CHAPTER-III

PRACTICE OF LEGAL AID OUTSIDE INDIA AND IN UNITED NATIONS ORGANISATION

In order to have birds eye view in different provisions of legal aid in different developed and developing countries of the world which grew depending upon that country's necessity and will of the people along with the will of the ruling government. So it varies from country to country depending upon the various stages of social, economic, legal and political developments basing upon its legal development.

Though every legal aid system grows on its own soil, taking form and shape as per the needs and aspirations of its own people, yet the growing and developing systems have much to learn from the steps, the developed legal aid systems have trodden. Moreover, the present stage of legal aid concept, as it is with any other principle too, did not take birth as such but the stage and stature it is having at present has been attained after long care and rear. Each stage and phase in every society, the concept of legal aid has passed through, has a lesson to give to the present aspirations and mould the concept. The developed systems, having covered a longer journey have to move to provide and guide the developing concept of legal aid in India. Her own steps in history also give lessons for the future. But to start with, it is better to discuss the historical path of legal aid in England and United States of America which have inspired and illuminated the Indian initiatives and achievements.¹

On study of general trend of legal aid programmes in various countries it is found
that by the end of 19th century, the mere formal right to legal protection developed into a more substantial equality of parties before the courts prior to this development the legal assistant to poor always had connotation of charity by the legal practitioners. other private or philanthropic organisations of public authorities. 

In order to properly understand and appreciate the Indian legal aid programmes, it is desirable to make a brief survey though there may be some diversity in various legal systems of legal aid schemes in foreign countries. Though there may be some diversity in various legal systems of the world, yet the general trend of legal aid has been more or less similar.

If earliest Roman Law is peeped then it is found that while a formidable intellectuals triumph, displayed. In practice a rather callous disregard of some principles of equal justice that today seen axiomatic. The earliest Roman procedure was formulatory with a design to defeat justice rather than to up hold it.

But the clientele system which flourished during the Republic and early empire envisaged to bring legal services within the reach of the poor. Under this system the weak and impoverished attached themselves to a powerful man, a patron and in return for sundry service and political support the patron assisted them in overcoming many of their difficulties, notably pertaining to litigation. The duties of such a patron were not limited to simple legal assistance but extended far beyond extra legal help necessary to prosecute a case against a powerful opponent in Roman Law. The clientele system was not only most typical but also the most satisfactory Roman answer to the legal problem of the poor.
LEGAL AID IN UNITED KINGDOM

In the area of Anglo Saxon jurisprudential history, the concept of equal justice manifested in the earliest laws. The English society being an old one and having touched the peaks of glory and advancement, it has been the assertion of Englishmen that they have been pioneers in the realm of legal aid.

Doing equal justice to the rich and the poor was asserted in the Chapter of Liberties of Henry II and it received the glorious statement which depicts spirit of English legal system regarding help or assistance to the poor.5

To no one will we sell, to no one will we refuse or delay right or justice.

But it is criticised that the above great principles are not translated into reality. In modern time the oldest view of legal aid has ceased to be tenable to a right or justice.

In modern time the oldest view of legal aid has ceased to be tenable to a right to some form of legal aid with force superior to ordinary statutes by means of judicial review.7

The legal aid in the United Kingdom has been governed in the past by a series of statutory enactments.8

So legal aid has a long and deep history obviously the appropriate starting point for the inquiry of legal aid in Menga Karta. The Megna Karta laid down the cardinal principles on which the entire claim for legal aid might resonably be based.9

During the reign of Henry I and Edward I, some concessions were given to the poor litigants and they were immune to pledge security before filing a suit.10

Under Henry III (1216-72) the poor men were not required to pay for their writs. Common Law Courts had independent power to entertain gratuitously the plaintiffs of the needy. The Church has also shown sympathetic attitude while permitting the plaintiffs
of the needy. The Church has also shown sympathetic attitude while permitting the ecclesiastical lawyer to represent poor people. The Statute II of Henry VII, c-12 (1494), was the first statute dealing specifically in \textit{forma pauperis} procedure. The poor man was allowed to have writ without paying anything and there was also provision for assigning a counsel for the poor. The said statute provided ample relief to the poor. The chancery was able to relieve poor respondents as well as poor complainants from financial burden.\textsuperscript{11}

It is found that The Forma Pauper Act (1494) was an excellent bit of legislation and it seems, so far as common law courts were concerned, it endeavoured to open a new era with regard to poor persons suit.

The humanitarianism of the English Kings from 1216 to 1494 was rather surprising. They meant to do much more towards helping their poor subjects than many of our states are doing today. A further enactment was passed in 1531, Henry VIII c-15 providing that a person if unsuccessful shall not be liable for his opponents cost but such other punishments as shall be thought reasonable. Therefore when the matter was decided against the plaintiff he could be punished with whipping or pillory or flogging. Due to liberal interpretation of statutes vexatious litigations were quite frequent. There was no machinery for investigation the means of applicant and the merits of the case. The statute of the Henry VII was repeated by The Law Revision Act 1883 and Rules of courts were framed in High Courts. But the rules of 1883, failed to ameliorate the condition of indigent suitors. The period from 1883 to 1914 reveals the fact that the problem of poverty in all its different aspects is an individual problem. In 1912 and 1913, there was considerable agitation for reform.\textsuperscript{12}
Commenting upon the forma pauperis procedure Justice Parry observed up to now the procedure in forma pauperism has not been of practical benefit to the poor except in enlarging on occasional important appeal to reach the House of Lords.

THE POOR PERSON'S PROCEDURE, 1914

The following are the factors for to pass the above Act. The charitable venture of lawyers and social workers came directly in to contract with distress and injustices caused to poor classes. The poor classes due to their inability to enforce their legal rights in courts constituted a small body of the people who were able to urge the redress of these wrongs in articulated manner. The people's body were unofficial and needed no affiliation to any law society. They could not continue their activities owing to lack of funds.

Some times unscrupulous lawyers and others would take up the cases of poor in the hope of recovering costs from the other side. Semi-champertious agreement became common phenomenon. Spurious Legal Aid Societies and speculative solicitors were a sort of necessary evil, until better provision was made.14

On the other hand the divorce business transferred to the country courts. The Divorce Count practitioners in order to preserve their lucrative practices assisted seizable number of people who were seeking divorces who were unable to pay the cost.15

So the High Court of Juridicare promulgated The Rules of Poor Person's Procedure, in the year 1914.

The following are the outstanding feature of The Rule 1914-

1. Establishment of office in Royal Court of Justice at London and its branches to serve as clearing houses for the poormen's causes.
2. Provision for assignment of lawyers for poor litigants.

3. Provision for making investigation in regard to the means of the applicant and the merit of the case.

4. Extension of liberal treatment to poor litigants.

5. Making the assisting counsels responsible and unable to exploit the aided litigant.

The scheme was appreciated all over country. The financial limitations was raised from 50 pound to 100 pound in special circumstances. But the law society disapproved the 'officialism', of the poor person's department.

