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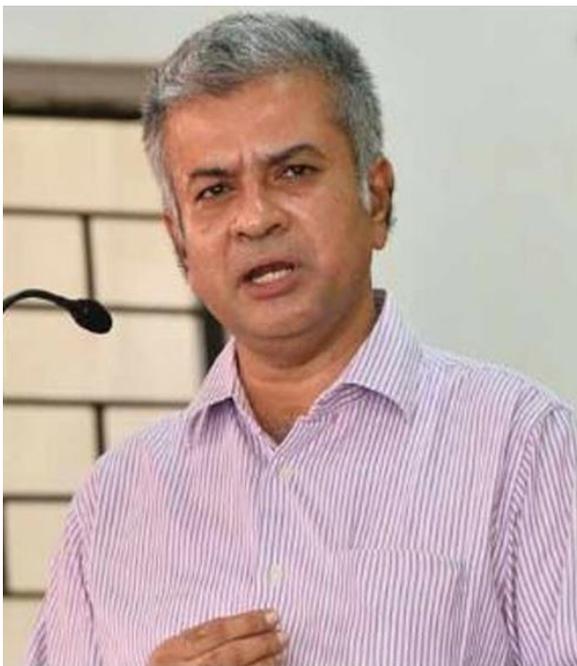
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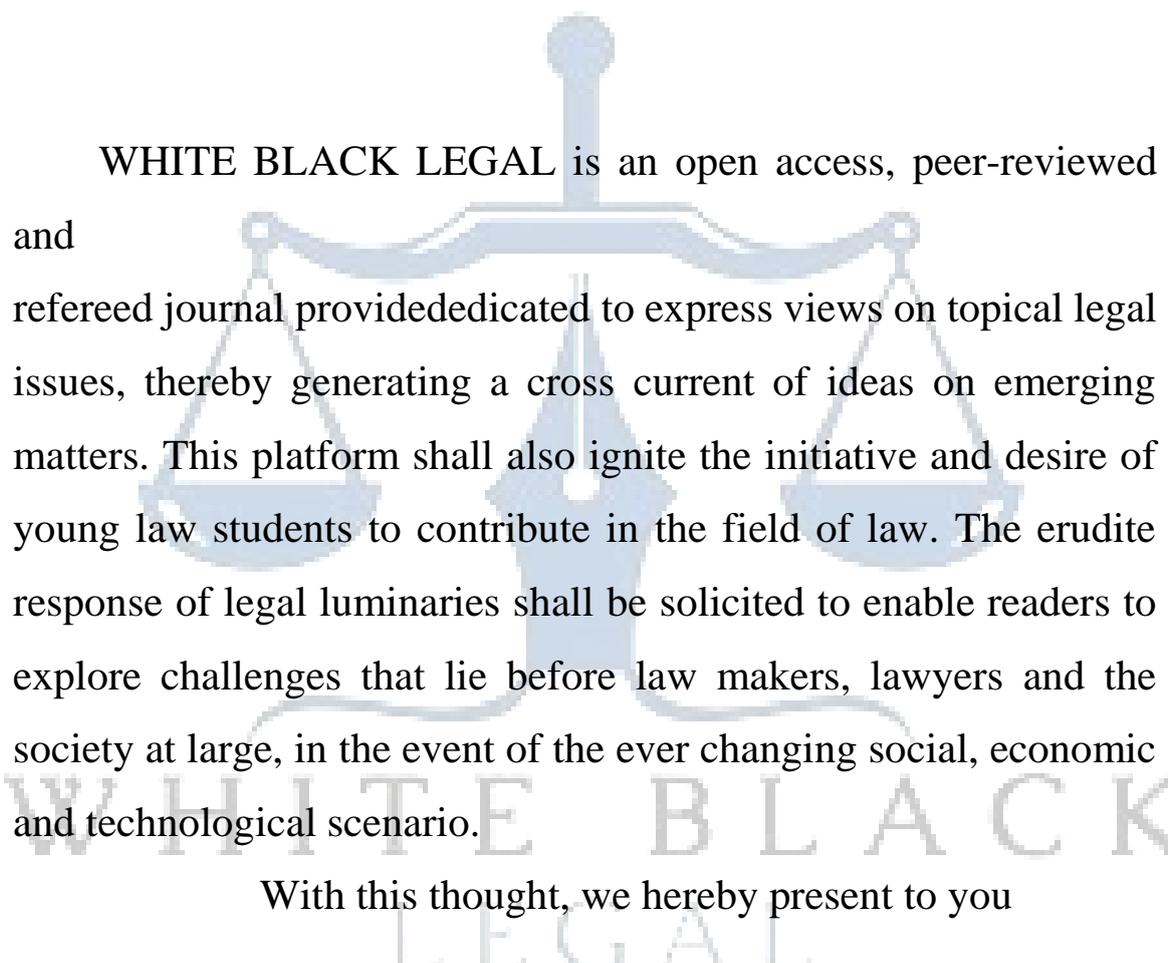


