CHAPTER -II

LEGAL AID IN INDIA : A HISTORICAL PERSPECTIVE

A INTRODUCTION

Courts are regarded as temples of justice. In a country where the majority of the population lives below the poverty line, justice must not only be cheap but also free. This necessitates an enquiry into the socio-economic-conditions of the poorer sections of the society vis-a-vis the system of administration of justice so that these people are brought closer to the justice institution of the country. Emphasising the same aspect justice William J. Brehnan of the United States Supreme Court observed, "Nothing rankles more in the human heart than a brooding sense of injustice. Illness, we can put with, but injustice makes us want to pull things down. When only the rich can enjoy the law as a doubtful luxury and the poor, who need it most, cannot have it because its expenses of a free democracy is not imaginary but very real, because democracy's life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness". These observations highlight the fact that no

society can claim itself to be modern and civilized unless its national policy is based on equal protection of the laws whereby the rich cannot corner law and the poor cannot be priced out of justice. This further emphasises the necessity of providing legal assistance to the deprived and handicapped sections of our society. In fact, legal assistance as a tool can go a long way in helping these so-called deprived sections of the society to obtain social justice. Therefore, the need for legal aid has to be accepted as the fundamental requirement of a society governed by the rule of law.

The purpose of this chapter is to make an in-depth study of the system of administration of justice in India from the ancient time to the present. An effort would be made to find out the genesis of this system covering both the pre and post independence period. Whether the system of administration of justice as prevalent in the ancient times and was developed subsequently during the Hindu, Muslim and British period provided for helping the poor litigants in the settlement of their disputes without any pecuniary burden on them? What actually was the machinery for

administering justice including the procedure for bringing the parties before the courts? Whether the institution of lawyers existed? Whether the parties required to engage someone for pleading their cases or defending them? What was the role of judges in the administration of justice? Was there something like free legal aid? These are some of the questions which will be answered in the present study.

(B) PRE-INDEPENDENCE PERIOD

The system of administration of justice in India is as old as the Hindu civilisation. Therefore, a hurricane look into the entire background would not only be useful but will also help us in understanding the entire background of law and justice in India. For the sake of convenience, the subject matter would be discussed under the following sub-heads:

(a) The Hindu Period.
(b) The Muslim Period.
(c) The British Period.

(a) The Hindu period

The Hindu period extends for nearly 1500 years before and after the beginning of Christian era. During this particular period, Hindu society, institutions and beliefs acquired a definite shape to have an idea about the system of administration of justice. Thus it becomes necessary to have an overview of then existing social institution and its religious philosophy. It is an admitted fact that the whole
society was divided into four castes. Caste determined the pattern of life amongst Hindus relating to their social status. Family was considered as a unit of Hindu social system. The concept of family led to private property which in turn led to disputes and struggles which necessitated law and a controlling authority. Mitakshara and Dayabhaga became the basis of Civil law and dealt with property rights in a Hindu Joint Family. Regarding the political institutions, monarchy in various forms was prevalent in Ancient Hindu Period. In fact, the king was the supreme authority of his state and the administration of justice was done in his name. In tribal kingdoms, he was assisted by the Court of Elders of the tribe and by the Village Headman. He was respected as the 'Lord of Dharma' and was the highest court of Appeal. In the settlement of disputes, he was advised by learned Brahmin, and chief justice and other judges, ministers, elders and representatives of the trading

3. The four recognised castes were: Brahmans, Kashtriayas, Vaishyas and Shudras.

4. The rules of Dayabhaga are generally followed in Bengal and Assam while the rules of Mitakshara are applicable to the rest of India.
community.

Judges were mostly appointed from the three upper castes. In villages, the local village councils, 'KULANI' similar to modern Panchayats consisted of a group of five or more impartial persons to dispense justice to villagers. It dealt with simple civil and criminal cases at a higher level. In the towns and districts the courts were presided over by government officers. In each village, a local 'headman' was required to maintain order and administration of justice. He was also the member of the Council. To decide dispute of tradesman, tribunals were constituted. Family courts also existed to settle dispute arising out of family matters.

The next question that arises for consideration is: whether the Lawyers as an institution existed in ancient India? Smritis do not refer to the existence of any separate institution of Lawyers in the ancient Hindu judicial


6. For various interpretations of the term 'KULANI', See Id, at 268.

7. Criminal cases were ordinarily tried by the Courts under the Royal Authority, see V. D. Kulshreshtha's Landmarks in the Indian Legal and Constitutional History, (5th edn. 1986), at 6.
system. According to Kane, "This does not preclude the idea that persons well versed in the law of the Smritis and the procedure of the courts, were appointed to represent the party and place his case before the court. The procedure prescribed by Narada, Smritis of Brahaspati and Smritis of Katayana reaches a very high level of technicalities, and skilled help must often have been required in litigation". In light of these observations, one can safely conclude that the institution of lawyers as it exists today, was not in existence in the ancient Hindu period. However, it must be added that persons who had studied the Smritis helped parties in return for a monetary consideration to raise contentions before the Court. In other words, the persons could plead as recognized agent, of the concerned party. As to the payment

8. **Supra** Note 6, at 288.
9. P.V. Kane, **Supra** Note 5, at 288. It may be pointed out that there were also certain rules for determining the wages of a person appointed to represent a party in the dispute. Some of the prescribed wages rates were 1\16, 1\20, 1\40, 1\80, 1\160 part of the amount. These wages could not be taken without informing the king, though the representative was to be appointed by the party and not by the King.
of court-fees it may be stated that in ancient India, no court-fees had to be paid in dispute of a criminal nature. However, the persons found guilty had to pay to the King the fine declared in the Smritis for offences or awarded by the court. As regards civil disputes, though there were no prescribed court-fee for instituting the suit but certain rules necessitated payment to the King. After the suit was decided, a fixed proportion of the decreed amount/ payments could very well be regarded as court-fees.

Thus, we can safely conclude that during the ancient Hindu period, the system of administration of justice was quite fair and impartial having deterrent effects on both the parties to the litigation. The King was regarded as the fountain of justice. However, for obtaining justice some payment element was involved which, it seems might have

10. _Id_, at 294, Kane points out that in a case of suits for the recovery of debts, the debtor was required to pay to the King 10% of the amount decreed and the successful creditor was required to pay 5% of the amount decreed. (As Court fee). The author further says that if the plaintiff turned out to be false claimant, he had to pay to the King as fine twice as much as the amount claimed by him. _Ibid_.


resulted in denial of justice to those who could not afford to engage a competent representative for contesting their suits. In addition, it can also be safely inferred that due to the caste structure of the society, the weak could not have dared to oppose the dominate castes. This factor, though could be regarded as a unity bond in strengthening the Hindu Family structure but its pernicious effects cannot be overlooked. So there was nothing like social justice.