But these rules could not deliver the good to the satisfaction of the English society. Therefore, Lord Brickenhead appointed a committee under Mr. Justice R.O. Lawrence to report on the working of The Poor Person's Procedure. The committe found out that even small allowance for the services of the solicitors was abused. Therefore, the solicitors were reluctant to offer their services in poor person's cases.

As a result of difficulty to implement the rules of 1914, another set of rules which came into force from January 1921, where under the Council of Law Society made an appeal to all solicitors to take cases of poor persons. In July, 1923 the Lord Chancellor appointed another committee under Mr. Justice Lawrence. It was stated that in case solicitor's profession did not deal with the problem, a government department would have to be considered. The report was presented in February, 1925. In 1925 itself a committee was appointed under the Chairmanship of Mr. Justice Finely to report on the aspects of legal aid. The report was published after three years. In 1926 administrative control over legal aid was handed over the law society from prescribed officers who
are masters of the Supreme Courts. So for the civil cases are concerned the Finely Committee found that all was well.17

In 1925, regarding position of Legal Aid Programme, and its implementaion and fund F.C.Gurney18 comments-essentially it is haphazard, unorganised charity or more upon his private circumstances, and the amount of time he can spare his charity.

In England the statutory provision for legal aid was first made by The Poor Prisoners Defence Act, 1930 and was limited to trial as indicement. The magistrate were given limited power to grant legal aid in commital proceedings and in summary trials. The assistance under the Act was severely restricted, being available only in cases where it appeared desirable in the interest of justice by reason of the gravity of the charges or of exceptional circumstances. The solicitors and barristers allotted by the courts were paid out of local funds but their remmuneration was fixed and inadequate. All legal aid under these acts depended in large measure on the charity of the lawyers who undertook the work.19

The Poor Prisoners Defence Act, 1930 continued upto the days of second world war. The second world war brought a fresh and overwhelming crisis in the affairs of the above Act. In 1942 war officers were setup for giving advice to the needy persons. This scheme filled up a part gap which was noticed by The Committee (1925) by supplying aid outside litigation.20

**RUSHCLIFFE COMMITTEE**

After the war years Lord Simon appinted a committee in 1946 known as Rushcliffe Committee to study the problem of legal aid. The committee studied what facilities then existed in England and Wales for giving legal advice and assistance to
poor persons and to make recommendation. The report was presented to Parliament one year later that is in May 1947.

The report of the Rushcliffe Committee was a well high exhaustive study of the legal aid to poor. The scheme providing a chain of legal advice bureaux of varying froms like permanent, semipermanent and non permanent. Any needy persons could, without a means test, obtain legal advice outside litigation. The whole organisation was setup under control and supervision of an Area Committee, consisting of solicitors and members of the Bar. Indeed, the Area Committee's scheme, initially a poor persons had to apply for a legal aid certificate to the Local Committee. There was an eligibility test for providing full or contributory legal aid. In case of dispute the Area Committee should hear an appeal from Local Committee. It was suggested that the whole control on the centre level should be in the hands of Law Society, which on its part answerable to Lord Chancellor, who has authority to issue rules on the details of the scheme and allocate fund to Law Society. The committee suggested that legal aid should be granted in all types of courts. Undoubtedly, the Rushcliffe Committee made an exhaustive study of legal aid to the poor and suggested a significant scheme which was later on adopted in The Legal Aid and Advice Act, 1949.

LEGAL AID AND ADVICE ACT, 1949

The Legal Aid and Advice Act, 1949 was brought into operation on 2nd October 1950. By this Act, the emphasis and atmosphere of welfare state had changed it and was no longer to the poor but persons of small or modern means who were recognised as in the need of help. Justice was to be done in society which claimed to be founded on the provisions where aid was limited to cases only of gravity, exceptional circumstances
or the nature of the offence or sentence, so that the only question after the 1949 Act.
was whether legal aid was desirable in the interests of justices in the broadest sense
of those words. The 1949 Act extended legal aid to appeal from judgement against
sentences.22

The Act of 1949, laid down that work done by solicitors and counsels receive
remuneration according to the work actually and reasonably done. The 1949 Act also
provided that the cost of legal aid in magistrate courts should be accessed by the Law
Society and paid out of legal aid fund setup under the provision of 1949 Act.23

LEGAL AID IN CIVIL CASES

In England Legal Aid in civil cases is available in the House of Lords, Courts
of Appeal, High Court, Country Courts and Certain Tribunals. The Law Society manages
the scheme through 12 Area Committees, 112 Local Committees and Certifying Committees
(Sub-Committees of the Local Committee). The legal aid is granted to those applicants
who obtains certificate from certifying committees without prior reference of the application
to The National Assistance Board of certifying committees provided that the certifier
is satisfied that conditions. The applicants have to demonstrate reasonable grounds in
law for taking or defending against the action.24

Matrimonial cases are conducted by Divorce Department. Legal aid and advice
provided to those unable to afford it. Persons concerned or dealing with legal aid were
informed that while considering applications, it should be ensured that legal aid is granted
only in proper cases so that fund entrusted to the Law Society may not be misused.25

LEGAL AID IN CRIMINAL CASES

The statute of 1836 was perhaps the first enactment allowing an accused to
have counsel on a charge of felony as well as other sources.

Again legal aid in criminal charges began with the passing to The Poor Prisoners Defence Act, 1930. It provided a more comprehensive system of financial aid covering committal proceedings and summary proceedings in Magistrate’s courts and also tried on indictment. In March 1966 Departmental Committees report on legal aid was published. It suggested two things, firstly that neither a poor accused should be left unheard nor legal aid should be given where it was appeared as necessary.26

WIDGERY COMMITTEE 1964, LEGAL AID ACT 1964

In response to criticism of Legal Aid and Advice Act, 1949 in April, 1964 the then Home Secretary appointed a departmental committee under the Chairmanship of Mr. Justice Widgery. As per the recommendation of Justice Widgery, in order to meet the hardship of previous committee The Legal Aid Act, 1964 was passed. The Act provided for the payment of costs incurred by the successful unassisted opponents out of legal aid funds. It also recommended that dealing with legal aid should not be transferred to the legal aid of the law society but should remain with the court. It recommended that introduction of simplified scheme of contribution in which there should be no predetermined limits of capital or income to decide whether an applicant is financially eligible.27

CRIMINAL JUSTICE ACT 1967

In March, 1966, Departmental Committee Report on Legal Aid was published. It suggested two things, firstly that neither a poor accused should be left unheard nor legal aid should be given where appeared as necessary. The recommendations seen to hold a fair balance between the needs of the accused and the necessary concern of
treasury. The current law on the grant of legal aid in criminal proceedings is provided by The Criminal Justice Act, 1967.28

