

ACCESS TO JUSTICE FOR POOR AND MARGINALIZED PEOPLE OF NEARBY VILLAGES OF SYMBIOSIS LAW SCHOOL, HYDERABAD

Written by *Ashutosh Ranjan Srivastava* & Nilakhi Barman***

** 3rd Year BALLB Student, Symbiosis law School, Hyderabad*

*** 3rd Year BALLB Student, Symbiosis law School, Hyderabad*

ABSTRACT

The study is about the situation of access to justice for poor and marginalized people of villages in India with the non-doctrinal mode of research and the author has taken the nearby villages of SLS, Hyderabad for the survey in which the author tried to collect the information regarding the problems and challenges faced by the village people while accessing the justice in judicial system as well as in administrative system and what are the norms and legislations available for the poor and marginalized people in protection of their right and will it have proper implementation. The paper will also reflect about the legal Aid system and also check the quantum of awareness of the villagers regarding their rights. The paper has given the update about the alternative mechanism of judicial proceedings like lok adalat, mediation Centre, legal service authority etc. The paper has compared the situation of India with poor countries like Uganda and Indonesia where they have established a National level strategy for access to justice and they performed better than developing country like us. The paper also took an example of Vadodra district of Gujarat and Budelkhand district of Uttar Pradesh where they set up a standard model of good governance and legal services. The paper has also given the solution to curb the problems of villages in India by initiating Nagrik Seva Kendra, Citizens Account, Grievances Call system etc.

Keywords- Access to justice, Poor Villagers, Legal Awareness, Judicial System, Administrative System, Legal Aid.

INTRODUCTION

The phrase “access to justice” cannot be easily defined. It is a politico-legal and rhetorical symbol of unquestionable power. Justice is essential to the concept of access to justice, and without it being present there can be no rule of law, or semblance of equality in the society. Legal institutions are responsible for carrying the standard of justice, and this is directly related to a person’s legal and natural rights. Without a means to reach justice, citizens can turn on the state, and the state may even fail. Access to justice can be divided into two types – formal and informal. Formal access to justice is related to adjudication of disputes by following the substantive and procedural laws, while the informal mode of justice includes alternative mode of dispute resolution, such as arbitration, conciliation, mediation, LokAdalats and Nyaya Panchayat.

Access to justice has different meanings in different societies. Even if defined differently, it always has inherent relationship with dispute resolution, as the latter’s purpose is to do justice only. Hence, access to justice is synonymous with access to dispute resolution method provided by the state. This natural right doesn’t require affirmative state action, but with the emergence of welfare state, it doesn’t mean only litigating or settling the claim but also equal, affordable, quick access to the forums and enforcement of relief which is individually and socially just. The Constitution provides substantive basis for this by guaranteeing certain fundamental rights such as equal protection of laws, equality of status and opportunity, the right to life and personal liberty to all its citizens, and on violation of these rights, to approach the court. Even the Supreme Court has always tried to interpret the Fundamental Rights along with the Directive Principles to make access to justice for the poor and underprivileged person. However, the real experiences show that access to justice has become inaccessible. The cases pending before the courts, high costs, complicated procedure, and paucity of awareness have paralyzed the legal system.

HISTORICAL BACKGROUND OF ACCESS TO JUSTICE

In ancient times, the law was Raj Dharma, and it was the be-all and end-all of every dispute which came before the King, who was the supreme authority to render justice in any matter of dispute or conflict. The King was subordinate only to the law, and none else. If the King received even a slight clue or information that the law had been transgressed, legal proceedings would be set in motion. The dispensation of justice was the ultimate and most important objective of the King's regime. Along with this, the notion of a fair and equal trial was present even in ancient times. Disparities between the two disputing parties, be it of whatever kind, were to be settled by the King. The great strategist, Kautilya said that, "All urgent cases should be heard at once, and never be put off, for such postponement may complicate matters and make the decision even more difficult." All this points to one fact that in ancient India the access to and dispensation of justice was of prime importance and could not be compromised with.

CONCEPTUAL FRAMEWORK OF ACCESS TO JUSTICE

Constitution of India

There have been many international documents which have set out the basic rights of people such as the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. The Indian Constitution is a living legal document, which lays the foundation of the rule of law in our country. It borrows from these conventions and treaties, and lays down certain Fundamental Rights and Directive Principles of State Policy which are essential for the sustenance of citizens' rights in India. For instance, Article 14 of the Indian Constitution states that: "*The State shall not deny any person equality before law or equal protection of laws within the territory of India.*" This essentially means that every person can approach the Indian courts irrespective of which caste, community, economic or social background he or she belongs to. Article 21 states that: "*No person shall be deprived of his right to life and personal liberty except in accordance with procedure established by law.*" This right ensures that every

person's right to life is safeguarded, and in cases of violation with respect to this right, or any other fundamental right, the aggrieved person approach the courts for remedy under articles 32 and 226.

Furthermore, the Directive Principles of State Policy under Part IV of the Indian Constitution provide guidelines for the State to try and abide by, so as to better the living standards of its citizens, or, in this case, access to justice, as provided under Article 39 A: "*The State shall secure that the operations of the legal system promote justice, on the 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 is not denied to any citizen by reason of economic or other disabilities.*"

Public Interest Litigation

Conceptualized by Justice P. N. Bhagwati, Public Interest Litigation suits are a speedy and person-friendly way for aggrieved citizens to voice their concerns before the courts, and obtain justice. The only condition is that the person must be acting *bona fide*, that is, in good faith, for the welfare of the people at large. In cases like *People's Union for Democratic Rights v. Union of India*¹, Justice Bhagwati stated: "*It would not be right or fair to expect a person acting pro bono public to incur expenditure out of his bag for going to a lawyer and preparing a regular Writ petition. In such a case a letter addressed by him can legitimately be regarded as an appropriate proceeding.*" But there are some who consider it to just be an act of judicial populism, and question its legitimacy. Frivolous litigations are also a problem.

Right to Free Legal Aid

The Magna Carta, dating back to the early 13th century, mentions the concept of legal aid in its 40th paragraph: "*To no one will we sell, to no one will we deny or delay the right to justice.*" The Indian Constitution provides for free legal aid to those persons who cannot afford to have an advocate represent them before a court of law. In such cases, it is the duty of the State to provide the person concerned with a representative. This is essential for upholding the principle of natural justice called *Audi alteram partem*, which means, "hear the other side."