(b) The Muslim Period

The Muslim period begins with the arrival of Arabs in India in the 8th Century and lasts upto 1750, when the British had established their strong foothold in India. Lack of political unity amongst the Indian Kings and the absence of patriotic sense led to the downfall of Hindu Kingdom. The muslim who followed the principles of equality for men had no faith in the caste system perpetuated by the earlier rulers. In the later years however some muslim rulers gave vent to racism so much so that non muslims in the country could claim no rights. From 1206 till 1526, not less than thirty three Turkish Kings, belonging to five dynasties occupied the throne of Delhi.

In mediaeval India, the Sultan being the head of State was the supreme authority to do justice in his

11. V.D. Kulshrestha, supra note 7, at 16-20
kingdom. The judicial system was organised on the basis of gradation of courts which existed at the Central, Provincial, Districts, Parganahs and Village levels. In each group of villages, there used to be a Village Assembly or Panchayat. The Panchayat decided civil and criminal cases of local nature. The decision of the Panchayat was binding on the parties and no appeal was allowed from its decision. When Shershah Suri became emperor, he introduced some more reforms in the administration of justice at each parganah. He appointed a civil judge for administering justice to the people. The village councils were also recognised.

During the Moughal period which practically begins with the victory of Babbar in 1526 over the last Lodhi Sultan of Delhi, the King was considered the fountain of justice. A systematic gradation of courts having powers to decide cases existed all over the empire. The public could make representations and appeal to the Emperor's court in order to obtain his impartial judgments. At the grassroot level, the Village Councils (Panchayats) were authorised to decide all petty civil and criminal matters. The panchayats met in public places. It was presided by five panches elected by villagers, who were to hear both the parties before delivering their judgements in the panchayat.

12. Id., at 25.
At the districts and provincial level, there were separate courts for hearing both the civil and criminal cases.

Litigants were represented before the courts by professional legal experts who were known as Vakils. The lawyers played an important role in the administration of justice. Government Advocates were for the first time appointed in the reign of Shahjahan to defend civil suits against the States. During the Aurangzeb reign, whole time lawyers were appointed in every district, who were known as 'Vakil-e-Sarkar'. Sometimes these advocates were appointed to assist poor litigants by giving them "FREE LEGAL ADVICE". This shows that the genesis of the system of rendering free legal aid and advice to the deprived sections of the society can be traced to the times of Emperor Aurangzeb.

However, there is no authoritative record available so as to make it clear about the actual form and content of the kind of legal advice which was made available to the poor litigants. Whether such legal advice was a policy of the empire or depended upon the nature of the case or the socio-economic-conditions of the poor, is not clear. The

13. Supra note 7, at 31.
14. id., at 32.
position regarding the cases in which such advice was made available and the eligibility conditions for obtaining the same are also not clear. Therefore, one can simply conclude that though legal profession flourished during this period, but there are no traces of evolution of this institution in an organised form. Though the Moughal emperors were by and large judicious but to what extent the administration of justice during that period led to the development of a poverty jurisprudence is difficult to say. However, it must be stated even at the cost of repetition that the system of panchayats was definitely a better step where the aggrieved persons could obtain justice at their doorstep.

(c) The British Period

The history and development of Legal Aid to the poor during the British Period has no national or social base. The reason for this appears to be that the Britishers who initially came to India as a body of traders gradually established their stronghold on the Indian soil and became its rulers. So they were more governed by economic drain theory than acceleration of political change and social justice. The various Charters granted by the

15. See S. N. Johri, Programme and Movement of Legal aid to the Poor, All India Reporter, 1981 (Journal), at 27.
16. See e.g., Charter of 1726, The Regulating Act, Charter Act, 1853.
British Government from time to time primarily related to the protection of British interest in India. The system, of administration of justice was designed in such a way that the Indian voice could not be heard. The various reforms in the administration of justice introduced from time to time were made to serve British interests. For example, when Sir John Shore succeeded Cornwallis he reintroduced Court-fees, the direct result of which was the dismissal of a large number of cases for non-payment of the said fees by the poorer sections of the society. Though the Charter Act of 1853 authorised the Governor-General-in-Council to appoint a Law Commission to look into the jurisdiction, powers, and rules of the existing courts of justice and judicial procedures, but nothing substantial could be achieved from the point of view of helping the poor in the matter of solving their legal problems. Thus, since the introduction of English


18. The first Law Commission which functioned between the period 1834-1879 recommended the enactment of various Codes and Acts. For details, See Ibid.
Law in India, legal aid to the poor in Civil cases meant only exemption from Court fee for suits under the provision of Order of the Civil Procedure Code, 1908 in respect of pauper plaintiffs and pauper appellants. Similarly, the Code of Criminal Procedure, 1898 provided for legal aid to be given at state costs to poor accused in cases involving capital sentence only. In view of the above position, legal aid as such was not available in a statutory form. However, Professor Menon points out that some voluntary organisations and professional bodies used to provide legal aid in some of the cities of India as charity. For example in Bombay, a Legal Aid Society was registered in 1924 and Legal Services were provided to those who could not obtain it. The persons associated with the society were lawyers who became its members. The finances were met by subscriptions, private donations and some government grants. Similar voluntary agencies also functioned in West Bengal and Delhi but could not do much due to shortage of funds. Thus, we find that in the pre-independence period there was no


organised effort for providing legal aid to poor which deprived them from equal access to the courts and also of the fair treatment within the judicial process.

C. POST INDEPENDENCE PERIOD

When India attained freedom in 1947, it was confronted with multiple problems of the haves and have-nots. Those who were rich were not prepared to part with a portion of their cake and those who were poor were struggling to save themselves from hunger, disease and destitution. They had no food to eat, no clothes to wear and no shelter to live. The infant public initiated various moves for ameliorating the deplorable conditions of the teeming millions of India for whom justice was a distant cry. Many of the Governmental efforts initiated for the upliftment of the downtrodden and handicapped section of our society failed to deliver good, because the rich people installed these efforts through judicial processes. The poor had no means to engage lawyers for contesting/defending their legitimate rights in a court of law. Having sensitised the problems of these people the Government felt concerned to devise some ways and means of making justice accessible to these weaker sections of our
society. The Report of Rushcliffe Committee of the United Kingdom which had dealt with the question of grant of legal aid and advice to the poor persons, prompted the Indian government to think and to enquire from the provincial governments whether they would be in a position to extend free legal services to the poor in civil and criminal cases. The Government expressed the view, "That the existing provisions for legal aid in civil cases were sufficient but the provision for grant of similar aid in criminal cases be liberalised.'