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## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **ACCESS TO JUSTICE IN INDIA: BRIDGING THE GAP BETWEEN CITIZENS AND THE JUDICIARY**

AUTHORED BY - ABIRAMI RAMASAMY

## ***Meta Description:***

*Access to justice is every citizen's right. Read more about the supporting laws. Know the roles of the Judiciary and the barriers involved.*

## ***Synopsis:***

*This blog highlights the problems with access to justice in India as the long delays involved, high costs, and lack of legal knowledge. The article suggests improvements that can be made in the system such as improving legal aid, integrating technology into the court, informing citizens of their rights, and expediting court processes. The goal is to make access to justice more open to all, and a timely and equitably fair one for all citizens.*

## **Overview**

The right to justice is fundamental to democracy, allowing people to speak out against wrongs and seek remedies. It also lays stress on the citizens' sovereignty in India within the words, 'We the people' and makes the State responsible for justice unless it is easily attained. Still today, most Indians are deprived of justice in terms of poverty and illiteracy; they receive no awareness about justice or suffer from institutional inefficiencies and corrupt practices, thus making the intimidating legal system out of their reach.

Some amount of good has been done in this respect by the judiciary which has even tried to interpret fundamental rights along with directive principles to give a sense that justice must be done to these marginalised groups, but still, there have been some issues. Prospective litigants find access to justice difficult due to various reasons, which include long delays, a lot of expenses involved in litigation, and a very complicated process of law-related end of all to prove the end of justice. This blog highlights systemic barriers through which all Indians are deprived of accessible justice while at the same time showing innovative ways to minimise the existing gap between citizens and the judiciary by making it a fairer system for all.

## The Right to Justice

Justice is a fundamental right under the Indian Constitution. It provides more than one provision that gives every citizen, regardless of their socio-economic status, a right to redress and affirmation of rights.

### Constitutional Provisions and Access to Justice

The Constitution of India has provided an excellent framework for delivering justice to all:

**Article 14:** Equality before the law and equal protection of laws; equality guarantees that the judicial process is not less fair than that applied to other judgments against people as a whole.

**Article 21:** Life and personal liberty include free legal aid and a trial as important elements of justice.

**Article 32:** Allows citizens to come directly to the Supreme Court for any enforcement of their fundamental rights.

**Directive Principles of State Policy (Articles 39A and 41):** Free legal aid; equal justice, and opportunity to all are advocated for under these constitutional provisions-the reflection of the commitment of the State to make justice available, accessible, fair, and inclusive.

### The Role of Judiciary: The Right to Justice

The judiciary interprets laws, using guarantees in the Constitution to make access to justice a reality for every individual.

**Judicial Activism:** Public Interest Litigation (PILs) are available for the masses to provide lawsuits in the courts with simplified procedures, ensuring accessibility for all sections of society, including the underprivileged.

**Landmark Judgments:** In the case of Hussainara Khatoon v. State of Bihar, the Supreme Court held that free legal aid and speedy trial form integral components of justice.