¹ AIR 1982 SC 1473.

In the case of *Maneka Gandhi v. Union of India*², Justice P. N. Bhagwati made the following remarks: “*We do not think it is possible to reach the benefits of the legal process to the poor to protect them against injustice and to secure to them their constitutional and statutory rights unless there is a nation-wide legal service programme to provide free legal services to them.*”

In the case of *Hussainara Khatoon v. State of Bihar*³, he stated again that: “*This is a constitutional right of every accused person who is unable to engage a lawyer and secure legal services... the State is under a mandate to provide a lawyer to an accused person, if the circumstances of the case and the needs of justice so require...*”

Justice and Alternative Dispute Resolution

The vision behind Alternative Dispute Resolution was to make justice speedy and inexpensive for those people in our country who can't avail conventional means of justice, due to socio-economic or cultural obstacles. The bodies which would have taken care of this include Lok Adalats, Grama Nyayalayas, Ombudsmen and Legal Service Authorities under the Legal Service Authorities Act, 1987. This was the vision of Dr. A. S. Anand, former Chief Justice of India, who wanted the next century to belong to negotiation, conciliation and arbitration, rather than tedious litigation.

However, the present ADR system is not very effective as the mediators and conciliators do not possess enough authority to enforce decisions which are agreed to by two parties to a dispute at the time of settlement. The losing side cannot be compelled to follow the instructions, and there is no sanctioning power if the settlement conditions are neglected by one party.

PRESENT LEGAL SYSTEM OF INDIA

Adversarial System of Adjudication – this system is characterized by high costs, delays, uncertainty of law, and disparity between parties. In this system:

1. The burden of proof is on the parties,

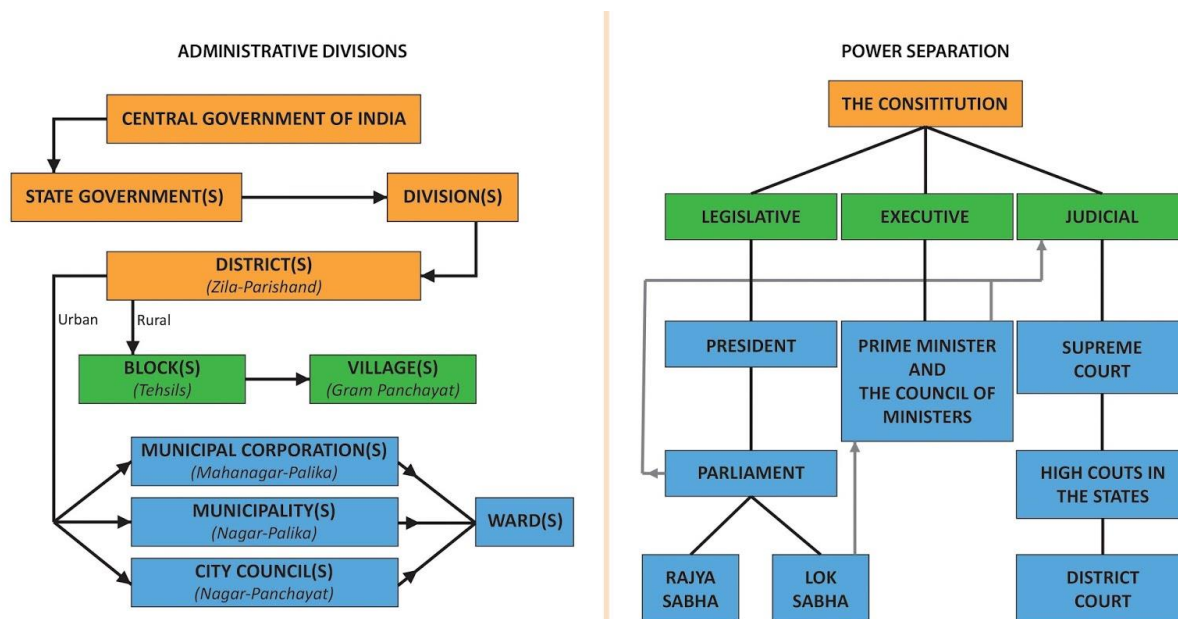
² AIR 1978 SC 597.

³ AIR 1979 SC 13690.

2. The parties need to present their cases before the court of law, that is, they have a right to be heard,
3. The State is the facilitator of these rights, and is responsible for safeguarding these rights, but oftentimes, doesn't deliver on this aspect,
4. Costs of litigation, including court and lawyers' fees, are for the parties to bear,
5. Courts play a passive role, and thus parties are discouraged from exercising their ability to recognize their legal rights, and defend them adequately,
6. The judge administers justice according to the law,
7. The judge has no duty to ascertain the truth. This is done for him or her when the two opposing parties clash and cross-examine, to reach one, inescapable conclusion, beyond reasonable doubt,
8. The judge is akin to a referee, and it depends upon the parties as to how they present their case. Winning or losing is the consequence which follows,
9. The other side need not determine the truth, but prove his/her version or side to the judge, without jeopardizing or undermining the other side's claims.

Administrative System

The administrative system works on the natural justice principle and they are not bound to follow the procedural legal system. It is the duty of the executive and the legislature to manage the administration with cooperation and control. There is a hierarchy of administrative authorities from village level to Central level, they are person responsible for the execution of the policies of state government and central government, But in recent past we have seen that corruption in the administrative system is Rampant and it effects the situation of poor and marginalized people of villages, they got deprived from many fruitful government schemes.