CRIMINAL JUSTICE ACT 1972

Still there remained lacuna in the programme which made a way for the report of the Advisory Committee on Legal Aid and Advice Act, 1970, demanding implementation in to the recommendation of Rushcliffe Committee and the spirit behind the provision in Megna Carta. On the basic of such recommendation, The Legal Aid and Advice Act. 1972 was passed. Here full guarantee of legal aid in criminal cases has been given to the accused. Under section 37 of the said Act, a magistrate before sentencing an accused to a custodial penalty is bound to offer him legal aid.29

THE LEGAL AID ADVICE ACT 1974

The Legal Aid and Advice Act, 1972, was further amended to embrace the entire statutory provisions of legal aid. The new legislation supports the legal aid programmes and schemes in Britain. The Act of 1974 have influenced the legal aid movement in India. All the same the impact of growth and development in legal aid in USA, has not been meant.30 Civil legal aid scheme in England began in the year 1950, but civil legal aid is administered in a much more vigorous way than criminal legal aid. The applicant in civil cases have to satisfy means test and merit test, regarding his case. Theoretically, the legal aid is available in all kinds of cases but practically in most tribunals, legal aid is not made available.31

LEGAL AID IN UNITED STATES OF AMERICA

The American Laws regarding legal aid have developed more or symmetrically out of early 17th century, though the history of legal aid movement in the United States
of America is not as old as in England. The first organised efforts to provide legal aid was in response to a wave of German immigrants to the Greater New York area in 1876. The German Society organised 'Der Dentsche Rechtsschutz-vercin' which was established to render legal aid and assistance gratuitously, to those German birth who may appear worthy there of but who from property were unable to procure it. In 1890 Arthur Briesen led the conversion of that service in to 'The Legal Aid Society' opening its doors to all indigents.32

In 1872 the main federal statute covering poor men's suit was enacted. But this statute was not applicable in appeals. This defect was removed by amending this statute in 1910. In 1916, the Congress passed an Act to the benefit of poor seaman.33

The democratic essence in the American society came with the abolition of slavery and for a democracy to function, equal justice become sine qua non. It needs no emphasis that equal justice, if to be delivered in a society necessitates provision of legal aid, in what so ever form and mechanics it may exist or function. In the American society, the provision of legal aid worked as a voluntary concept through charitable organisations, however, for a long time it remained to criminal cases alone.34

After New York City venture twelve years later, an organisation, willing to render legal aid to all persons was established. But paying a way for some extension of legal aid in America was slow. Which could be read from the fact that by the end of 1913, only twenty eight such local organisations provided legal aid in the United States.35

Some of the states of U.S.A. had their own statutes. However the test of poverty were strikingly different. The British concept of forma pauperis proceeding was in vague in United States of America but it was rarely of help to the poor.36
The legal aid movement in its true sense was largely the creation of one man and creation one book. In 1914, Reginald Steber Smith, 25 years graduate of Harvard Law School, accepted an offer to take over reigns of the newly formed Boston Legal Aid Society. In this, Smith became appalled by the miserable way the law treated his clients. This in turn, aroused him to seek a grant from the Carnegie Foundation to write a book about the current legal system and what is meant to America’s poor. His work was published in a book in 1919, entitled 'Justice and the Poor' which caused a storm in legal profession. Smith had taken a hard look at the stage of justice in America and found it wanting.37

In 1920, American Bar Association constituted a special committee on legal aid with a persons of no less than stature Carles Evans Houghes, he was named as its Chairman. In 1923 Smith's recommendation for the establishedment of a national organisation of agencies and persons interested in legal aid, a point he urged so strongly in 'Justice and the Poor' became a reality when the National Association of Legal Aid Organisation (This Organisation later became the National Legal Aid and Defender Association) was formed. Shortly there after, a number of state local Bar Associations formed committees to promote legal assistance to poor people in their Jurisdiction. Till 1960, the legal aid movement continued to depend almost entirely on charitable contributions for substenance. Staff attorneys were woefully underpaid and carried unrealistic caseloads.38

LEGAL AID IN CIVIL CASES

Unlike criminal cases, no constitutional guarantee of legal aid is provided in civil cases. The Gideon case39 has actually left out a gap between the right to counsel in criminal and civil cases. It clashes with the very language of the ‘Due process clause’ which
provides right to a lawyer. The Supreme Court has itself equated civil cases with criminal cases while forbidding the states from barring any litigant’s hired lawyer from the courtroom. The progress in providing legal assistance to the poor began during the late forties as a result of leadership of the National Legal Aid and Defender Association, the Bar and the Ford Foundation.40

THE ECONOMIC OPPORTUNITY ACT; 1964

There was no dynamic legal aid programme until the mid-sixties with President Lyndon Johnson’s ‘war on poverty’. It was the Economic Opportunity Act, 1964, which gave statutory basis to legal aid and provided federal funds for National Legal Services in U.S.A. There were provided as a part of the office of economic opportunity but later on supervisory authority was delegated to National Legal Services Corporation, by the Act of 1974. The Act of 1964 is considered to be a victory for the American Bar Association, the National Bar Association and other Organisations that struggled hard on behalf of legal services and for those persons who devoted their time and talents to serving the poor.41

The office of economic opportunity started its poverty law programme in 1965 and the National Legal Services Corporation started its operation in October 1975. It is governed by a Board of Directors appointed by Presidents of the United States, subject to the be more than six members from one political party. In the America legal aid programme insulated from political interferences at all levels The National Legal Services Corporation provides local legal aid programme for the poor throughout the America. It is funded by the congress. It was also established Neighbourhood Law Officer to provide legal aid and advice at local level.42
The Act of 1964 is also not free from criticism. The control over aid programme has been left to the federal government. The right of legal aid in civil cases still cannot be claimed as a matter of right. The financial tests are so severe and arbitrary that the aid can not be said to reach the bottom of poor. The scheme is not comprehensive to give aid in all types of cases.43

THE EQUAL ACCESS TO JUSTICE ACT, 1980

The Equal Access to Justice Act was passed by the American Congress in the year 1980. It aims at providing legal aid to small businessmen, as individuals burdened by the inordinate legal cost of challenging unjustified governmental actions. It provides interalia that attorney's fee shall be awarded to a small businessman or individual that prevails in non-tort Civil Action involving the United States Government unless the court finds that the position of the United States was substantially justified. The experimental provisions of the Equal Access to Justice Act, 1980 creates a significant exception to the traditional American Rule, which makes each party to a law suit responsible for its own attorney's fees. In these days experiments have been made to popularise 'Prepaid Group Legal Services'. It is a sort of insurance to cover a future contingency.