**Interpretation of Fundamental Rights:** Rights have been given that provide socio-economic justice with increasingly user-friendly access to legal support and guidance.

Support for Alternative Dispute Resolution means various options like Lok Adalat, mediation and arbitration for providing speedy and inexpensive solutions to an alternative way of litigation.

## Challenges in Accessing Justice

Despite the Constitution's guarantees of the right to justice, many citizens in India are restricted by multiple barriers that hinder access for almost all citizens. Barriers can be clustered into several types: economic, geographical, legal, language, and procedural. These serious hurdles are often the basis for the denial of real access to justice for all, but more so for the underprivileged and economically disadvantaged population.

### Economic Barriers

Justice is not financially affordable for a larger part of Indian society. The high cost of legal representation limits access to legal redress for those who really cannot afford to pay for it. Here are three main economic barriers in India:

- **Legal Costs:** Fees charged in a court of law, combined with charges levied by lawyers, put legal representation beyond the reach of many, particularly from lower-income groups. The financial burden of going through the legal system is usually very high and often effectively denies them access to justice.
- **Undertrial Prisoners:** The vast majority of undertrial prisoners are people charged with offences who have not yet been tried. Most of them belong to economically weaker sections of society, which has made them incapable of affording bail or legal counsel, as a result, they have remained under trial in prisons for long periods. The problem is further compounded because the judicial system cannot speed up the process.
- **Underutilised Legal Aid:** Legal aid services are facilitated and funded by the government through the National Legal Services Authority (NALSA) and State Legal Services Authorities (SLSAs), for the marginalised and the poor. Necessary and sufficient services which are funded by this Ministry include the following: Free legal advice, Revised Representation in court, and help in filing cases. Nonetheless, these services remain underutilised, especially by the rural poor because of the low service awareness, cumbersome procedures of accessing the service, and little effort made to reach out to the users. Some of these people still lack the necessary legal literacy, there are not enough legal services available and the infrastructure of the rural territory is insufficient intensely populated regions could lack necessary legal education, and there is a shortage of lawyers and legal centres in criteria rural areas.

## Geographical Barriers

Access to justice is difficult in geography like India. To a severe extent, it is a challenge, especially for those who might live miles away or in rural areas.

- **Remote and Rural Areas:** Most courts happen to be located in urban centres from which the rural or remote areas are barely accessible. A typical rural individual faces long distances, high costs, and significant time consumption to access it.
- **Infrastructure Gaps:** Most of the rural courts down do not even contain simple amenities like adequate chairs clean toilets, or qualified personnel. This poor infrastructure denies villagers justice as well as creates a difference between the country and the town regarding legal services accessibility.

## Language Barriers

A country like India has a diverse population speaking many languages and dialects resulting in a major challenge in justice administration.

- **Legal Proceedings in English or Regional Languages:** Primarily court proceedings are held in English or regional languages which makes it impossible to engage the services of those who are less or ill at ease in understanding those languages. Most of these citizens are unable to comprehend the legal jargon, thus withholding them from participating freely in legal activities.
- **Access to Information:** Legal documents, judgments, and proceedings are hardly translated into local languages. This makes it even further alien to those who speak neither English nor regional court languages. Many people do not have access to the language most relevant to them, which makes it difficult for them effectively to pursue or defend legal rights.

## Legal Barriers

Structural inefficiencies stay compounded effects which harm by making the process difficult for individuals to gain access to justice.

- **Corruption:** The judicial process is highly tainted by corruption. Bribe and nepotism are only creating a further barrier to attaining justice. It is crosscutting all levels of the system—from collection of copies of judgments to acquiring an adjournment and makes it virtually impossible for the average man to receive justice through proper means.

