an Institution, can be considered as a reform with respect to law that focuses on democratizing access to justice.<sup>37</sup> Through this, the social or economic disadvantage of an individual is no longer a barrier to justice. This initiative has run into problems, such as financing gaps and awareness levels, which it has overcome by reaching out to the marginalized communities by



promoting justice and equity in the judicial process.<sup>38</sup>

The inception of Indian judiciary during colonization and the subsequent reforms after independence have undoubtedly played a significant role in defining the present edifice and spirit of the system.<sup>39</sup> The British legal system, focusing on the universal principles of justice, equality, and merit, paved the way for the formation of the foundation which was later built upon, incorporating elements of the Indian heritage to establish an autonomous nation with its own aspirations.<sup>40</sup> In the wake of these reforms came further changes that tried to get rid of the colonially-rooted systems like the model that made the judiciary less accessible and sensitive to the needs of a complex and crowded country.<sup>41</sup> These reforms that have been historically based led to more just and equitable societies and, vice versa, they set standards and norms that highlight the roles of rule of law and equity in society.

The understanding of fairness and the striving for equality has been changing with the ages and its impact has been impressively big that it even went past the boundaries of sociopolitical life and reached philosophical horizons.<sup>42</sup> In Buddhism, the pursuit of justice, dramatically changes in India during the historic process of new ideas coming in and old ideas going out, which always involves the effort to align and match the basic traditional values with the imperatives of the current modern legal system in order to ensure that justice is not just a beautiful theory but a practical reality accessible to all.<sup>43</sup> Achieving this goal rehashes the aspect of justice and rights for all and reminds us that legal services and court reforms that close the gaps within the society are paramount for the society to not leave the

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<sup>37</sup> Supra Note. 28.

<sup>38</sup> P. Pleasence and N. Balmer. "Justice & the Capability to Function in Society." *Daedalus*, 148 (2019): 140-149. [https://doi.org/10.1162/daed\\_a\\_00547](https://doi.org/10.1162/daed_a_00547).

<sup>39</sup> Gordon S. Wood. "The Emergence of the Judiciary." *Power and Liberty* <https://doi.org/10.1093/oso/9780197546918.003.0007>. (2021).

<sup>40</sup> Sandria B. Freitag. "Crime in the Social Order of Colonial North India." *Modern Asian Studies*, 25 (1991): 227 - 261. <https://doi.org/10.1017/S0026749X00010660>.

<sup>41</sup> L. Davies. "Justice-sensitive education: the implications of transitional justice mechanisms for teaching and learning." *Comparative Education*, 53 (2017): 333 - 350. <https://doi.org/10.1080/03050068.2017.1317999>.

<sup>42</sup> L. Davies. "Justice-sensitive education: the implications of transitional justice mechanisms for teaching and learning." *Comparative Education*, 53 (2017): 333 - 350. <https://doi.org/10.1080/03050068.2017.1317999>.

<sup>43</sup> Kwon and Jin-kwan. "Justice and Subject in Christianity and Buddhism." *Modern Theology: Journal of Contextual Theology*, 19 (2013): 43-61.

underprivileged and marginalized communities behind.<sup>44</sup>

The lasting effects of former law reforms on the efficiency, adequacy, and justice of the Indian justice system have been deep, with the most adverse impacts on the impoverished sections of the population.<sup>45</sup> The reforms are in place for the purpose of improving the systems' efficiency and fairness but difficulties still remain, for instance, slowness in the system of justice dispensation, inadequate sources for the poor who don't have access to justice, and unfairness due to the biases in the system.<sup>46</sup> These

challenges become the basis for the necessity of the legal environment's continuous revision and adaptation to answer the stringent requirements of equality for each citizen.

The experiences from past reforms bring forth the reality that it is quite complex to establish justice and the aspect of the support of the equity within the broad and diverse legal environment that exists in India. In order to tackle the existing issues and achieve the desired future aspirations the multidimensional approach that involves legal education promotion, the improvement of legal aid services, using technologies for the broader participation of society as well as the implementations of the reforms that consider the condition of the weakest must be implemented. Setting the example from the past and interceptively engaging with the current issues India can aspire to come near the idea of the fair and impartial legal system which protects the lives of everyone.

### Challenges within the Current Criminal Justice System

The battle against the injustice, inequality and unfairness in the criminal justice system is highly complex as it involves analyzing the interplay of the constitution, the laws and the judicial rulings in the country. Indian's constitution, which is seen as the basic law in the country, grants rights to everyone and disallows discrimination on any basis such as religion, race, caste, gender or the place where a person was born (Articles 14 - 15).<sup>47</sup> Along with these constitutional provisions, racial, socio-economic, and gender biases are as well present in criminal justice system, so these discrepancies are made through the area of arrests, convictions, and sentences.

Next, foregoing inadvertent biases have become severe in the scenario of wrongful convictions and wrongful sentencing. This is aggravated by incompetent legal defense and procedural errors. The Indian Penal Code, 1860<sup>48</sup> and the Code of Criminal Procedure, 1973<sup>49</sup> are the pillars of criminal proceedings in Australia, but in some cases the legislation does not

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<sup>44</sup> Vanshika Shukla. "Pathways to Justice: Expanding Access for Everyone" (2023). *Asian Law & Policy*. <https://doi.org/10.55662/alpr.2023.803>.