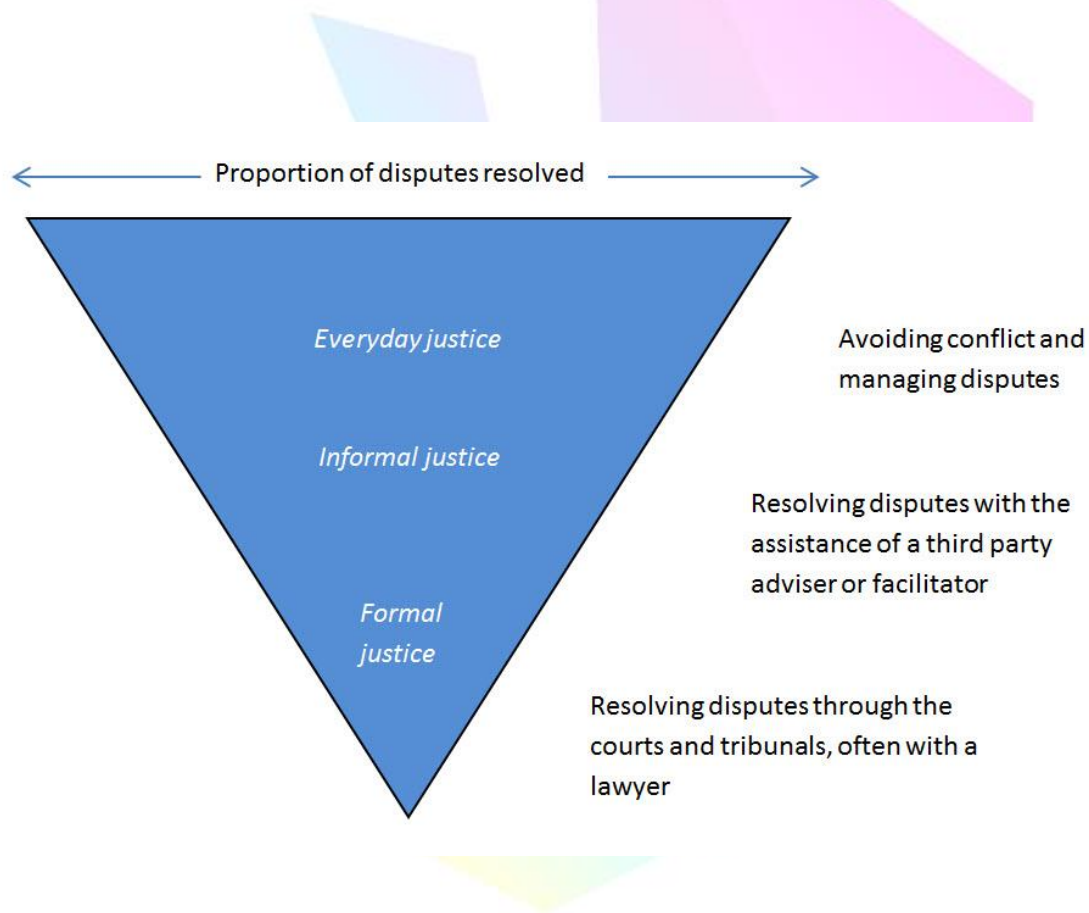


ANALYSIS OF THE STUDY

The Research paper intended to get an insight about the condition of poor and marginalized people of India when it comes to Access to justice, Access to justice should not be confused with judicial system only it includes both the judicial and administrative System. The policies and laws are always reflect a positive content regarding the rights of the poor and marginalized people but the reality is altogether different so with this study the research paper wants to get the ground report that whether the poor and marginalized people of villages in India are getting appropriate access to justice for their grievances and what are the problems that they generally face regarding this recourse and what is the quantum of legal Awareness. Access to justice is very essential for the poor and marginalized people for protection of their rights, control of abuse of power and resolution of conflict. This also includes the capacity of people to seek remedy from formal or informal system of justice.

Today Legal Aid is freely available as per the law but the question is whether it is easily available to poor and marginalized people. Today 50-70% of the village people don't use legal services for their dispute nor they want to report it to the police personnel especially , the condition of women in the poor and marginalized society is sorrowful, they are subject to

violence and deprivation as their daily capsule but they don't come up or speak up for their problem, today 30% of the married women are subject to domestic violence in India they specially belong to the poor village areas and these types of cases usually got unreported due to the influence of masculinity in the poor and marginalized society and lack of legal awareness. Today India is most expeditiously growing economy and a country of democratic and secular ethos, the country with this reputable character will certainly not want this type of situation but there is problem in the execution of the laws and policies which we will see in this paper. This research paper will focus on the problem regarding access to justice for the marginalized and poor families which still exist and give feasible and appropriate solution to the situation.



IMPORTANCE OF THE STUDY

1)- This study of “Access to justice for poor and marginalized people in India” is very important because today the poor and marginalized people are in dire need of justice in all of their sphere whether we talk about Judicial System or Administrative system , poor are not in a position to bear the cost of justice nor they are much aware of the proper recourse for their disputes this lead to many unreported disputes which is a violation of the natural right of the Citizen. This study will be conducted in such a way that atleast few people of nearby village will get aware about their rights and what is the different recourse available to them for their dispute which is speedier and less costly than the normal system.

2) - Before going for tackling any problem we should study the problem deeply, with this study we will give a view of the problems and challenges faced by the poor and marginalized people in a village which is located nearby SLS, Hyderabad so that we can come across what are the probable solution to the problems which will be very helpful for the person in authority to implement their policies in the underdeveloped village like mamidipalli, Verapalli etc.

3)- Proper Access to justice will certainly change the prospective of the poor and marginalized society this will contribute in the protection of legal rights of the poor and marginalized people and bring fairness in the legal outcomes. It will always motivate people to come up with their grievances.

4)- Proper Access to justice always facilitate the adjudicatory system to function more smoothly and efficiently and this will increase the faith and confidence of poor and marginalized people in adjudicatory mechanism.

5)- Proper Access to justice will improve the Individuals or family socio-economic situation, and this also increase in the participation of the poor and marginalized people in the economic development of the society.

6)- Proper Access to justice always enable the democracy to function properly and it also keeps the check on the executive functionaries. It will also give life support to our laws which are made for the upliftment of the poor and marginalized people which almost became a dead letter on the ground on improper execution of the laws.

KINDS OF DISPUTES

Access to justice has different meaning according to the situation, people often relate it with the judicial System only but for the purpose of this study Administrative system is also added as a part of the survey because in Administrative system people has to suffer more injustice as compared to judicial system, rampant corruption and lethargic attitude is one of the basic reasons for the injustice to the people, in my conversation with many of the guards of SLS, Hyderabad who belong to nearby villages of the Campus who has suffered the problem in making their income certificate for which first they have to visit about 10 times in 2 months to the office of Mandal officer and their also they have to give bribe of more than Rs.5000 for their certificate clearance this shows the violation of their rights to get the Income certificate in Rs.100 and within one month time limit. It is just a example of one of my respondents of the questionnaire, almost all the 50 respondents has accepted this view that they faced one and another form of injustice in judicial and administrative system.