- **Lack of Awareness:** One of the biggest challenges in breaking the legal constraints is that the population is poorly aware of their legal work and the options for legal protection. To most especially those in the rural areas, it is equally hard to decipher the legal environment, and or find how and where to file a case or seek legal assistance. Further, citizens remain grossly unaware of legal proceedings, which prolonged the legal gap, as clients cannot support themselves or go for remedy.
- **Judicial Delays:** Thousands of cases pile up in India making the judicial cycle slow for the disposal of the case. It discourages those who seek justice because they realise that at the end of pursuing the case in courts, once the verdict is given, it is not meant to come so soon.

### **Procedural Complexities**

Through obstructions and unnecessary complexities, many people back off from toying with the idea of applying legally.

- **Bureaucratic Inefficiencies:** The Indian judicial system is still manually documented with casework methods that are now obsolete consume time and slow everything down. One won't find modern technologies like case management software or digital filing systems as a part of which procedural inefficiency thrives.
- **The multiplicity of Forums:** In most cases, there are usually different forums available for the resolution of the same issue, which results in undecided situations and thus delays. Jurisdictional overlaps and failure of coordination among different legal authorities and agencies often bring delays, and complications and unnecessarily prolong the case resolutions.

### **Initiatives to Improve Access to Justice**

Indian government as well as the judiciary has embarked upon many of the progressive affairs and agendas, which prove accessible to all people, be they men, women, rich, or poor, in terms of legal aid and just end. Above all these, collectively together, stand out those real obstacles that hinder access towards justice.

### **Legal Aid Service**

One of the basic parameters for the improvement of access to justice is free legal aid, guaranteed under the provisions of the Legal Services Authorities Act, of 1987. This ensures

that economic constraints are not an obstacle for an individual to get access to justice. Legal services authority at the national, state, and district levels takes hands together in assisting deprived communities with a variety of specialised services, which include pro bono legal services, online resources, and mobile legal units. It will minimise the factor of cost and distance and also knowledge of the law for everyone.

### **Lok Adalats**

Lok Adalat is playing an essential role in establishing access to justice in all forms of alternative dispute resolution mechanisms that are very economical and efficient, enabling time-saving disposal.

Most disputes, like family issues, property disputes, small claims, etc., can be resolved informally without the involvement of time and money, relieving people of an unnecessary burden in formal courts. Lok Adalat mostly tries to resolve disputes in a day or even within one sitting, thus having the maximum benefit of quick access to justice, particularly for poor persons and other marginalised communities. Where possible, mediation and conciliation would be encouraged to draw an amicable settlement and preserve relations, and an inclusive legal solution for many issues.

### **Tele-Law**

The Tele-Law initiative is profoundly impacting extending the reach of justice into the rural hinterlands. By enabling individuals to consult a lawyer online through video conference or mobile messaging applications, it facilitates the dispensation of timely legal advice without geographical or financial barriers.

The service being free gives way for even excluded and marginalised people to obtain free legal advice. Tele-law would also educate people to know about rights and empower them to use the legal system to access justice better. Thus everyone could be rendered justice, and it would be more efficient.

### **Para-legal Volunteers**

Para-legal volunteers (PLVs) assume a very important role in improving access to justice between the legal system and a citizen, especially in rural and underserved areas. Being trained

in the dissemination of legal awareness and assistance about availing legal aid by any person, they ensure the public maintains itself informed of rights and options available under law.

Processes in court are led for the client, assistance during the legal document formulation stage while guiding the clients to suitable legal aid services. PLVs help make sure that justice is available for the poor and the vulnerable by supporting mediation, dispute resolution, and educating those vulnerable groups on their rights in the law. Their work lightens the formal courts' burden while making the whole system much more efficient and inclusive.

### **Court Reforms and Digitisation**

Judicial reforms exert an important role with an eye to the common purpose of advocating and making justice for all citizens of India. Another key area of work covered through the e-Courts Project of the e-Committee of the Supreme Court of India lies in the efficiency-oriented modernisation of courts through electronic means. Technology brings about an e-filing system that enables civil and criminal cases to be filed electronically in High Courts and District Courts that implement the system. Such a change of filing to paperless also cuts time and costs besides being environment friendly.