LEGAL AID IN CRIMINAL CASES

In 1964, the congress had passed Criminal Justice Act, 1964, to provide legal aid in criminal cases. Before this act there was Public Defender Bureau staffed by full time lawyer whose job was to defend those who were unable to afford their own lawyer. In 1964 the Congress had also passed The Bail Reform Act to minimise financial burden on accused. The Criminal Justice Act was amended in 1970 to provide some compensation to private attorneys.
The right to counsel in criminal cases is a constitutional mandate. The VIth Amendment to the American Constitution provides—in all criminal prosecution the accused shall enjoy the right to have assistance of counsel for his defence.\textsuperscript{15}

The above provision means that the accused was entitled to be employed and to be represented by his own counsel but that it imposed no mandatory requirement on the court to provide counsel in all criminal trials. Further, it imposes no duty on the government to provide free counsel.

Supreme Court for the first time held that with amendment of an American Constitution provided the right to counsel which extended to the appointment of counsel for indigent defendant in federal criminal proceeding unless the accused waived his right.\textsuperscript{46}

In \textit{Ozie Powell and Others vs State of Alabama},\textsuperscript{47} Supreme Court for the first time considered the question whether an accused in the state criminal proceedings may assert a right to counsel under 'due process' clause of the xivth Amendment. The right is of such character that it cannot be denied without violating fundamental principle of liberty and justice. The right of hearing is a basic element of due process, includes the right to the aid of counsel. In this case state was directed to provide legal aid in capital sentence case.

Ten years later in \textit{Belts vs Brady}\textsuperscript{48} the Supreme Court interpreted the principle of Powell Case quite literally and rigidly and gave a restricted application to the particular facts of the case. Supreme Court held that state did not bound to provide free counsel expect in murder and rape cases.

All these were overruled the significant historical case \textit{Gedion vs Wainwright}\textsuperscript{49} the Supreme Court held that under VIth Amendment of U.S.Constitution all accused shall
enjoy the right to have the assistance of counsel for his defence, unless, such right is completely and intelligently waived. The VIth Amendment guarantees fundamental right to an accused to have a counsel in all criminal cases. It overruled Belts vs Brady and test laid down there on.

In Robert Galloway White vs State of Maryland\(^5\) the Supreme Court held that without showing prejudice resulting from the absence of counsel at the time of his conviction under circumstances violated the due process clause of the XIVth Amendment.

In 1964 Supreme Court also extended the right established in Gideon Case pre-trial police investigation.\(^5\)

Supreme Court in Escobedo vs Illinois\(^5\) held that if a man simply is taken into custody, although not formally indicted have the right of presence of counsel during his interrogation by the police. It also held that refusal by police to honour the defendants request to consult his attorney during course of interrogation constituted a denial of the assistance of counsel in violation of VIth Amendment.

Hence right to counsel exists at the very stage of trial from arraignment up to sentence.

**LEGAL AID IN RIGHT TO APPEAL**

An indigent accused has constitutional right to represent him on his appeal from a state court conviction.\(^5\) So the accused is entitled to get assistance of a counsel in preparing and submitting a brief to the appellant court.

In Charles Robert Aders vs State of California\(^5\) a counsel was appointed to represent indigent accused but he informed the court that there was no merit in the appeal. The court denied the indigent's request for appointment of another attorney.
On a writ of certiorari the Supreme Court held that the accused was entitled to get new counsel where the case is wholly frivolous, the court should examine and allow withdrawal of appeal. On the grounds of poverty only, no one should be denied appellate review.

In *Neal Marie Smith vs John E Bennett* the Supreme Court held that there can be no equal justice where there is a trial in which justice to persons depends upon the amount of money he possesses. The imposition of financial barrier restricting the availability of appellate review for indigent accused has no place in the American heritage of equal justice under law.

The Supreme Court of America held that the due process and equal protection. Clauses of the XIVth Amendment were violated by the state's denial of appellate review solely on account of dependant's inability to pay for transcript.

The right of representation by counsel is a constitutional right of an accused against federal as well as state actions.

The Supreme Court held that Juvenile Court was also bound to provide counsel to indigent minor. Where the lawyer of an indigent accused was not competent, he has proved his incompetancy of the counsel. It was for the State Government to prove that counsel's error did not prejudice the defence.

Now due to amelioration of the condition of the poor in the United States of America their legal problems have decreased and the proportionately legal problems of Middle Classes have grown.

**VOLUNTARY ORGANISATION AND LEGAL AID**

In America apart from individual endeavour, some voluntary organisations dealt
with class action or took up causes of larger public interests. The most influential early organisations pursuing this strategy were Civil Rights Organisations, particularly the National Association for Advancement of Coloured People (for short the NAACP). By a series of cases the organisation brought to the attention of court, the existing nature and legal implications of racial discrimination. The United State's Supreme Court invalidated anti-black voting restriction in Guinm vs U.S. 238 U.S. 347 (1915); housing segregation ordinances Buchanan vs Warley 245 US 60 (1917).61

American Civil Liberties Union and National Lawyers Guild also greatly helped the development of legal aid movement in America. Large number of aggressive legal rights organizations were set up for the protection of the citizens because of the encouragement of Kennedy Administration. In the early 1960s voluntary organisations were set up in large number to protect the civil liberties and public interest.62

The most important were organisations developed by Ralph Nader Foundation supported public interest law firms and law communes. Nadar was firmly of the opinion that the unrepresented consumers could defend themselves if more informations were made available. 'Investigation and exposure' is the key ingredients for the dissemination of information.63

In late 1960s to 1970, large number of voluntary legal services organisations were setup apart from Legal Aid Centres setup by the federal and state governments. Some kind of legal aid centres and programmes are existing in all states of America, and a large number of people are taking advantage of these centres. Even then it is difficult to claim that all needy indigents and the poor persons are getting legal aid in all cases. Thus dream is yet to be fulfilled and translated into reality even by the most
affluent nation of this planet.\textsuperscript{64}

Summing up the American concept of legal aid, Dr. Dhyani writes- legal aid in United States of America serves threefold purposes. First purpose is individual legal representation—one client one lawyer who provides consultation or may take the matter to the court. Second purpose of legal aid is law reform which means to bring test case litigation in court to challenge the vires of law, what Justice Krishna Iyer has said there are many 'Lawless Laws' in the statute books. The third purpose of legal aid is education through the use of television, radio, posters, pamphlets to inform communities like Red Indians, Blacks and others about the existence of legal aid and lawyers to help them and not to hurt them. To mitigate the cost of litigation, there is a training programme for para professionals conducted either by local aid committee or the National Legal Services Corporation. The legal aid growth in America is definitely of interest to Indians and so its progress in some other developed countries.\textsuperscript{65}

**LEGAL AID IN FORMER SOVIET UNION OR RUSSIA**

Russia which was known as United States of Socialist Republic, which spent most of its days under communist ideology of Marx, Lelin and Stalin, consider the principle of equality is the foundation of administration of justice. Therefore court cannot restrict its role to a certain class people. The duty of the court to ensure that the equality of the parties is not effected by different position which as a result of economic conditions, education, or familiarity with the law principle of access to the courts is one of the basic principles of administration of justice.