<sup>45</sup> Daniel M. Brinks and V. Gauri. "The Law's Majestic Equality? The Distributive Impact of Litigating Social and Economic Rights." 9450-5999. (2012). <https://doi.org/10.1596/1813->

<sup>46</sup> J. Botero, R. La Porta, Florencio López de Silanes, Andrei Shleifer and A. Volokh. "Judicial Reform." (2003). *Institutional Economics*. <https://doi.org/10.1093/wbro/lkg005>.

<sup>47</sup> Constitution of India, 1950, art. 14-15.

<sup>48</sup> Indian Penal Code, 1860.

<sup>49</sup> Code of Criminal Procedure, 1973

ensure justice to be equally implemented because of the condition of some people especially those from marginalized communities.

An amendment was made by introduction of Criminal Law (Amendment) act in order to insert sections 265A to 265L in CrPC (Code of Criminal Procedure) in year 2005.<sup>50</sup> The amendment was made with purpose to fastened the decision process and make case unload easier. Anyway the argument whether it

has fairness neutral consequences is beguiled by the fact that it affects those who do not have resources to cope with the legal system and thus compromises the principle of justiciability for all.

To the extent of quelling this issue the judiciary and legal system of India effectuate the enactment of the laws as well as policies that reconfirm the right to free legal aid within Article 39A of the Constitution of India, 1950<sup>51</sup> and Legal Services Authorities Act, 1987<sup>52</sup> that majorly aims to provide free, competent legal services to the one's weaker section of the society. In addition, the supreme court is responsible for the interpretation of the Constitution and the protection of its provisions, which to some extent others have interpreted such landmark cases in the criminal field or contributing for the administration of justice.

The results of the previous reforms and judicial interventions reveal that an important review as well as the reform of pursuits of the justice system is inevitable to deal with the built-in prejudices and consequently execute fair, equity, efficient, accessible administration of justice for all especially those who cannot defend themselves. By learning from those reforms in the past which extracted a multi-pronged approach composed of revision of legal acts, activism of judiciary, implementation of substantive law relating to policing and provision of better legal support, we can achieve a more equitable justice system in India. Such a method consists of the fact that this method presupposes the importance of a well-reasoned legal system, which often needs to operate not only according to the law but also combine its decision-making with the spirit of justice, fairness, and human rights form into the essence of the Indian Constitution.

### **The Intersection of Legal Aid and Criminal Justice Reform**

Legal aid services are a cornerstone of a reform, successfully improving the criminal justice system by providing justice and ensure the fundamental values of fairness and equality. With regards to those areas where free legal standing is not automatic, disenfranchised people can hardly ignore too many obstacles put by the legal system at their path.<sup>53</sup> Legal aid services thus fill out this gap by offering fundamental support like legal counseling, representation, and advocacy, precisely for those who don't have the funds to retain a private attorney.<sup>54</sup> Through teaching of legal knowledge and hence, assistance, the legal aid services ensure the right long term, they avoid wrongful convictions, and they curb the impact of systemic biases. Along with that, it is a must-to-have for guaranteeing equal mistreatment of everyone within the justice system. The availability of a personified legal advocate goes in lieu of the power imbalance attributed to procedures in court, providing the defendant with an equal

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<sup>50</sup> Code of Criminal Procedure, 1973, as amended by Criminal Law (Amendment) Act, 2005,

<sup>51</sup> Constitution of India, art. 39A.

<sup>52</sup> Supra Note. 28.

<sup>53</sup> Nuno Garoupa and F. Stephen. "Optimal Law Enforcement *With Legal Aid*" (2004). <https://doi.org/10.1111/J.0013-0427.2004.00382.X>.

<sup>54</sup> J. Sandman. "The Role of the Legal Services Corporation in Improving Access to Justice." *Daedalus*, 148(2019): 113-119. [https://doi.org/10.1162/daed\\_a\\_00543](https://doi.org/10.1162/daed_a_00543).

chance and the means to assert their rights. Attorneys encounters discriminative conditions, fights for alternative sentencing envisions, as well as mentions mitigating factors that may otherwise not be

considered. Lawyers and other legal professionals when they represent their clients, they are the integral part of criminal justice system and by providing confidence and assurance that the system to deliver just results.

## **Conclusion**

Lastly, legal aid is the major force that determines the total justice and equality in the criminal justice system. Through legal aid services the system ensures that poor individuals are assisted by offering them legal advice and advocacy, representation and counseling thus they can freely access justice without constraints. On the other hand, a lawyer is a primary executive in making sure that there is equality for all parties involved in criminal proceedings.

Legal aid does provide a way for people, who usually cannot afford services of private lawyers, to fight for their rights, denounce the discriminatory practices, and advocate for fair result. Additionally to this function, it not only prevents from wrongful convictions but also based on systemic biases that endanger the system of justice.

It is also vital to establish effective legal aid structures and guarantee rights to legal representation for all people struggling with criminal justice system reform. Through consideration of inequities and establishment of fairness, legal aid helps to make a legal system be seen as a credible order and thus to create trust of the community. Humans the loyalty to utilize the enhanced service of legal aid is mandatory for the apprehension of justice, equity and human rights in the criminal justice system.