(a) Recommendations of Bombay Committee, (1950)

Having been influenced by the correspondence that took place between the Government of India and the various

The Committee was appointed in 1944 by the Lord Chancellor under the Chairmanship of Lord Rushcliffe. It was directed to enquire into the facilities existing in England and Wales for the grant of legal aid to poor and to make recommendations for making legal aid to poor persons and to make recommendations for making legal aid and advice to such persons in civil and criminal cases.

State governments in regard to the question of legal aid as well as the initiatives of the Bombay Legal Council and Bombay Legal Assembly, the Government of Bombay appointed a Committee in March 1949, under the Chairmanship of Bombay High Court Judge, Mr. Justice N.H. Bhagwati, to consider the question of the grant of legal aid in Civil and criminal matters to poor persons belonging to the Backward classes and to make recommendations for making justice more easily accessible to those persons. The Committee examined the problems in greater details and submitted a detailed report in October 1949. It considered the question of legal aid as a governmental responsibility and concluded that the principles of equality before the law and equal protection of the laws, as laid down in Article 14 of the Indian Constitution casts a duty on the state to provide assistance to those who are unable to engage a lawyer because of social and economic disability in the society. The committee also laid down three tests of eligibility for obtaining legal aid. The Committee also recommended an administrative framework for providing legal aid at the Taluka/Tehsils.

22. These tests were: (1) the Means Test, (2) The test of a prima-facie-case and (3) other tests and safeguards which could in certain cases lead to Conciliation of Legal Aid, Id. at 605-698.
districts, greater Bombay and State levels. It devised a scheme whereunder all the members of the Bar practising at all levels should be asked to accept a minimum of six briefs per year of poor litigants without any remuneration. The remaining cases were to be entrusted to the lawyers enrolled on the panels maintained by the legal aid committees. The Committee also highlighted the need for dissemination of information regarding the existence of legal aid committees at the district levels. The report is perhaps the first and the most important study which has been taken after independence on legal aid in India.

(b) Recommendations of Sir Arthur Trevor Harris Committee

The second initiative taken in this direction came from the Government of West Bengal which also constituted a Committee under the Chairmanship of Sir Arthur Trevor Harris, the then Chief Justice of Calcutta high court in 1949. The Committee was asked to make recommendations in regard to the judicial reform in the state and granting state aid to the poor litigants. The Committee recommended the grant of free legal services to those persons who had not sufficient means to enable them to pursue their cases. It also covered persons

23. Id, at 608.
24. Id, at 601-610.
who possessed the property below rupees 250/-. In criminal cases the aid was to be given to persons who have been charged with offences punishable with death or imprisonment for five years, provided such persons have no means to defend themselves. In civil cases, the aid was to be given in all suits including cases relating to election and defamation. However, the appropriate committee could recommended the grant of legal aid to woman plaintiff in suit for damages for defamation when there has been an imputation of unchastity on her. The expenses to be covered included the Court-fees, Process fee and other fee payable by the persons besides expenses of witness. It also recommended payment of fees to lawyers engaged for providing legal aid. Unfortunately the recommendations of the Committee could not be implemented due to shortage of funds in the state.

There is no doubt about the fact that legal aid has been engaging the attention of Governments from time to time. However, one of the reasons for not taking any concrete initiative by the Central Government in this regard seems to has been the assumption that legal aid is a part of the administration of justice and that it is the responsibility of state governments to take necessary steps in this regard.

25. For details, See Report of the Trevor Harris Committee on Legal Aid in Bengal, (1949).
This fact can be testified from the answer which was given to an unstarred question in the Lok Sabha by the then Law Minister who said, "Administration of Justice is a subject included in the State list and the grant of legal aid and assistance to the poor is, therefore primarily the responsibility of the State governments. . . "

In 1952, the Government of India again requested the state-governments to make provisions for legal aid in criminal cases in respect of offences punishable with less than five years rigorous imprisonment and appeals arising out of these cases. The states, however, showed their inability to implement the instructions due to multiple financial

26. Unstarred question No. 855 of 8th November 1966, in the Lok Sabha, Administration of Justice finds a reference in Entry III of the State List in the 7th Schedule to the Constitution of India. It may be pointed out that the provision in question deals with the conventional aspect of legal aid in Civil and Criminal proceedings only. Since, legal aid is a much wider problem and include preventive or strategic aspects, comprehending legal literacy and other allied matters, it may not be possible to confine this aspect to Entry III alone.
difficulties. The non-implementation of recommendations of Trevor Harris Committee was another aspect which consigned all efforts to the dustbin. In January 1956, the Central government again took up this matter with the State Governments to make some provisions in their budgets for providing legal aid to the poor. Most of the state governments did not respond positively while some of them replied stating that they had made token provisions ranging from Rs. 1000 to Rs. 2000 in their budgets in respect of legal aid.

The aforesaid discussion shows that though some correspondence between the Government of India and State Governments took place but it failed to bring the desired results because the State governments facing financial crises were not prepared to go in for introducing the free legal services in their respective states. It is also a quite unfortunate that this question did not receive top priority in the formulation of Five Year Plans by the Government of India. It may be pointed out that because of the initiation of these efforts the desirability of providing legal aid to the poor remained on the agenda of the Government though unimplemented. It is, however, interesting to note that some states like Kerla and Bombay and even Punjab made some efforts in the direction. For example in the State of Bombay the provisions for legal aid existed and were
implemented right from 1945 though in a limited way. The State of Kerala also framed a scheme for providing legal aid to Scheduled Castes and Scheduled Tribes and to the poor in 1957. The Income Ceiling limit for obtaining such legal assistance was fixed at Rs. 1000 per month. Similar provisions existed in the State of Punjab. The provision is

27. The first initiation of legal aid in criminal cases was made by certain resolutions of the Home Department to Jail/Appeals and were continued up to 1948. The Government also made three schemes for granting free legal aid in Civil and Criminal cases to members of Scheduled Castes and members of ex-criminal tribes (Vimochit Jatis). Provisions of Rs. 2000 to Rs. 13000 respectively were made for these schemes for the year 1956-57. The provisions of Order XXXIII, Code of Civil Procedure were also implemented in the State. Further, Section 26 of the Bombay Industrial Relations Act, 1946 provided for legal aid to approved unions in some important proceedings. Supra note 21, at 616.