According Article 5 of Rules of Practice of the Soviet Socialist Republic (Now Russia) it is clear that every intersted party is entitled to turn to Article 7 and Article
5 of Russian ZPO stresses the equal rights of all justice, irrespective of birth, means, occupation, race and religion.\(^6^6\)

For early in Soviet Russia Marxist theory examines social and political inequality and injustice to various classes of society. Injustice is caused due to conflict of class interest. In Soviet society there is no question of political and social injustice, therefore, there is no comprehensive legal aid programme in Soviet Union in western sense. However there are various provisions under which the Soviet citizens can seek legal assistance. Under Code of Civil Procedure of the Soviet Federal Socialist Republic, 1964, a person may be exempted from paying court fee in particular category of cases. Legal aid does not depend upon the financial status of person. Nominal fees are determined for lawyers and low cost advice is provided so that no one remains without legal services.\(^6^7\)

Again the judge plays a part of parent or guardian; indeed whole legal system is parental. Hence, legal ordering of Russian Society does not require the type of legal aid as is necessary in the America, England or India.\(^6^8\) The Russian Judge is expected to discharge responsibilities for determining the objective truth of a case rather than to sit in the natural fashion, while conducting a case in court.\(^6^9\) In Russia requirement of council which existed before World War II was strongly criticised. It was felt that this requirement hindered the protection of right of the injured. The 'court costs' present no obstacle to asserting a claim in the socialist states. Low costs of lawyer's fees and court costs have been designed to permit greater access to justice for a large number of people.\(^7^0\)

**LEGAL AID IN AUSTRALIA**

There are various legislations dealing with legal aid system. The facility is also
provided by trade union, social welfare societies, citizen advice bureaux, radio and newspapers are also used for giving free legal advice. The scheme of insurance against liability for motor car owner’s negligence has created a privately controlled system of legal aid.\textsuperscript{71}

The widespread grant of free, reduced price legal services to those unable to pay, is relatively a recent phenomenon in Australian Government and bodies of lawyer profession have been actively involved only within last years of past century that is 1998 while development of each state occured separately, they have been influenced by development in sister states and the differences between states are relatively minor.\textsuperscript{72}

The State Government of South Australia operate legal aid through Poor Person’s Legal Assistance Act, 1936. The professional bodies provide legal assistance in all states. The Federal Government provides legal aid through salaried service of Australian legal aid office. Some of the states are also having legislation dealing with legal aid.\textsuperscript{73}

In Australia political factor is important in determining the nature of legal aid scheme an applicant must satisfy the following requisites-

a) He must be in category of cases in which legal aid is granted.

b) He/she must satisfy means test.

c) His/her case must be deserving for legal assistance.

For determining eligibility two types of means test are applied. First is regarding resources of applicant and second related to the capacity to afford the normal cost of legal services required. The limit of property for the applicant of legal aid is 1000 dollars exclusive of exempted property. The exempted property includes dwelling house up to ten thousand dollars, motor car up to certain limit, wearing apparels, tools of
trade, household furniture, monthly or annual income upto certain limit. The Victoria Scheme provides legal aid to a person of limited means. The South Australian legislation provides legal aid only when an applicant proves his hardship. Tasmanian Scheme provides legal assistance only when he unable to pay ordinary legal costs.

After election of 1977, Commonwealh Government laid preference to each state to create its own legal aid commission which co-ordinated all of legal aid programmes provided within the state and receive grants from the Commonwealth Government. In response to this government initiative replacing both the existing law society schemes and commonwealth salaried service, the Western Australian, South Australia, Queensland Australian Capitalerriorty have passed legislation establishing Legal Aid Commissions. The Commonwealth Legal Aid Commission Act was passed in the year 1977.

The chief functions of commission are to establish a legal assistance to determine eligibility criteria to conduct research into legal rights and duties and to make grants to persons or bodies engaged in or promoting legal assistance.

In directs the commission in exercising its functions, to take in to account the need for legal assistance to be readily available to disadvantaged person the desirability of enabling all assisted persons to obtain services of legal practitioners of their choice and the importance of maintaining independence in legal profession.

The function of Commission Act are also to collect development data and suggest new ways.

To provide legal aid, fund is available through following sources:

a) Solicitor's general trust account.
b) costs.

c) contributions.

d) profession and

e) government.

The community legal aid centre are also providing legal services to the needy person. The first community legal aid centres were established in Fitzroy and Suburb of Melbourne in December 1973. There are fifty centres throughout Australia. The community legal services movement has played a dynamic role. Legal centres have not only specialised in particular areas of legal work but have also devised innovative means in providing advice and assistance in shop front offices through a combination of lawyers and non-lawyers and combination of voluntary private practitioners and salaried staff.  

A national commission of inquiry into poverty highlighted the deficiencies of the Australian legal system and legal profession's approach to poor people. A climate for further systematic and effective development of law has been created. When the Australian legal aid programme is carefully analysed, we reach the conclusion that comprehensive and broad based legal aid programme is lacking, but future of legal aid programme in Australia seems to be more encouraging, because of wide spread awareness and appreciation of the concept of legal aid to poor.

LEGAL AID IN SOUTH AFRICA

South Africa which is a far advanced country then the other countries of African Continent. Racial discrimination among the whites and non-whites of the history of South Africa is not very old. The endeavour of Nelson Mandela his life long struggle through apartheid relieved to some extent the exploitation and repression of whites upon non-
whites. Yet they are economically too weak even today for which legal aid is utmost necessary. It is open secret that the problem of South Africa is completely different not only from developed countries but also from developing countries.

In South Africa access to civil proceeding is a question of both economics and race. Indigent whites are as much as advantageous position in enforcing or defending thier rights in civil legal proceeding than the coloured Asians or Bantu who are unable to pay the cost of litigation. A sizeable majority of indigent South Africans are non-whites, average standard of education are higher amongst whites than amongst non-whites in South Africans. The matter is further compouded by the number of Bantu continue to line in conditions of the fact that a significant tribal life posing quite different questions with regard to his access to ordinary courts. Race, cultural differences and economics all play a role in determining case with which any individual South African may persue dispute in according with general civil procedure of South African law.82

In South Africa, The Legal Aid Scheme, 1962, was to be administred by a government department as it envisiged the appointment of civil servants as legal aid officers. Matters referred by legal aid officers to private practitioners were to be handled free of charge. The scheme really did not succeed.83

South Africa also need a comprehensive, board based well structured legal aid programme. Even an affluent country like the United States of America also requiries a comprehensive legal aid programme, so it is must for South Africa. The legal aid programme in South Africa, gives a gloomy and disappointing picture. After the acceptance of Final Constitution in South Africa in 1996, the post constitutional development is that in 1998, the Ministry of Justice constituted a Legal Aid Transformation Team (LATT).
it made certain recommendations to encourage alternative mechanism over and above the section 25(3) of Interim Constitution 1993.