The problems that the poor and marginalized society encounter are mainly related to property and family issues, Official/administrative issues, some of the respondents have also encountered the murder dispute in their village but after having conversations with 50 respondents it can be said that there is a prevalent dominance of Masculinity over women and Rich over the poor in nearby villages of SLS, Hyderabad. Women were too much reluctant to speak against domestic violence they are subjected to from their husband and his family on daily basis. Sometime it is physical violence and sometime it is in the form of mental torture. There were two respondents in the house-keeping staff who has narrated the story of her neighbor who committed suicide due to mental torture given by the family of the husband on her being infertile and the police after getting the bribe has reported that the women was mentally ill . In one incident of murder which is narrated by the mess staff who belong to Mamidipally village that the murder was committed by the son of Influential businessman of the village and the murder was held in the day time but there is not a single person who stood by the victims' family and in the verge of witnesses and lack of resources with the victims' family to fight against it they have to bear the pain of injustice

This type of violence/murder really need instant strict solutions otherwise the society will no longer remain a civil society and poor and marginalized people will remain the sufferer of the non-Access to justice.

Now we will analyze which section of the poor and marginalized society has suffered the pain of non-access to justice. In our recorded responses and the analysis thereafter the authors find that Women, Farmers, labour class and local businessman are the major pain holder of non-access to justice in poor and marginalized society. Women in the campus who are working as a guard or housekeeping or in a mess they are of the view that they are not doing this job because of their passion of independence but because they have to serve their children with education and food, their husband always in a drunk state and only create nuisance at home which effect the education of their children as well, they wanted from the government that they should take initiative on the issue of liquor. The farmers of the nearby villages of SLS, Hyderabad has land but they are not fertile enough for the vegetables and other useful grains which causes so much loss to the farmers for the other grains they want proper Pesticides but the government is not able to provide required pesticides to the farmers and the cooperative society which is the department responsible for the pesticides distribution usually provide pesticides in bulk to the influential people who has source in the cooperative office, this cause so much loss and harassment to the farmers of this village that's why majority of the farmers has sold their lands in the mamidipally and Nandigama village.

Local businessman is very much in distress due to lack of financial support from the government and they are not provided with any business loan because they doesn't come under the criteria of the loan allotment nor they have any credible collateral to get the loan. In conversation with some of the local businessman inside and out streets of the campus, the authors find that the induction of SLS, Hyderabad campus has change the financial status of the local businessman but the support required from the government was not given which usually demotivate the business ideas. In conversation with one of the local businessman the authors got to know that he has to suffer a lot for getting GST Invoice Registration he said - "it's very easy for big business and industrial startups but for Grocery stores or Small general stores or stationery shop it's a tough task". They also appreciated the 15 days clearance policy for the startups of big standards but they want the same support for their businesses which are located remote areas like mamidipalli, verapalli etc.

Labor Class has suffered lots of pain in getting their wages, sometime it is given half the amount or sometime it is less than that and it is found in conversation with guards of the campus who are from nearby villages that even the MNREGA workers doesn't get full wages, the panchayat officials takes bribe to release their amount. In this village, the authors also got to know that there is a system of bonded labor which is actually a violation of labor laws if not provided with proper facilities. These all things required proper reforms so that the labor class gets motivated to work and they are also required some exposure for Industries, and other class of labor works so that they can get proper wages for their livelihood.

LEGAL RECOURSE AND ITS CHALLENGES

The second face of my survey will deal with legal recourse available to them and what are the challenges faced by the Poor and marginalized people of villages in India. Normally if we see the letter of laws, it will reflect several options for the recourse of the justice in Judicial as well as in the Administrative set up but in reality it will have altogether a different picture. The author is shocked while conversation with the workers of the SLS, Hyderabad Campus because most of the people don't know that something called Lok Adalat, legal Aid centre and mediation Centre. Two- three respondent thought that it is name of the classroom in SLS, Hyderabad. This condition of legal awareness will certainly a violation of the natural rights of the poor and marginalized people of the nearby villages of SLS, Hyderabad will certainly require a proper action of the Telangana government is required instantly. Legal Aid Centre of SLS, Hyderabad also have the moral and ethical duty to aware the people and help them in getting proper justice.

Poor people usually refrain to engage lawyers for their help because they think that they will charge so high and the case will go so long and they are not capable to afford a lawyer and they are totally against the reporting to police in this there are two segments of responses first segment are those who actually scared of the word "police" they think that they are ghost or something while other segment of responses said that the police always harass the victim more than the Accused, they always finds way to drain money and harass people , their attitude towards the poor and marginalized people are very condemnable and sorrowful, the

government must ensure the dignity and respect of the poor and marginalized people of the village otherwise this section of the society always become the victim of injustice. In these situations the poor and marginalized people either don't report the crime committed against them or sort it down among the family itself but these types of compromises are very ironical in a democratic country like India where the constitution talks about the upliftment of the poor and marginalized people and women empowerment.

The challenges that are faced by the poor and marginalized people of nearby villages of SLS, Hyderabad are many but some of them which gathered during the course of research are following;

1) TIME-TAKING- Majority of the respondents of the questionnaire is of the view that Judicial and administrative system is very time taking even for a single certificate clearance it will take more than a month and when it comes to judicial system the study has find out that there are people who has land dispute and partition dispute pending from the time of their grandfather and the authors find that few issues of acquisition of land where they said that their compensation money was pending for 2-3 years in the government offices and for releasing also they demand bribe from the poor and marginalized people.

2) SOCIAL DEPRIVATION - Marginalized people are those people who are socially and economically and sometime physically disadvantageous situation. They got deprived not only by the rich or upper class in their village but in the Judicial and Administrative system they are subject to discrimination their work are kept pending for long time, they are subject to criticism based on his/her attire and physical postures, Low level officials in the judicial and administrative offices refrain from helping them and normal people make distance with them, these type of attitude always generate a feeling of deprivation and social exclusion. Women are subject to harassment and criticism by the officials in the judicial and administrative system, two of our women respondents have given us many instances where they were subject to criticism based on their attires and life-style and they also share that in the district office one of the higher officials had tried to harass them but they somehow manage to escape but due to the fear of the society they haven't reported this to their parents also. Is this the symbol of society and by this way we will achieve the Motto of "women empowerment" and "Social equality", one thing is very clear women empowerment and social equality can't be achieved

by just talking about that fancy word but it only achieved by changing attitude towards the people.