It also assists people in monitoring the status of cases, obtaining copies of judgments and examining other legal instruments in the cyber sphere. Another of the essential characteristics is virtual hearings that do not allow geographical restrictions by enabling litigants and legal practitioners to participate in hearings. This is especially favourable to people in hard-to-reach areas such as remote areas because they will not struggle to get to the courts. Such availability of processes relates to smoother navigations in law for those being incorporation of company filings and other legal procedures.

Furthermore, the use of digital means when handling cases removes intermediaries and tedious paperwork and eliminates many mistakes. By reducing delays and backlogs, these reforms enhance the efficiency of delivering justice and create pressure to perform in the judicial process. The e-Courts project led by the e-Committee is one of the progressive steps towards the gradual mechanisation of the justice delivery system of India.

## Challenges and Limitations

Despite various efforts to improve access to justice, several challenges persist in the effective implementation and outreach of justice programs:

- **Resource Constraints:** Legal aid services are necessary for having trained personnel, but funding shortages are still prohibiting the reach of services to a greater number of citizens, especially in rural areas underserved where demand is evident in acute form.
- **Judicial Backlogs:** The judiciary faces an overwhelming backlog of over 4.5 crore cases, resulting in substantial delays in the delivery of justice. This backlog not only increases the waiting time for resolution but also undermines the credibility of the judicial system, leaving litigants frustrated and disillusioned.
- **Awareness Gaps:** Hardly any citizen is even aware of these schemes, such as the Tele-Law and Lok Adalats. Lack of widespread awareness would not enable the marginalised communities to access these solutions as easily and cheaply as they could have done to expand the justice gap further.
- **Infrastructure Issues:** The inefficiency in the judiciary continues to be impeded by outdated court structures and a reliance on manual processes. Most of the courts still do not integrate any technology into their case management to avoid delays and inefficient proceedings.

These challenges are to be addressed in a manner that would lead to the realisation of specific justice initiatives whose success will depend on increased resource allocation, awareness creation, modernisation of infrastructure, and settling of the rest with a backlog in the judiciary.

## Future Directions

Comprehensive reforms within India would go along with innovative methods to alter these allusions that exist between the citizens and their courts.

## Improving Legal Aid Services

Expansion of the budget along with better training for the legal aid providers coupled with community outreach programs would guarantee improvements in the quality and reach of legal aid services thus bringing into the fold missing populations.

## Introducing technology in the justice delivery system

Integrate artificial intelligence for case management, and expand virtual hearings- all that

would ultimately make the judicial process much more open and less encumbered by procedural delays.

### **Promoting Legal Literacy and Awareness**

This will allow the citizens to learn their rights and obligations through other means, such as education in school curriculum courses, and nationwide national multilingual campaigns. This initiative may prove useful because it also lights the way to some important legal processes like Trademark Registration Online and therefore could assist persons as well as corporations in affording more protection to their intellectual property rights.

### **Streamlining Judicial Processes and Delaying Ones**

Declogging efficiency with which cases are disposed of will be realised by streamlining legal processes, reducing adjournments, and taking on new judges.

These are reforms which would bring the justice system ever closer to the citizens and thus it should be more trustworthy and better functioning.

### **Conclusion**

We as a country have probably made great strides toward access to justice, leaving much to be desired by the marginalised, less economically deprived classes in society. The legal framework inspired by a constitutional scheme is faced with numerous challenges such as exorbitant costs, inaccessible geographic regions, procedural delays, ignorance, etc. Along with these new and innovative initiatives that inspire tele-law together with the digitisation of courts, lawyers in the Lok Adalat, and so forth, are the expansion of legal aid schemes for early comprehensive reform, the integration of new technology, developmental strategies for legal literacy, and streamlined judicial processes for achieving justice as a right endowed by the Constitution but a reality for all citizens, irrespective of factors like background or socio-economic status. These reforms will help raise an inclusive system of justice, and it will be also fairer and therefore more effective in realising equality and equity.