The white paper on legal aid noted that the judicare system is both equitable in terms of spread of its beneficiaries as well as financially unsustainable especially in the light of additional constitutional mandate given to the Board. In the long run it is not advisable to rely on the legal practitioners to deliver publicly funded legal services.

The paper suggested that delivery of legal aid services be based on more extensive use of salaried lawyers and other services providers such as legal aid centres, public defenders and University Legal Aid Clinics.

As a result of constitutional obligation on the state to provide representation where substantial injustice will otherwise result and the decision that The Legal Aid Board (LAB) is the institution through which the state will carry out these obligations, the state funding of the Legal Aid Board has increased very substantially.

The scale of the work of the Legal Aid Board has therefore increased enormously. Where as during the early phase The Legal Aid Board handled only 6000 to 7000 cases per year during the year 2003, The Legal Aid Board dealt with approximately 200000 cases.

The work of Legal Aid Board overwhelmingly focussed on criminal matters only approximately 12% of the cases taken on are civil matters.

LEGAL AID IN CHILE

Chile is a prominent country of South American Continent, situated at the southern end of the continent. Chile has a national legal programme financed by the government and administered by Chile Bar Association (Colegio de Abogados). The Ministry of
Justice gives grant directly to the Bar Association for carry out legal aid programme known as Service de Assistancia Judicial (SAJ). Legal aid is generally available in big cities but Service de Assistantcia Judicial may send lawyers to attend local courts. The programme is popular and poor people know there is no need to advertise the legal aid office.84

There is no specific test of eligibility. Social workers go to the house of poor person and survey the living conditions, number of dependents. If an applicant qualifies, the Director of legal aid programme issues a certificate of poverty. He is then entitled for the exemption of court fee and expenses relating to the litigation. Legal aid programme office generally has a salaried lawyer, recent law school graduates, social workers and administrative personnels.

In Chile six months service like apprentice by law graduate is essential before entering the Bar. In universities there are legal aid centres (centre de Assistancia legal) and they are working well. It is reported that legal aid is provided to over 60,000 people annually.

LEGAL AID CONCEPT IN JAPAN

It is a foregone conclusion that owing to modern scientific and industrial advancement in Japan, being number one developed country of the Asian Continent. The litigation is in no way confined to only affluent people but also among the poor people. It has also become the urgent necessity of the common man. Therefore, the importance of legal aid programme in court becomes not only important but also an order of the day.

If it is noticed to the far back to the days of 1915, the Regionold Smith’s work through his book 'Justice and the Poor' (1915) succeeded to make a considerable
impression upon the Japanese lawyers. At that time many legal aid societies cropped up. The Tokeyo Attorney's Association set up a section on legal aid and besides giving consultation, brought suit on behalf of poor clients. This legal work progressed rapidly after world war II, though, compared with the progress made in Great Britain in the 1940's it still leaves a great deal to be desired, especially in the field of civil litigation.\textsuperscript{85}

In Japan legal aid is available in civil as well as in criminal cases. The Japan Legal Aid Association established in 1952, is working properly providing yeoman's service to the poor persons in close co-operation of Japan Federation of Bar Association and Local Bar Associations. The Japan Legal Aid Association has laid down certain financial eligibility limits in order to qualify for legal aid.\textsuperscript{86}

In comparision with legal aid provided to criminal cases the system of legal aid in civil cases has been much neglected. In Japan there is fully developed system in criminal cases of assigning counsel at public expenses to those accused who cannot afford to pay attorney's fees.

The Japanese Legal Aid Society (Nihon- Horitsu Fujo Kyotai) established in as late as 1952, was since 1958 began to function actively with financial assistance from the government. But this support is not extensive legal aid to 2935 cases. This again shows the neglect of private actions in enforcement of law.\textsuperscript{87}

In Japan the commonest way of charging is to request payment of a certain sum, that 10\% of the amount in controversy as 'initiation fees' (chakushu-kin) and to charge an additional sum, often equivalent to (sometimes more than) the initiation fees, if the client is successful. Except in most of the test cases, attorney's fees are not recoverable from the loosing party. This system has neither the merit of English that is recovery
of counsel's fees by winning party, nor that of the American contingent fee system, that is encouraging civil litigation.88

If a bird's eye view is given up on the constitutional provision of legal aid in Japan, then it is found that para-I of Article 14 provides right to equality-

'All the people are equal under the law and there shall be no discrimination in political, economic or social relation because of race, sex, creed, social status or family origin'

Article 14 prohibits only unreasonable differential treatment. It does not guarantee absolute equality to all people. Regarding due process, notice and hearing in the administration of justice, Article 31 of the Constitution of Japan provides as follows-

'No person shall be deprived of life or liberty nor shall any other criminal penalty be imposed except according to procedure established by law'.

'Most Japanese lawyer construe this provision as enunciating the principle of 'due process of law'. Though the English translation of Article 31 as finally adopted is a little vague because of its use of the phrase 'procedure established by the law'. The Japanese text says-horitsue no sadamery laitsuuki (procedure provided by statutes). Article 21 of Indian Constitution adopted same pgraseology as Article 31 of Japanese constitution and has been construed in its literal sense 'procedure established by a statute'.89

LEGAL AID IN FRANCE

In France after the revolutionary movement of 1848, new thoughts were brewing in legal matters out of which in 1851 a statute was designed to remove the financial barriers encountered by the poor in the normal course of litigation. This goal was pursued
by having lawyers appointed to serve gratuitously in the cases of the poor and by exempting the poor from payment of fees.

According to Mr. Vittorio Denti, (in an article on 'Perspective of Legal Aid' by Frederic N. Zemans) the first organic law on legal assistance dates back to 1851 (Solus and Perrot Droit Judiciaire Prive, -1, Paris 1961 page 960) and subsequently adopted by other European countries were expected to offer their services free of charge to the poor.\footnote{90}

The above process was further refined by an Amending Act of 1901, establishing a national system of bureaux to make determination of eligibility. In 1914, the system was radically altered by abandoning the assignment of counsel by judges and eliminating the requirement for an applicant to present a solicitor's letter attesting the merit of case. Instead a Poor Persons Department was established which used the voluntary and gratuitous service of private lawyers for investigating applications and for representing applicants in court. In 1925, the government further refined this system by entrusting its administration to the law society, which established Poor Person's Committees to perform these functions.\footnote{91}

The application of legal aid has undergone a major change since 1972 legislation, before this legal assistance was provided as right. Legal aid can be requested by a French national who has serious cause of action and lacks financial resources. Legal aid is also available even in commercial, administrative or civil actions. It is also available in appeal, contract, or execution. The request for legal aid is made to office of legal aid which decides appropriateness and extent of need, and on refusal, appeal procedure has also been incorporated.\footnote{92}
Thus legal aid scheme in France is based on British legal aid system. There are many law shops (boutigues de droit) which are in operation throughout France which are not any part of government scheme but have been created due to initiative of the local lawyers, law students and magistrates and providing legal advice to the poor person in limited working hours. Government Action Judicare is an action group of justice seekers which work with the motive that substantive law should become more up to date, modern and democratic and assistance bureau now a days in France.93

Thus the legal aid programme in France is fairly well structured in comparison to other countries.