28. Id., at 618.
extended to appeals, review and revision arising out of subject matter of litigation.

c) **Recommendations of the Law Commission, (1958).**

In 1955, the Government of India, announced its decision to appoint a Law Commission to recommend possible

29. The Commission consisted of the following members:

(1) Sh. M. C. Setalvad, Attorney General of India,
(2) Sh. M.C. Chhaglă, the then Chief Justice, Bombay High Court,
(3) Sh. K.N. Wanchoo, Chief Justice of Rajasthan High Court,
(4) Sh. G.N. Dass, a retired judge of Calcutta High Court,
(resigned on 31st Dec., 1956),
(5) Sh. P. Satyanarayana Rao, Retd. Judge Madras High Court,
(6) Dr. N.C. Sen Gupta, Advocate, Calcutta Court,
(7) Sh. V.K. T. Chari. Advocate Madras
(8) Sh. Narasa Raju, Advocate General, Andhra Pradesh,
(9) Sh. S.M. Sikri, Advocate General, Punjab,
(10) Sh. G.S. Pathak, Advocate, Allahabad and
(11) Sh. G.N. Joshi, Advocate Bombay. The Commission was to function in two sections consisted of the Chairman and the first three members who were to deal with the questions of the reform of Judicial administration with the second section which consisted of remaining 7 members were to recommend revision in the statutory law.
reform of judicial administration so as to make justice simple, cheap effective and substantial. In the 14th Report which was submitted in September 1958 legal aid received due attention of the Commission. Emphasising the need for providing legal aid the Commission observed. "... equality is the basis of all system of modern jurisprudence and administration of justice. It ... involves the concept that all the parties to a proceeding in which justice is must have an equal opportunity of access to the court. But access to the Court is by law made dependent upon the payment of Court fee and the assistance of skilled lawyers is in most cases necessary for the proper presentation of a party's case in a court of law. In so far as a person is unable to obtain access to a Court of law for having his wrongs redressed or for defending himself against a criminal charge, justice becomes meaningless and laws which are meant, for his protection have no meaning and to that extent fail in their purpose. Unless some provision is made for assisting the poor and for the payment of Court fee and lawyers's fee and other incidental costs of litigation, he is denied equality in the opportunity to seek justice. The rendering of legal aid to the poor litigant is, therefore not a minor problem of procedural law but a question of fundamental character."

The Commission made a comprehensive study of the available material on Legal aid and emphasised the desirability of the system of legal aid as a necessary compliment to the efficient and equal administration of justice. The Commission indicated that members of scheduled castes and scheduled tribes who, generally are without means will have to be given preferential considerations. Legal aid should also be extended to really poor persons and also to persons of the limited means who are unable to bear the costs of litigation. Some of the immediate steps required to ensure facilities of legal aid are: (1) representation by lawyers as the state expense to accused person without means in all cases tried by the Court of sessions, (2) representation by a lawyer shall be made available of the state expenses to the applicant without means in criminal proceedings, (3) representation by lawyers should be made available at state expense in jail, appeals and (4) the expression 'Pauper' occurring in order XXXIII of Civil Procedure Code should be substituted by the expression 'Poor Person'
31 or 'Assisted Person'. In early sixties, the Government of India again took some initiatives and prepared a national scheme for providing legal aid to the poor. The scheme envisioned, a basic framework for providing legal aid. It dealt with eligibility, finance and administration. It was suggested that legal aid should be given a statutory force by the state. The scheme was sent to the various legal aid and advice organisations and provincial governments for their

31. Id, at 598. This recommendation has been implemented by the Parliament by making necessary amendment in Order XXXIII of the Code of Civil Procedure, 1976. For a summary of recommendations on legal aid See Id, at 599-600.

32. This National Scheme of Legal Aid was formulated in pursuance of the suggestions given by the Ministry of Law. The scheme provided for setting up of Legal aid committees at the State, Districts and Tehsil levels. It also laid the three tests, i.e., 'Means Test' Prima Facie Case Test' and test of reasonableness for determining eligibility for legal aid. For detailed text of this scheme, See G.O.. Koppel, and Legal aid in India, 8 J. I. L. I. 1986, 225 at 246, 248.
comments but the response was not very encouraging and they expressed their inability to provide funds for running legal aid scheme. However, Bombay Legal Aid Society drafted a statute for legal aid to the poor, for the city of Bombay and submitted it to the Government. But no effective steps were taken by the state for enacting the law in this direction.

The question of legal aid was again considered at the 3rd 'All India Lawyer's Conference' and in 'All India Bar Association' in August 1962. The Conference examined the matter of legal aid to the poor and made several recommendations. The Report of the Conference which was submitted to the Government for implementation stressed the state obligation for providing funds for running the legal aid schemes to the poor persons also recommended for the establishment of a comprehensive and uniform legal aid system throughout the country. The Conference also suggested that the lawyers should be provided to the indigent persons at the government expense in proceedings under Section 488 of Criminal Procedure Code. In Jail appeals and remission of

33. The relevant provision under the new Code of Criminal Procedure 1973 are contained in Sections 125-128. It deals with the maintenance of wives and children.
court fees, authentication and copying fee should also be covered. The Conference made a number of recommendations and underlined the need for active involvement of the Bar Association of India in the formulations of a comprehensive scheme for all the states.

(d) **Recommendations of the Commissioner for Scheduled Castes and Scheduled Tribes, (1963-64)**

The members belonging to Scheduled Castes and Scheduled Tribes have always been considered to be belonging to deprived and depressed sections of our society. The idea of helping them in various fields has always remained in the minds of each successive governments. Legal aid has also remained as one of the items of the welfare schemes initiated for the people belonging to these categories. In 1963-64, this matter received attention of the government in the report of the Commissioner for Scheduled Castes and Scheduled Tribes. The Report stressed the point that legal aid should be invariably made available for cases in the various

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34. For a text of the recommendations, see G. O. Koppel, *Supra* note 32, at 244-245. Also see Suresh C. Srivastava, *Constitutional Problems and Legal aid to Industrial Workers*, 3 *Kurukshetra Law Journ* (1977), at 1.

The report also highlighted the aspect of making payments to lawyers involved in the process of providing legal aid. It also laid down that the fees to be paid to the lawyers associated with the legal aid should be on a scale of those paid in government cases. The report regretted the fact that the scheme has not been given due publicity.

In March 1970, the National Legal Aid Conference was convened by the Institute of Constitution and Parliamentary studies and the National Legal Aid Association of India. The Conference discussed the problem of legal aid and insisted for legislation to make it a statutory obligation of the State. The Conference recommended the formulation of a comprehensive legal aid programme with the help of the provincial governments and the members of the legal profession. It also urged the Courts, the Bar and Law Faculties to involve themselves in evolving a nation wide programme to help the economically poorer section of our society. The Conference pointed out that a vast gap existed between the constitutional guarantee under the Article

37. Article 22(1) of the Constitution provides that no person shall be denied the right of to be represented by a lawyer of his choice.

assistance from the State Government.