3) LACK OF AWARENESS ON RIGHTS AND ENTITLEMENT- The poor and marginalized people of the nearby villages of SLS, Hyderabad are weak on the count of legal awareness they even don't know where to approach if they get into any dispute especially in the case of women they even don't know that they have rights as a citizens of this country, for their cause they move here and there in the villages to get some help but everywhere they are subject to harassment only. Lok Adalat, Mediation and Conciliation Centre, legal Aid Centre these are just the fancy English word for them which they don't understand.

Maximum respondents are of the view that judicial and administrative systems are very troublesome and unresponsive towards the poor and marginalized society. In my respondents 80% of the people are illiterate this may be one of the reasons for the lack of legal awareness but here comes the duty of the government in state of telangana to spread proper legal awareness especially among these types of underdeveloped villages.

4) FRAUD AND CHEATING IN THE SYSTEM – Majority of the respondents are of the view that one or the other time they are cheated by the officials of judicial and Administrative system. Many respondents has said that they have given bribe for their Income certificate but the officers has neither did his work nor he returned the money and same thing he did with many of the poor and marginalized people who wants the income certificate for the scholarship of their children and later he took the transfer from that place this leads to loss of the hardly earned money of the poor villagers. Many respondents who are engaged in some civil dispute had recited the corruption that is prevalent in the judiciary, on every date of hearing they have to give money to the stenographer and Secretary to give nearer dates and every copy of the documents they have to give additional money to the office of the judge and also to the lawyer. This type of fraud and cheating always damage the people who are hardly able to serve their families.

5) COMMUNICATION BARRIERS- We will see that there is very less administrative and judicial approach in the nearby villages of SLS, Hyderabad. We don't have any administrative office or Centre in the nearby villages. Even for the police complaint they have to travel 20 km to Shadnagar. There is very less transportation system in the village due to which there is lots

of trouble and communication barriers between the officials and poor and marginalized people of the village, All the major offices are in Shadnagar, kothur or in Hyderabad, there is hardly any event when the officials turn up to this villages, which causes so much communication barriers.

CRITICAL ANALYSIS OF THE STUDY

Access to justice is incomplete without defining the concept of justice. Today the justice is the right of the people and it is legally authenticated by many of the Supreme Court decisions and the legislations present in the state level and central level. Justice has connotation to fairness and equality. In this critical analysis part we will see what legal norms available for Access to justice and how it will help the poor and marginalized people if properly implemented.

Constitution of India, 1950

Constitution of India is a living document that gives substantive basis for Access to Justice, in the preamble itself stands for securing justice, social, political and economic to all the citizens. It guarantees fundamental rights, in its part III of the Constitution i.e., Article- 14 to 32 to every individual. These rights are not absolute but they are protected under article-13 of the constitution of India which prohibits that enactment of any law which is inconsistent with the fundamental rights. Under Article- 14 of Constitution of India every citizen in India, irrespective of social, economic and political stature has accessibility to the judicial and administrative system in the same manner equally and indiscriminately⁴. Under Article-21 of the Constitution of India ensures the protection of life to the citizen as well as non-citizen. This article only restricts the fundamental rights if the restriction is fair and effectuates and holds good in the test of reasonableness.

The constitution provides safeguards when the fundamental rights are violated by the state in the form of right to the constitutional remedy i.e., to have direct access to the Supreme Court and High Court under Article-32 and 226. Direct principles of state policy under constitution

⁴ Menon Madhava, N.R., "Serving the justice needs of poor", The Hindu, December 3, 2013.

impose on the state to promote and secure justice through Article-39A of the constitution which also directs the state (government) to provide free legal aid to the needy people⁵.

In our nearby villages of SLS, Hyderabad where the people are so much disadvantageous on the social and educational counts, these provisions played a very key role in protecting the interest of the poor and marginalized people but there is fault in the execution part. This may protect the right if the case or dispute come up to them but as per records people has lack of awareness on their rights and if someone knows that they don't want to invoke the right, most of the respondent feel that High Court and Supreme Court are things of the rich people. Most of the respondents feel that the end of justice does not lie within their reach because the means to justice i.e., the law and the legal system create many impediments. For them the law still remains an enigma and justice remains unapproachable⁶.

Public Interest Litigation

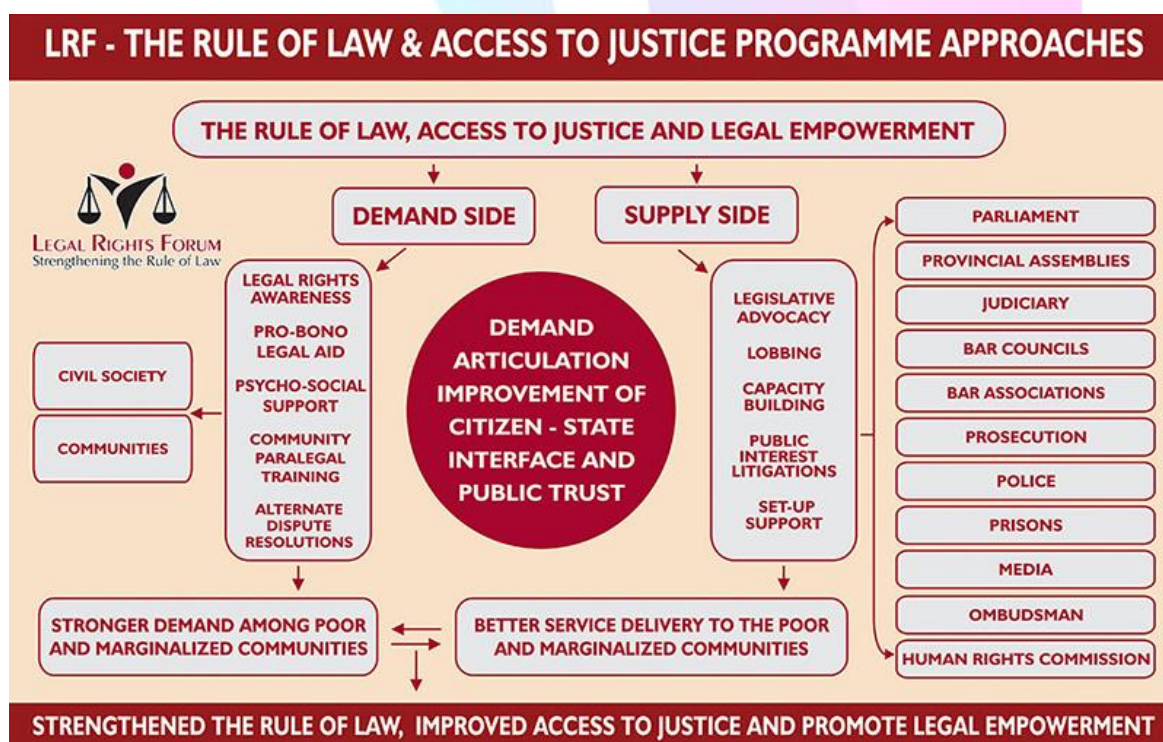
One of the recent modes of making access to justice a reality is by way of filing a Public Interest Litigation. Judiciary is trying to remove the obstacles between the poor and the justice system. Justice P.N. Bhagawati heralded the new era as now the court permits P.I.L. at the instance of any members of public or social action group acting bonafidely for defending the constitutional and legal right of the weaker section. The common role of Locus Standi was expanded to provide access to justice for the disadvantageous people. But, as a part of critical analysis P.I.L. is said to be an outcome of judicial popularism and raise questions about its legitimacy, limitations and impact. As per our record collected on the basis of questionnaire, the poor and marginalized people of nearby villages of SLS Hyderabad, are either the people do not report the issue or negotiate among themselves. They are of the view that the authorities are unresponsive and have very lethargic attitude towards the poor and marginalized people. They think that NGOs and other organizations try to hype the issues and try to get the media attraction. They always harass the sentiments of the poor and marginalized people.