LEGAL AID IN CANADA

Canada being an important country of North American Continent can be said next to United States of America in status and development.

In Canada up to 1951 legal aid was provided on ad hoc basis by members of legal profession but in 1951 it acquired the statutory sanction. In 1963 a Joint Committee on legal aid was set up to evaluate the existing plan. It suggested recommendation and depending upon the recommendation an act was passed in 1967. There is a means test applicable to 'Ontario Plan' according to this plan a person earning more than 1200 dollars per annum or if he is married more than 1800 dollars per annum with a further adjustment of 200 dollars for each dependent is not entitled for legal aid. In response to Ontario Plan, every province began to recognise the need of legal aid and allotted fund for this purpose.94

The legal aid programme has always been administered by the Bar in Canada. Directly or indirectly legal aid is provided as a charity to the poor. In 1972, Sub-
Committee of the law society of Upper Canada submitted a community legal service report. The report criticised the existing system of legal aid. The Ontario Scheme, of legal aid known as 'Ontario Plan' was regarded as superior work and acquired status of Canadian National Model. In 1974, the Lord Chancellors Advisory Committee on legal aid commented that:

a) generally the legal rights of the people are going wholly by default.
b) Some people are ignorant about their rights and some do not know the sources of help in enforcing their legal rights.
c) There is a shortage of solicitors.
d) There is a lack of expert advice at present time.

The plan is administered by the Secretary of Law Society of Upper Canada and Assistant Provincial Director. Throughout the province of Ontario, country committees or legal aid centres are established at appropriate places. If the applicant is able to pay some of the cost of legal services, he can choose the counsel of his choice.

LEGAL AID IN SRILANKA

Srilanka, where Indian culture is admixing and playing a pivotal role, there is comprehensive legal aid programme. Legal aid programme have also been initiated in Indonesia, Malaysia, Singapore in late 1960 and in the beginning of 1970.

In Srilanka the scheme of legal aid is administered by the professional organization of proctors (solicitors) known as the incorporated Law Society of Ceylon. The society gets grant from government. The legal aid scheme in Srilanka is more or less similar to the legal aid scheme of England. There is an eligibility test and a person having income
to a particular extent can get legal aid.

Though in Srilanka a small number of indigents are getting benefits from the legal aid programme but by no stretch of imagination these programmes can be either said to be comprehensive, broad based or well structured programmes.  

LEGAL AID IN UNITED NATIONS ORGANISATION

National movement on legal aid has been exercising profound and deep impact on international sphere. World public opinion has compelled the United Nations to accept indirectly and directly the principle of legal aid to maintain the concept of equality before law and equal access to justice in order to provide rule of law.

The League of Nations conducted an useful survey of legal aid available in various countries of the world. However much work has been done by the United Nations Organisation.

United Nations Organisation which declares to keep social justice through enforcement of human right, (is essential which will help indirectly) equal access to justice and equality before law is very essential. To render legal aid, help to create equality before law. So it is not possible and proper to isolate right of legal aid from the range of human rights. Legal aid is only a way for providing social justice to all people.

The story of human rights in modern times began with Charter of the United Nations. It was held in Sanfransisco in 1945. The object of United Nations Charter is to promote and encourage respect for human rights and fundamental freedoms for all without distinction of race, sex, language on religion.

The universal declaration of Human Right was adopted and proclaimed by the General Assembly of United Nations on 10th December 1948. The declaration comprises
of a preamble and 30 articles, setting fourth the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled without any discrimination.

The European Convention of Human Rights was signed in Rome on November 4, 1950 and enforced on September 3, 1953. Article 6(3) (c) of the convention directly deals with the legal aid in criminal cases. Article 6(3) provides every one charged with a criminal offence has the following minimum rights -

'To defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require'.

Indeed, the need of legal aid was again realised by the United Nations Organisation in the year 1965, by holding a Third United Nations Conference on the Prevention of Crime and Treatment of Offender at Stockholm. The conference realised the need for legal aid as under.

The availability of legal aid for accused and convicted persons was discussed. There was unanimity on the need to provide legal assistance to arrested and accused persons and to those convicted of crime who may wish to appeal.

The conference feels that failure to provide adequate legal aid may well leave the persons with a sense of injustice and the lack of an adequate legal aid system thus tends to increase recidivism.

While Article 14 (3) of International Covenant of Economic, Social and Cultural Rights, 1966 provides-the determination of any criminal charge against him, every one shall be entitled to the following minimum guarantees or in full equality.

b) to have adequate time and facilities for the preparation of his defence and
of communicate with counsel of his own choosing.

d) To be tried in his person or through legal assistance of his own choosing to be informed if he does not have legal assistance of this right, and to have legal assistance assigned to him in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.97A

The American Convention on Human Rights, 1969, under Article 24, though failed to provide clearly the provision of legal aid to the poor, yet provides for Act, right to equality that implicitly includes legal aid measures.

The Tehran Conference, 1968 adopted the following resolutions98-

a) The Government should encourage the development of comprehensive legal aid system for the protection of human rights and fundamental freedom.

b) That standards be devised for granting financial, professional and other legal assistance in appropriate cases to those whose fundamental rights appeared to have been violated.

c) That Government should consider ways and means of defraying the expenses involved in providing such comprehensive legal aid system.

d) The Government should take all possible steps to simplify laws and procedures so as to reduce the burdens on the financial and other resources of individuals who seek legal redress.

e) The Government should co-operate in extending the availability of competent legal assistance to aggrieved individuals who need it.

f) That the United Nations will provide the necessary resources within the limits
of the Human Rights Advisory Services Programme, to facilitate expert and other technical assistance to member states seeking to extend the availability of competent legal aid.

The International Bar Association also established International Bar Association Educational Trust in 1985, which is a leading world association of lawyers with member of 119 countries to improve and extend legal aid through its International Legal Aid Committee. The Committee organises discussions and seminars for both practising lawyers and administrators of legal aid.