(e) Recommendations of the Gujrat Legal Aid Committee (1970):

In June 1970, the State of Gujarat appointed a Committee with Chief Justice P.N. Bhagwati (as he then was)

39. See the 'Advocate's (Amendment) Bills, 1970, Bill No. 40 XL of 1970. It is interesting to note that in 1972, the then Law Minister Sh. H.R. Gokhlae made a statement in Parliament showing Government's concern for providing legal aid. He observed, "we would like to bring before the House a Comprehensive Scheme of legal aid, not in respect of the High Courts or the Supreme Court only because the real stage where legal aid was necessary was the stage where the litigation started, and that was of the Taluka (country) level, the bottom level where the people were helpless and were at the mercy of some unscrupulous lawyers or some other people who were interested in foisting litigation. Therefore, there could be no two opinions that it was the duty of the government to go into the questions very carefully."
as its Chairman to consider the question of grant of legal aid to the poor persons and the backward classes. The Committee gave its report in 1971 and made a thorough study of the problems of legal aid both from the philosophical, constitutional and organisational point of view. It also examined the various aspects of the problems relating to accessibility to courts faced by the poor persons of insufficient means. The Committee's chief recommendation was that the legal aid should be provided in all the courts at various levels so that the disadvantageous section of our society have a direct access to the professional help. The Committee not only highlighted the necessity of making legal aid programme as an effective device for making the democratic way of life and the rule of law but it also stressed the need for implementing the provision in the light of socio-economic conditions prevailing in the country.

The means test was made applicable even the members belonging to the Backward Class including Scheduled Castes and Tribes in determining eligibility for legal aid. Besides the means tests, the Committee also expressed its approval for applying two more tests, namely, *prima facie* test and reasonable test for determining the question of eligibility for legal aid. The Committee was in favour of extending legal aid not only in civil and criminal courts but also before Tribunals. For professionalisation of legal aid, the committee further recommended the formation of legal aid committees at various
levels in the state in which the presiding officer may be a judge or magistrate. The Committee stressed for appointing full time lawyers for rendering legal assistance. Due to abject poverty, ignorance and lack of resources, the committee laid more emphasis on preventive perspective of legal aid. In short, the Committee suggested three items, namely legal aid, legal advice and preventive services. In pursuance of the recommendations of the committee, the state of Gujrat initiated programme for legal aid to the poor and a pilot project was started in the state from November 5, 1972.

39a. According to the committee, the chief merits of such a legal service are: (a) prevention and elimination of injustices which poor as a class suffer because of poverty, (b) qualitative changes in the system (c) multi-dimensional use of Lawyers skills for protection of group interest, (d) fusion of legal and political roles of the lawyers, (e) making poor self-reliant by imparting knowledge, organisation and power, (f) recognition of inter-relation between law and socio-economic problems of poverty. See Report of Legal Aid Committee, (Government of Gujrat, 1971), at 262.
Since then legal aid and advice scheme has been extended to the whole of the state of Gujrat.

(f) Recommendations of the Central Expert Committee on Legal Aid, (1973).

A significant development in the field of legal aid movement was the appointment of Expert Committee on legal aid by the Ministry of Law and justice of the Union Government under the Chairmanship of Mr. Justice V. R. Krishna Iyer, the then member law Commission (later judge of Supreme Court of India) on October 27, 1972. The Committee was broad based and included members from the legal profession, voluntary social groups, academics and legislators. The Committee was constituted, "to consider the question of making available legal aid and advice to the weaker sections of the society and persons of limited means in general and citizen belonging to socially and educationally backward classes in particular. The Committee was also entrusted to suggest the measures of generating awareness among the poor, socially and educationally backward classes about the constitutional and legal rights, to avoid vexatious and unnecessary litigation and to provide legal aid in civil, criminal and revenue courts. Further, the Committee was also

to formulate a scheme having regard to resources available for implementing legal services. The Committee made a detailed survey of all the aspects concerning legal aid to the poor. The Committee submitted its report to the Government of India in 1973 and made a number of recommendations on the mechanism for providing legal aid, legal aid beneficiaries, reform of administration of justice, scope of legal aid in civil and criminal proceedings, legal aid for the working class, legal aid in Supreme Court, legal aid to special groups including minorities, panchayat justice and legal aid and law schools. The Committee also looked into the question of managing financial resources for running legal aid schemes and suggested the enactment of a comprehensive legislation on legal aid. The three tests suggested by the Committee for determining the eligibility for obtaining legal aid are

41. The Committee divided the beneficiaries of legal aid scheme in the following categories: (a) the geographically deprived, (b) villagers, (c) agricultural labour, (d) the industrial workers, (e) women, (f) Children, (g) Harijan, (h) minorities and prisoners. See Id; at 27-34.
"Means Test, 'Prima-facie Test' and test of reasonableness". The committee found that Parliament was competent to enact law on a comprehensive national scheme in so far as legal aid is related to the preventive aspects. Therefore, it recommended the establishment of a National Legal Services Authority for the purpose of making it accountable only to Parliament.

In respect of the legal aid in civil matters, the Committee recommended extension of jurisdiction of Panchayat courts, compulsory establishment of sufficient number of Tribunals who could act as instruments of justice in respect of problems being faced by the poor people. It also

42. The basic idea in laying down these tests for granting legal aid is to ensure that legal aid is provided to those who needed it most. The majority of the poor people in India for whom this scheme is envisioned live in the rural areas and are often illiterate or semi-illiterate. For legal aid in criminal cases the prima facie and reasonableness tests were recommended to be dispensed with. The Committee disfavoured the idea of granting legal aid to habitual offenders and in offences which involved private claims.
suggested amendments to Order XXXIII and Order XLIV of Civil Procedure Code so that the courts are in a position to assign pleader at the cost of the state to those who are arrayed as indigent defendants, mandatory conciliation in family disputes before granting legal aid, compulsory reference to arbitration if in a civil matter both the parties are availing of the facility of legal aid, extension of legal aid in writ proceedings before High Court and Supreme Court and provision for legal aid, at the execution stage if needed. The Committee's report suggested for amending the law to allow parties to execute 'power of attorney' in favour of the Legal Aid Committee of the concerned place.

In respect of criminal matters, it added that legal aid services should be given even during investigation stage and in post conviction stage, legal aid should include rehabilitative services as well. The committee favoured the idea of a full time lawyers for providing legal aid in criminal cases. Involvement of law students in legal aid more particularly for preventive legal aid was emphasised.