⁵ The Indian Supreme Court stated in *Keshav Singh Re AIR 1965 SC 745* "The existence of judicial power in that behalf must necessarily and inevitably postulate the existence of right in citizens to move the court in that behalf."

⁶ <http://lawmin.nic.in/ncrwc/ncrwcreport.htm> accessed at 13th March 2019.

Alternate Dispute Resolution

A large number of people in our country are poor, illiterate and backward. Keeping this in mind, the state laid the concept of Alternate Dispute Resolution to promote justice on the basis of equal opportunities. Lok Adalat, Gram Nyayalayas and Legal Service authorities are part of this legal system which aim at rendering social justice to such people who are poor and illiterate to invoke their rights. Today, the courts usually give directions to go for Alternate Dispute Resolutions. But, the ironical situation that has been reflected in the survey is that almost 90% of the respondents does not know that there is something called Lok Adalat or mediation center. They do not encounter any effort from the government regarding Alternate dispute Resolution. Only one respondent who is from Shadnagar has said that he visited Lok Adalat in Hyderabad for his friend's work. This shows that Government is not taking any initiative to encourage this mode of justice.



Legal Aid

Legal Aid means extending legal assistance free of cost to the poor and needy people, to those who do not have the resources to invoke their legal rights. It implies offering legal help to those embroiled in some legal or administrative troubles. It has an underlined objective of removing inequalities existing in the society⁷. The Constitution of India in its preamble and also in Article 39A imposes a duty on the state to ensure that the legal system functions in a manner that furthers justice, provides equal opportunities and more importantly to devise an appropriate mechanism or legislation so that it can extend legal aid free of cost. In ***Ranjan Dwivedi v. Union of India***⁸, the Supreme Court declared that Article 39A sets the goal of free legal services and equal justice can be secured only by means of appropriate legislations or schemes.

The Supreme Court had constantly encouraged the government at state level to fulfill their obligation to implement comprehensive legal aid programs, to promote goals of justice through equal opportunities. The court in ***Centre for Legal Research v. State of Kerala***⁹ observed that to ensure that these legal aid programs are successful, the state should extend its support to the poor and marginalized people to actively participate in the endeavor of free legal aid. But the present survey that is conducted on the unprivileged people of nearby villages of SLS Hyderabad that not a single legal aid camp was conducted by the government. The only camp they remember is of the legal clinic of SLS Hyderabad which was conducted in 2014-15. But after that also, people does not come up for seeking legal help from the concerned authorities. This is because, they look up to the camps organized by SLS Hyderabad only as a recommending source and not as a valid Government authority. State institutions such as legal authorities and NGOs are not proactive in nature and do not extend support to the poor and marginalized people of nearby villages of SLS Hyderabad.

⁷ http://www.nilsindia.org/uploads/1/2/0/8/12081957/access_to_justice-_right_to_legal_aid.pdf (accessed at 13th of March; 2019.)

⁸ AIR 1983 SC 224

⁹ M.P, Jain, supra note 5, at 1616

Administrative System

Today, there is a wave of digitalization. Whether it is the central government or state government, they are talking about e-governance. State of telangana also have several portals for the grievances of the public , they have state legal service authority , Nagrik seva Kendra but it is not in the reach of the poor villagers living nearby SLS,Hyderabad campus. People in my survey have expressed their anger towards the policies of the government. Even for single income certificate clearance, they have to visit the administrative offices in Hyderabad several times. They are subject to social deprivation. They have to grease the hands of many officials for getting their rightful work done.

Women and Law

Access to justice is a fundamental right according to the 189th Report of the Law Commission of India. However, the structure of judicial remedies is still insufficient to serve the needs of women, particularly poor and marginalized women, in accessing justice.

Women, notwithstanding many efforts both from the State and NGOs still lack awareness. There is inadequate implementation of laws and enforcement agencies especially the police personnel at the police station level including women thanas are found to be lacking in the knowledge of laws. Further, there is also a lack sensitivity amongst the officials as well¹⁰.

COMPARATIVE ANALYSIS

The author here is trying to understand the scenario of accessibility of justice by the unprivileged people by comparing different parts of the world starting with India.