**INTERNATIONAL DIRECTORY OF LEGAL AID**

According to the International Directory of Legal Aid published by International Bar Association Education Trust 1985, legal aid is available in the following countries up to the year 1985: Australia, Anguilla, Argentina, Austria, Bahrain, Barbados, Belgium, Brunei, Bulgaria, Canada, Caymansland, Chile, Colombia, Cyprus, Czechoslovakia, Denmark, Eire, England & Wales, Falkland Island, Finland, France, Gibraltar, Grenada, Guatemala, Hongkong, Hungary, Iceland, India, Indonesia, Israel, Japan, Jordan, Kenya, Kribati, Lesotho, Luxembourg, Nepal, Netherlands, Newzealand, Nigeria, Niul, Norfolk Island, Norway, Omen, Panama, Papua New Guinea, Paraguay, Piteaim Island, Portugal, Phillipines, St Helena, Scotland, St Vincent San, Marino, Singapour, South Africa, Spain, Srilanka, Sudan, Sweden, Switzerland, Tanzania, Trinidad and Tobago, Turley, Turks and Caicos Island, Tuvalu, United States of America, U.S.S.R., Venuatu, Vatican City, Western Samoa, West Germany, Zaire, Zambia and Zimbabwe.

It is found that in the world upto 1985 all total 81 countries provided legal aid to the people. Since then it is interesting that upto 1985, all the six surrounding countries
of India do not render legal aid to the people. Those countries are (i) Myanmar (ii) Bangladesh (iii) Bhutan (iv) China (v) Afghanistan and (vi) Pakistan (Islamabad) except Nepal.

From the above it can be summarised that in India the legal aid provision existed in Vedic Period, but in England it is traced only from 813 A.D. and from the days of Magna Carta of 1215. America where there is similar type of legal aid like England which is traced only from 17th century. While in the case of other developed countries like Bulgaria, Germany, Czechoslovakia, Canada, Japan, Australia, the imitation of legal aid was made at the fag end of 19th century. In the countries like Italy, Chile, Mexico, Spain and Scandinavian countries it were initiated almost in the same time or a bit later at the fag end of 19th century.

In socialist countries like Poland, The Polish Trade union in the December, 1976, accepts it duty to provide legal aid to industrial council or and the workers. Daily and weekly press carry columns of legal advice and question answers by mail, radio and television broadcasting programmes which make the law more accessible to the general public. In Soviet Union also legal aid movement practically started after 1950 A.D. According to Article 3 of Czechoslovakian Rules of Practice every one has the right to demand protection from the court if his rights are endangered. Similar provision exists in Bulgaria and Germany.

In the backward countries like Indonesia, Malaysia, Singapore, Sri Lanka and South Africa legal aid is started at the first part of 1960s. While in the case of other countries of Africa in the matter of legal aid it can be grouped into 4 groups namely

The first group of Countries like Rwanda, Kenya and Namibia provide only limited
legal aid and have no plan for free or reduced cost legal advice or assistance.

The second group of countries like Botswana, Gambia, Ghana provide legal aid only in criminal proceedings.

In the third group of countries like Angola, Burund, Zambia extensive legal aid programmes exist for civil and criminal cases but no legal advice is offered.

While the last fourth group of countries like Gabon, Mali, Zaire, Uganda provide not only legal aid in civil and criminal proceedings but also free advice prior to any court action.

From above investigation, it is imperative to establish adequate legal aid centres all over the world and need of the hour and the primary obligation and duty of the state, no country today or to morrow can shirk this imperative duty and obligation.

FOOT NOTES AND REFERENCES


3. Sharma, S.S. 'Legal Aid to The Poor' Deep and Deep Publication, New Delhi-110027, P-14, Para-II.


5. Statute of Liberties of Henry II. Megna Carta, Forteenth Paragraph, 1215 A.D.
11. Supra Note-3, P-16, Para-III.
12. Ibid, PP-16-17, Para -IV and I.
15. Supra Note -9, P-10.
20. Supra Note-3 PP, 19-20, Para -VI & I.
21. Supra Note -3, P-20, Para-IV.
22. Supra Note-19, P-28, Para -I.
23. Ibid, P-28, Para-II
26. Supra Note- 3, P-25, Para -III.
27. Supra Note -19, P-28, Para-VI.
28. Ibid, PP-25-26, Para -III, II.
29. Ibid, P -26, Para- I.
30. Supra Note-I , PP-64-65, Para -IV & I.
31. Supra Note-2, P-12, Para-V.
32. Supra Note -3, PP-26-27, Para -III and I.
34. Dhyani, S.N.-'Law, Morality and Justice : Indian Developments' Metropolitan Delhi Publication, 1948, P-117.
36. Supra Note-I, P-66, Para-I.
38. Supra Note-I, PP-66-67, P-IV and I.
40. Supra Note-3, P-28, P-I.
42. Supra Note- 34, P-118.
43. Supra Note-3, P-29, Para-III..
44. Ibid, P-30, Para-I
45. Reddy, Vijaya Narayan-'Right to Counsel vis a vis the Poor under American and Indian Constitution', 162 KLJ 28 (1982).
47. 304 US 458 (1932).
50. 373 US 59 (1963).
54. 386 U.S. 738 (1967).
61. Supra Note-2, P-II, Para-V.
62. Ibid, P-II, Para-VIII.
63. Ibid, P-12, Para-I.
64. Ibid, P-12, Para-II.
65. Supra Note -1, P-69, Para-II.
66. Supra Note- 2, P-12, Para-VI.
67. Supra Note -3, P-46, Para- IV (first part).
68. Supra Note -34, P-119.
70. Supra Note -2, P-12, Para -VIII.
71. Supra Note -3, P-37, Para -III.
72. Supra Note -2, PP-14-15, Para-VI and I.
74. Supra Note-3, P-38, Para-I.
75. Legal Aid Act (Victorian Scheme), 1969.
76. Legal Practitioners (Amendment) Act, 1969.
77. Legal Assistance Scheme Rules 4 (I).
78. Supra Note-2, P-15, Para -IV.

82. Gross, Mr. P.H. 'Prospective on Legal Aid' (article), Washington Post on November 19, 1999; P-2.

83. Supra Note-2, P-13, Para-V.

83A. Transformation of Prospective of Legal Aid Service in South Africa, Challenges and Solution Draft Whitepaper on Legal Aid, Department of Justice. 26th May, 1999, P-7.

83B. Ibid.

83C. Interview with Geoff Budlender, Member Legal Aid Board on a visit to N. Delhi in January, 2004.

83D. Ibid.

84. Supra Note-3, P-41, Para-III.

85. Ibid, P-49, Para-II.

86. Hideo Tanaka (The Japanese Legal System) University of Tokyo Press 1978; P-185.

87. Supra Note-3, P-48, Para-II.

88. Supra Note-86, P-342.


90. Supra Note-2, P-10, Para-VI.


92. Supra Note-2, P-10, Para-VII.
93. Supra Note-3, P-42, Para-IV.

94. Ibid, P-40, Para-II.

95. Ibid, P-39, Para-II to VI.

96. Supra Note -2, P-15, Para -X.

97. Ibid, P-15, Para -X (last part).

97A. Supra Note- 45, P-32.

98. Resolution XIX adopted unanimously on Tehnran Conference, 12th May 1968.

99. International Directory of Legal Aid International Bar Association Educational Trust; Sweet and Maxwell Ltd. London 1985, Chapter -3

100. Supra Note -2, PP-13-14.