The Committee in its conclusion observed, '(That) the vital need for a comprehensive scheme on legal aid as it is an indispensable instrument on social transformation of our country in the direction indicated by the Constitution. A properly organised and implemented scheme of legal aid would serve to spread among the people at a large a consciousness of their rights and duties and act as a shield against
exploitation and as a means of spreading justice by making available justice within the framework of law. It would besides, discourage resort to extra legal methods of obtaining redress and thus, tend to enhance regard for the rule of law."

(g) Recommendations of the Tamil Nadu Committee, (1973) The Government of Tamil Nadu also appointed one man Committee. It made some practical suggestions and one of those was laying down a scheme which could work in harmony with the existing statutory provisions for exemption of court fee in suits and appeals by paupers. The Committee proposed that if a person is entitled to Court fee exemption, he will be provided legal aid by the Court without intervention of the Committee on legal aid. The Committee suggested that the Means Test should not be applied in trials before the sessions where the accused is being unrepresented by the Counsel for the offence charged with death sentence.

43. Supra note 40, at 241.
44. Report on Legal Aid to the Poor, (Government of Tamil Nadu, 1973).
45. For details, See Order XXXIII or Order XLIV, Code of Civil Procedure, 1908, as amended in 1976.
or imprisonment for life.

A remarkable feature of the report of this committee was that it tried to calculate the financial aspect of the legal aid schemes. The Committee laid down

However, in the other Criminal offences the said test was to be applied. For cases other than sessions trials, the committee recommended the following guidelines where the question of granting legal aid could have been considered. These included: "(a) where the charge is a grave one and the accused is in real jeopardy of losing his liberty or livelihood, (b) where the charge raises a substantial question of law, (c) where the accused is unable to follow the proceedings and state his own case because of his inadequate knowledge of the language of the courts, mental illness or other mental or physical incapacity; (d) the nature of the defence involves the tracing and examination of witnesses or cross-examination of expert witness for prosecution; and (e) where legal representation is essential in the interest of Someone other than the accused person." Supra note 44, at 135.

Regarding Lawyer Fee for disposal of suits and appeals by forma pauperis, guidelines were suggested. The Lawyer nominated by the Court will be paid the fees calculated as per Legal Practitioner's Fee Rules.
that liberal grants from the Government can make this scheme a successful venture.

h) **Recommendations of the Madhya Pradesh Committee**, (1973)

The Madhya Pradesh Government also appointed a Committee for examining the problem of legal aid in 1973, under the Chairmanship of Sh. Rajender Kumar Nayak, General Secretary, National Forum of Lawyers and Legal Aid. The Committee made a number of recommendations for constituting legal aid committees at state levels, district levels and tehsil levels. It was in pursuance of the recommendations of this committee, which submitted its report in March 1975, that the State Legislature Assembly enacted a law known as Madhya Pradesh Legal Aid and Advice Act, 1976. The Act envisage the constitution of State Legal Aid and Advice Board which is responsible for implementation of legal aid schemes in the State. The Act provides for the granting of legal aid in matters of public importance and in such special cases which in the opinion of the district legal aid and advice committee deserve such aid. The Act which was further amended in 1976 provides for constitution of legal aid and advice Committee for a village or a group of villages. Even the Gram Panchayat could be declared as a Gram Legal Aid and Legal Advice Committee. Thus the state has the distinction of being the first in India to provide a statutory base to legal aid. 48. This Act received the assent of the Governor on April 22, 1976.
(1) **Recommendations of the Rajasthan Committee, (1973)**

Rajasthan Government also appointed a Committee in August 1973 for suggesting ways and means of providing free legal service including law reforms, law delays and establishing Rajasthan State Law Commission. The Committee was constituted under the Chairmanship of Dr. L.M. Singhvi, the then Advocate-General of Rajasthan. The Committee submitted its comprehensive report to the Government in May 1975,

In addition to the general recommendations of the Committee for setting up a machinery for delivery of free legal services in the State, it made two very significant suggestions. First, it recommended the constitution of a special committee to identify issues of public interest and to undertake public interest litigation by taking up test cases. PIL, the report, said "can prove to be the glory of our legal and judicial system. . . . Public interest litigation must strive to demonstrate that law is not necessary a class weapon used by the rich to oppress the poor through the simple device of making justice too expensive and that lawyers are not simply the mercenaries

of the propried class." Secondly, the report made a
strong recommendation for setting up 'Nagrik Salah Kendra' or
Citizen's Advice Bureaux to redress personal grievances of
the aggrieved who asks for it.

In pursuance of the report of this Committee, the
government of Rajasthan constituted the State Legal Aid and
Advice Board by an administrative order of November 24, 1975.
The government has also constituted legal aid committees at
the High Court, districts and tehsil levels. The Committee
may entertain application relating to proceedings in Civil,
Criminal revenue labour or other courts or tribunals.

j) Recommendations of the National Forum for
Lawyers, (1975)

In 1975, a nationwide organisation-National
National Forum was established under the auspices of All
India Congress Committee, Indian National Trade Union
Congress and Indian National Rural Labourer Federation with
its head quarters in the office of All India Congress
Committee in New Delhi. The organisation had its branches in
all the states of the Union including the Union territories.
The basic objective of establishing this

49a. Id., at 33.

49b. Ibid.
organisation was the formation, implementation and co-
ordination of a nation wide legal aid programme designed to
help the weaker sections of the society including the under-
privileged living in the far flung areas of the country. The
other task to which the Forum addressed itself was to bring
together progressive forces for infra-structure in the
society through the implementation of some of the fundamental
aspects of Mrs Indira Gandhi's 20-Point Economic Programme.
These aspects related to (a) Implementation of Agricultural
Land Ceilings and speedy distribution or surplus land and
compilation of land records; (b) Stepping up of provisions of
house sites for landless and weaker sections; (c) Abolition
of Bonded labour; (d) Eradication of rural indebtedness,
(e) legislation for moratorium on recovery of debt from
landless labourers, small farmers and artisans; and (e)
review of loss on minimum agricultural land holding.

The National Forum by co-ordinating its activities
formulated a plan for providing legal services to the poorer
sections of the society. It opened its branches at state,
districts and sub-divisional levels throughout the country.
The movement gained further momentum when its President Shri
Rajni Patel, an eminent legal luminary and distinguished
public personality proclaimed its objective at the
Maharashtra State Lawyers Conference held on 13-14 September
1975 at Bombay. The Conference provided a proper perspective
and constructive shape to the legal aid movement. On this
occasion, Mrs. Gandhi gave a message, a part of which reads,
"Our legal system has proved to be somewhat slow moving. There is also a feeling that it neglects those who are in greatest need of its help. True justice should not depend upon the capacity to pay. Innovations are necessary to expedite the administration of justice and to provide legal assistance to the poor. Situations, in which, narrow private rights are asserted, not to enlarge the content of liberty but to thwart the larger social objectives, must be urgently remedied. These and other important questions should be widely discussed."