National Perspective

VADODRA

The condition of this District of Gujarat was same as the present condition of the nearby villages of SLS Hyderabad before good governance initiative was taken up by the

¹⁰ http://wcd.nic.in/sites/default/files/Executive%20Summary_HLC_0.pdf (accessed at 13th of March ; 2019)

administration with the help of the society and their employees. The vision of change which resided in their mind motivated them to change the structure of administration and to make it effective and transparent so that it would be easily accessible by the society. Vadodra also suffered with various social stigmas such as corruption, non-transparency, inaccessibility, delays and pathetic response of the employees which is same as the present condition of the nearby villages of SLS Hyderabad. The administrative situation of Vadodra was pathetic and was almost in the verge of collapsing drastically. Vadodra was suffering from the diseases of Red-Tapisms and Corruption. To solve and curb the situation of the Vadodra district, the administration and society took a cumulative effort to change the environment of the administrative system and make it more customer oriented and system-centric and they launched “One day Governance Project” under it they established “Nagrik Seva Kendra” in which all the government documents is made within one day under one roof . These efforts led Vadodra from being a pathetic to a dynamic model of development. The state of Telengana should also take initiatives to develop its unprivileged areas such as mamidipally, nandigama, virapally, etc.



BUNDELKHAND REGION OF UTTAR PRADESH

People in the Bundelkhand region live in a society of extremely oppressive social values, most of them are illiterate, especially women. They are forced to cover their faces with purdah and often married off as children. The target group in Tikamgarh District exemplified the poor social, economic and cultural status. Over 60% of them belong to the Other Backward Caste (OBC) increasing their susceptibility to marginalisation. Additionally, 66% of the target group is illiterate and more than 50% of them are considered Below Poverty Line (BPL). For example,

almost 80% of women were not aware that men and women are entitled to equal wages, nor were they aware of the reservation law for women's participation in local Governance at Panchayat level. The people in these areas are not aware of basic justice systems provisions including the use of an FIR, the concept of a lawyer and local justice systems of legal aid through the DLSA or Lok Adalats¹¹.

In order to address the basic lack of rights and entitlements knowledge, the Legal Service Authority designed various activities to raise awareness on the rights and entitlements of these communities. A variety of project activities including interfaces between SHG groups and village and block level authorities, street plays and community radio programs were able to reach out to a large audience. Most importantly, the training of over 300 women and men community level volunteer Paralegal Workers (PLWs) to serve as a link between their communities and justice service authorities. The formation of Community Legal Assistance Partners (CLAP) committees in each block to serve as a resource for those PLWs. CLAP committee members include judges and lawyers from the District Legal Services Authority (DLSA) or Tehsil Legal Services Centres (TLSC), members of the local media, police, and rights activists. Development Alternatives directly implemented trainings and project activities focused in the Niwari block while its partners; Darshana Mahila Kalyan Samiti concentrated in Jatara Block, Baldevgarh Block was handled by New Action for Social Welfare Organization (NASWO), Palera block by Shailja Sewa Sanstan, and the two remaining; Prithvipur and Tikamgarh Block by Vikalp Madiya.

With the support of the Government of India- Ministry of Law and Justice and the guidance of the United Nations Development Programme in India, Development Alternatives has introduced the people of Bundelkhand to their rights and entitlements. There is a long way to go for true realization, however the various initiatives taken up by the above mentioned authorities have shown that there is a want for such initiatives for empowerment of the people in one of the most backward regions of India. Only with further interventions and continued support at the community level can there be hope for the people in Bundelkhand and for truly sustainable development to take place.

¹¹https://www.devalt.org/images/L2_ProjectPdfs/EnhanceAccesstoJusticebyLegalempowermentofMarginalizedCommunities.pdf (accessed at 14th of march: 2019).

International Perspective

UGANDA

This country is among poorest country in the world and has very low literacy rate but here also they have proper Legal Aid Policy contains provisions covering various areas of relevance to access to justice, including the determination of who can access legal aid and who can provide it and under what circumstances. It also addresses the role of important service providers such as civil society and NGO entities, magistrates, and quite significantly, the involvement of community based resource persons – paralegals. It also regulates the accreditation of legal aid service providers¹². They provide various services such as State provided legal assistance, States brief scheme, Pro bono legal scheme, Uganda Human Rights Tribunal, Justice Centres, Legal aid by NGOs.

INDONESIA

Consolidating current Government of Indonesia policy on access to justice into a clear and coherent National Strategy with a concrete action plan will (i) build stronger justice institutions; (ii) reduce poverty and empower communities to take control of their own lives; and in turn, (iii) enhance national security. A National Strategy on Access to Justice will complement ongoing efforts to reform the justice institutions of state. Although strengthening the formal justice sector is critical to promote access to justice, these efforts will not be optimized if the population is unaware of their rights, or unable to access justice institutions due to physical, financial or intangible barriers. These efforts also need to take into consideration the fact that most disputes are settled through non-formal mechanisms¹³. In other words, comprehensive justice sector reform requires a dual track strategy which links top-down institutional reform (supply) and bottom-up access to, and demand for, better justice (demand). Such a strategy will bring justice closer to the people. It will help to address the low trust and inequities that many, in particular the poor, feel define the delivery of justice in Indonesia. A National Access to Justice Strategy would provide a strong framework for “achieving social justice for all the

¹² <https://namati.org/wp-content/uploads/2015/12/Access-to-Justice-for-the-Poor-Marginalised-and-Vulnerable-People-of-Uganda.pdf> (accessed at 15th of March;2019)

¹³ <http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/A2JFrameworkEnglish.pdf> (accessed at 15th of March;2019)

people of Indonesia,” one of the key aspirations outlined in the 1945 Constitution. This country not being so powerful in terms of their status but they tried their best to give access to justice for unprivileged person of their country but in India the state government and central government just make policies with fancy names but on the part of its execution and delivery towards the poor villages they doesn't take any initiative. When the author see the condition of nearby villages of SLS, Hyderabad the author feel that they are on the same phase as the Britishers left them in 1947.

CONCLUSION

In concluding part the author wanted to convey that the condition of the nearby villages of SLS, Hyderabad is very drastic. The major problems that are faced by the village people are related to land, family issues, Administrative functioning etc., people of the village are mostly illiterate and very weak on social and economic counts. The major sections that are affected by the non-access to justice are Women, farmers and labor class they have to face lots of trouble and challenges for their work with Administrative and Judicial System. The challenges that they encountered are unresponsive approach of the system, Social deprivation and time-taking proceeding of the judicial and administrative system. During the survey and the research the author realize that problem is not with law or policies but with execution of the same, the responsible authorities are not taking care to provide the service to these remote areas where it is actually required.

Today we have several recourse available to us by the Central Government, State Government, and Judiciary. Alternate dispute resolution, Legal Aid, E-governance portals , Mee Seva by telangana State, these are the services which only lacks is execution, little awareness and proper communication between the poor villagers and officials about their rights due to which many cases and issues get unreported. The country like Uganda and Indonesia who are very weak as far as social-educational and economic status are concern but they also have proper strategy to tackle the situation of Access to justice, even in India we have good governance example of Vadodra and in Budelkhand region we have seen how they provided the legal services to the

people especially women. Telangana State government should also take initiative to develop the nearby villages of SLS, Hyderabad.

SUGGESTIONS/RECOMMENDATIONS

- **NAGRIK SEVA KENDRA**- The State government of Telangana must establish Nagrik Seva Kendra in the remote villages like mamidipally, nandigama, Verapalli etc. where all the government documents will be prepared under one roof within time limit.
- **LEGAL AID CAMP**- Legal Aid camp should be conducted in villages every 15 days and the authorities conducting the camps must be given such judicial power so they can solve minimal issues then and there.
- **GRIEVANCE CALL SYSTEM** - Government should make a call system where a toll free number will be provided to the public so that their grievances can be recorded and the concerned authority should have to report the Complainant within 2 days and will have to solve the issue within 7 days mandatorily.
- **VILLAGE LEVEL COURTS**- There should be courts at village level and within the range of 2k.m. They should have the jurisdiction of district and must have the power to decide any issue except severe criminal issue.
- **CITIZEN ACCOUNT** – Every villager should be given a government account in which all the compensation money, government pensions, widow pensions, any other government policy money will be directly transferred to this account, no officer will be delegated the power for clearance of money.
- **SINGLE WINDOW CLEARANCE**- Government must establish a single window clearance system at village level where the entire local businessman will get all the documents including the G.S.T. number with one single visit and clearance should be informed within 10 days via e-mail or through message.
- **ACCOUNTABILITY OF JUDGES AND LAWYERS**- Advocates and judges must be made accountable towards their work. They must be linked through a portal where they have to update the superior courts regarding the minutes of the case on daily basis and the clients will also get informed with the same on daily basis. Time limit should also be given mandatorily to the advocates of the party and the judges to solve the case.

REFERENCES

- https://www.devalt.org/images/L2_ProjectPdfs/EnhanceAccesstoJusticebyLegalempowermentofMarginalizedCommunities.pdf .
- <http://www.in.undp.org/content/dam/india/docs/DG/equitable-access-to-justice-legal-empowerment-legal-aid-and-making-it-work-for-the-poor-and-marginalised.pdf>
- <https://scroll.in/article/866158/the-indian-justice-system-is-too-slow-too-complex-and-too-costly-says-new-study>
- http://wcd.nic.in/sites/default/files/Executive%20Summary_HLC_0.pdf
- http://doj.gov.in/sites/default/files/A2J1%20%201_0_0.pdf
- <http://docs.manupatra.in/newslines/articles/Upload/33CD95C5-634D-4A61-9FF2-78B325C8D041.pdf>
- http://www.undp.org/content/dam/india/docs/strengthened_access_to_justice_in_india_factsheet_project.pdf
- https://www.devalt.org/images/L2_ProjectPdfs/EnhanceAccesstoJusticebyLegalempowermentofMarginalizedCommunities.pdf
- <https://namati.org/wp-content/uploads/2015/12/Access-to-Justice-for-the-Poor-Marginalised-and-Vulnerable-People-of-Uganda.pdf>
- <http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/A2JFrameworkEnglish.pdf>
- <http://www.in.undp.org/content/dam/india/docs/DG/equitable-access-to-justice-legal-empowerment-legal-aid-and-making-it-work-for-the-poor-and-marginalised.pdf>
- <http://www.in.undp.org/content/dam/india/docs/DG/equitable-access-to-justice-legal-empowerment-legal-aid-and-making-it-work-for-the-poor-and-marginalised.pdf>
- http://doj.gov.in/sites/default/files/Increasing-A2J_0.pdf

SURVEY REPORT

PLACE OF SURVEY- SLS, HYDERABAD CAMPUS

DATE OF SURVEY- 13/03/19, 14/03/19, 15/03/19, 16/03/19.

SAMPLE SIZE- 50

RESPONDENTS – House-keeping Staff, Mess workers, Cleaning Ladies, Guards.

TARGETED VILLAGE FOR SURVEY- Nandigama, Mamidipalli. Verapalli etc.

MODE OF DATA COLLECTION- 1)- Questionnaire 2)- Informal Conversation

TOPIC OF SURVEY- “ACCESS TO JUSTICE FOR POOR AND MARGINALIZED PEOPLE IN THE NEARBY VILLAGES OF SLS, HYDERABAD CAMPUS”

FINDINGS IN POINT

- 1)- The major problem that arise in the nearby villages of SLS, Hyderabad campus are related to property issue, family issues and lack of Administrative functioning. In some responses we got some murder and theft cases as well.
- 2)- The section that suffers the pain of non-access to justice are women, labor class, Farmers, and local businessman.
- 3)- There is no awareness regarding the Alternative mode of the justice nor they have any idea regarding the online portal for grievances which is initiated by the Telangana Government. People refrain from approaching police and lawyers for legal help.
- 4)- They faced many types of challenges like time taking performance, Social deprivation, Communicational Barriers, Fraud and cheating in the system while enforcing their rights and other recourses available by the administrative system or by the judicial system.
- 5)- They themselves has accepted that for any dispute they usually don't report and they opt for negotiation between themselves.

6)- They are not given any type of legal services by the government, there is not a single legal aid camp which is organized by the government, one they remember is conducted by SLS, Hyderabad legal aid clinic.

7)- They accepted the fact for administrative and judicial work they have given bribes to the officials and sometime took the help of some resource person for their work due to rampant corruption and unresponsive administration.

8) They are of the view that influential and rich people of the village have dominance, which is also a big obstacle for reporting the disputes.

9)- The people has complain regarding the services of the panchayati Raj institution that they are under the influence of the rich people of the village and they supply the material to these people which came for Below poverty line people under Public distribution System.

10)- There is no office or Nagrik Seva Kendra in the village where the villagers could lodge their grievances and get access to the policies of the government.