The Conference was attended by a number of intellectuals including leading lawyers from all over India. To give publicity to the legal aid movement and to further generate mass consciousness, State lawyers conference were organised in Assam, Karnataka, Tamil Nadu, Andhra Pradesh Madhya Pradesh, Orissa, Bihar, West Bengal, Gujrat and Punjab. These conferences had tremendous impact in the country and necessitated the enactment of constitutional provision for providing legal aid a constitutional status.

Similar Conference were also held in some of the districts focused attention on the Constitutional and judicial reforms including the role of lawyers in the society and other legal problems facing the country. One of the significant initiatives taken by the Union Government was the appointment of a National Committee for recommending a comprehensive scheme of legal aid and advice throughout the country.


On account of the initiatives taken by the National Forum, the Government of India constituted a Committee on Juridicare on 19th May, 1976 with Mr. Justice P.N. Bhagwati, Judge, Supreme Court of India, as its Chairman. The terms of reference to the aforesaid Committee were:

(a) to consider the question of making legal aid and advice available to the weaker sections of the community;
(b) to assess the nature and extend of unmet legal needs for such economically under privileged persons and to determine the most effective method of providing legal services to them;
(c) to assess the value and effectiveness of legal aid schemes presently functioning in the country;
(d) to make recommendations for establishing and operating a comprehensive and systematic legal service

51. Id., at 16.
programme for effective implementation of the socio-economic measures taken or to be taken by the Government, including formulations of schemes for legal services;

(e) to draw up legal service programme in all the states on a uniform base;

(f) to draw up guidelines, outlining the ways in which the non-professionals or professionals in fields other than lawyers could be utilised for the implementation of the socio-economic programmes; and

(g) to make recommendations on such other connected questions as may be referred to it by the central government.

The Committee visited different parts of the country in order to acquaint itself with the problems and difficulties facing the weaker sections of the community so that they could devise a comprehensive legal service programme to satisfy the legal needs of the weaker sections. The Committee also met the representatives of scheduled castes and scheduled tribes, women, industrial labourers,

farm labourers, and other deprived sections of the society and found that the problems of these poorer sections of the community were gigantic and an activist legal service programme was needed to overcome the same. The committee in its Interim Report of 30th April, 1977 submitted to the Government, a comprehensive draft of the National Legal Services Bill, which not only outlined the infrastructure of the legal services organisation proposed to be set up throughout the country but also indicated the direction of the legal services programme. However, the final report of the Committee, was submitted on August 31, 1977. Some of the notable recommendations of the Committee relate to the establishment of 'Nayaya Panchayat' and 'Lok Nayalayas' at village levels, creation of conciliation cells which should be attached to every legal aid committee at all the levels and the inclusion of legal services to the weaker sections as a Plan item. The Committee sounded that if we want to invest the role of law with life and meaning, a dynamic activist legal service programme is imperative. Summarising its conclusions the committee observed, "The Union Parliament and the Union Government and their counterparts at the state level accept, as a paramount State policy, Free legal service

53. Id, at 2.
to the indigent and the unequal. Indeed in a country like ours, with the minorities living in subjective apprehension of the erosion of their identity and equality and with the socially suppressed categories looking upon the law as a vampire or, at any rate, untouchable and acute urgency of a comprehensive juridicare programme, as a high priority on the national agenda can be dismissed by the national leadership only at the peril of lawless outbursts and myopic vision."

1) Recommendations of Swaran Singh Committee, (1976)

The Government of India appointed a committee of constitutional Amendments under the Chairmanship of Mr. Swaran Singh, former Union Minister in 1975. Some of office bearer of the National Forum for Lawyers were also the members of the Committee. The Committee submitted its report in 1975 and accepted the idea of making legal aid a part of the Constitution. It recommended the incorporation of a new provision for legal aid in the Directive Principles of State Policy. This was a significant step in the direction of constitutionalisation of legal aid in India. In fact, the legal aid has been accorded a constitutional status because of the tremendous efforts made by the lawyers, members of Parliament and other legal

54. Id., at 85.
luminaries. The relevant provision has found a place in Article 39-A which reads. "The state shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation of scheme or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."

The provision is certainly a welcome step towards realisation of the goals of social justice. The provision mandates the State to provide free legal aid to deserving people so that justice is not denied to any anyone merely because of economic disability. In pursuance of the policy laid down in Article 39-A many states constitute and implement the legal aid and advice scheme. For example, the Government of Karnataka constituted its State Legal Aid and Advice Board on November 15, 1976. The State of Tamil Nadu and Madhya Pradesh also constituted such boards in the same year. Similarly, the State of Maharashtra constituted its Legal Aid and Advice Board on Feb. 14, 1977. In states like Gujrat, Kerala, Andhra Pradesh, Rajashtan, West Bengal, Orissa, Bihar, Uttar Pradesh, Jammu and Kashmir, Punjab, Haryana and Himachal Pradesh, the legal aid and advice boards have been functioning even much earlier to it. Besides some of the Union territories like Pondicherry, Goa, Daman and Diu, Dadar and Nagar Haweli also proceeded in the same
In fulfilment of its constitutional obligations, the Committee for Implementing Legal Aid Schemes (CILAS) was constituted by the Government of India in 1981, with justice P.N. Bhagwati, the then Chief Justice of India as its Chairman. The principal object of constituting the committee was the formulation and implementation of comprehensive legal aid scheme, on a uniform basis throughout the country. In the beginning the CILAS was constituted for a period of three years but its term has been extended from time to time.

The CILAS has evolved a model scheme on Legal Aid Programme for adoption by the State Governments so as to ensure uniformity in providing Legal Aid throughout the country. Accordingly, a Legal Aid Advice Board has been

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55. See, Bhagwati Committee Report, Supra note 52, at 88-107.

56. The CILAS has been reconstituted for a period of one year with effect from 14.11.1990 or till the legal services Authorities Act comes into force whichever is earlier.
devised as an apex body in every state. The State Board is presided over either by the Chief Justice or a sitting judge of High Court. The other members include lawyers, Members of Parliament, Members of Legislative Assemblies, State officials and representatives of Scheduled castes and Scheduled Tribes, women and other weaker sections etc. The member secretary of the Board is a whole time employee and is a judicial officer of the rank of District Judge.

The Board has been entrusted the responsibilities of the administration and implementation of the legal aid programmes in the state. For effectuating the purpose of legal aid programmes, the various State Boards have constituted legal aid committees at High Court level, district and Tehsil levels. The eligibility for obtaining legal aid as laid in the model scheme is rupees 6000 per annum upto High Court and rupees 9000 per annum for supreme court cases. This limit has no application to the disputes where one of the parties belongs to scheduled tribes or scheduled castes, women or a child.

Legal aid as recommended by the CILAS may be given in the following modes:

(a) payment of court-fee, process-fee, and all other charges payable or incurred in connection with any legal proceedings;

(b) representation by a legal practitioner in legal proceedings;
(c) obtaining and supply of certified copies of judgement, orders and other documents in legal proceedings; and

(d) preparation of appeals, paper books including printing and translation of document in legal proceedings etc.

According to the framework of CILAS, legal aid is not to be given in the following cases:-

(a) Proceedings relating to elections.

(b) Proceedings relating to defamation or malicious prosecution.

(c) Proceedings incidental to any proceeding referred to in item (a) and (b).

(d) Proceedings in respect of offences where the fine imposed is not more than rupees 50 and proceedings in respect of economic offences against social laws such as the **Suppression of Immoral Traffic in Women and Girls Act, 1956**, and **Protection of Civil Rights Act, 1955**. However, the Executive Chairman may consider the question of grant of legal aid even in such cases for reasons to be recorded in writing.

The legal aid programme adopted by the CILAS is of two types (a) Court oriented legal aid programme, and (b) Preventive legal aid programme. In court oriented legal aid programme, the state legal aid and advice Board provides legal assistance. These boards also implement the preventive Aid Programme.
with financial support from CILAS. The CILAS has also set up a Supreme Court Legal Aid Committee for giving legal aid and advice in the Supreme Court. In the same way, State Legal Aid Boards have set up High Courts Legal Aid Committees in their respective States. On the basis of the information provided by the CILAS, as on 31.12.1990, 12, 63, 131 people have been provided legal aid and advice through the State Legal Aid and Advice Boards.

The other aspect of legal aid, i.e. Preventive legal aid has received special attention of CILAS. The CILAS provides financial assistance to the state legal aid and advice boards, state governments, educational institutions and to the non-political social action groups for running this aspect of legal aid programmes which include (a) Promotion of legal literacy, (b) Organising Lok Adalats, (c) Establishment of legal Aid clinics in Law colleges and Universities, (d) Creation of urban and rural entitlement and legal support centres, (e) Training of para-legals and

57. See, Working paper titled, Legal Aid Schemes, prepared by the Committee for Implementing Legal Aid Schemes, (CILAS), New Delhi, (Unpublished, 1990).
encouraging public interest litigation for bringing the problems of the poor before the court.

In view of the consistent efforts of CILAS, the Legal Aid and Advice Boards are now functioning almost in all the states of the country. The North eastern states like Arunachal Pradesh and Nagaland etc are running their own legal aid programmes through "Tribal Councils." Some of the states like Assam, Bihar, Karnataka and Madhya Pradesh have enacted legislations on legal aid. In other states, the scheme is being implemented by framing rules by the respective State Government.

58. The CILAS has prescribed a ceiling of sum not exceeding Rs. 5000 as a grant-in-aid for each legal aid clinic and the matching grant is to be given by the State legal aid and advice Board. Further the Committee give a financial assistance upto Rs. 50,000/- for each urban/rural entitlement and legal support centre. The addition to these the sum of Rs. 10,000/- is given for holding para-legal training camps per districts. For taking up the cause of the poor the CILAS gives financial assistance upto Rs. 60,000/- to each public interest litigation organisation, see Ibid.
As a result of the recommendations of Bhagwati Committee of 1977, which recommended for enacting a uniform law for implementing the legal aid schemes throughout the country, the Parliament has now enacted the **Legal Services Authorities Act, 1987**. The law received the Presidential assent on October 11, 1987. However, the legislation has not been brought into force till this date. The Act provides for the constitution of legal services authorities at the centre, state and district levels and legal aid committees at the Supreme Court, High Courts and tehsil levels. Each of these authorities shall have all infrastructural facilities including funds, for implementing legal aid schemes under the Act. The Lok Adalats shall have the power of Civil Courts and the award shall be final in all respect with no right of appeal. Though the legislation aims at establishing a legal aid mechanism on a countrywide basis, it may be too early to predict on the results which will depend on many other factors also including the level of mass consciousness in the country.

D. CONCLUSION

The above discussion shows that during the pre-independence era, there was nothing like legal aid to the poor. During the Hindu period the King was considered the fountain of Justice and the justice was done in his name.
However, there was no court-fee that was required to be paid by the parties in disputes of Criminal nature in ancient India. But in a suit of civil nature the parties were made to make some payments to the king after the case was finally settled off. This payment to some extent may be regarded as Court fee. The caste-system was rampant and there was nothing like social justice as the dominant castes exploited the poor and the weaker sections. During the Muslim period, excepting some rulers who practised the racism in which the non-Muslims were denied rights, the other followed the principle of equality for men. And for the first time, during the reign of Aurangzeb, the lawyers were appointed as 'Vakil-e-Sarkar' in each district who sometimes assisted the poor litigants by providing them "Free Legal Advice". So this was the beginning of legal aid and advice to the deprived sections in the King Aurangzeb's regime. But there is no information available on record indicating the contents and types of legal advice available to the poor persons. But the system of Panchayat Justice was developed in this period which made the justice reach at the doors of the poor. During the English Period, there were no sincere efforts on the part of the Government in this regard because the Britisher's prime concern was to introduce the English Law in India to their benefit. They did not bother about the poor litigants and charged heavy court-fees which led to the denial of access to justice-delivery system to those who could not pay such fee. However, there was allowed a court-
fee exemption in pauper suits as late as in 1908 by the enactment of Code of Civil Procedure, and in criminal cases, the Code of Criminal Procedure, provided for the legal assistance to the poor-accused, at state cost in cases, where capital sentence was the penalty. There were some half hearted attempts in 1924 by some societies to provide legal assistance to the poor but these fell short of its objectives due to the shortage of funds.

After independence the Government felt concerned over this issue and appointed various committees from time to time to consider the question of legal aid. As a result of these constant efforts almost all the states and some Union territories have set up their own legal Aid and Advice Boards which are actively promoting this cause of the downtrodden by holding legal aid camps to help the poor masses and providing them legal aid, preventive as well as strategic. CILAS is the apex national body which supervises the overall work of these boards. Now, the Parliament has also enacted the Legal Services Authorities Act, 1987. The Act provides for establishing a legal aid mechanism on a nationwide basis to provide legal services. But it is sorry to say that this Act has not been brought in force till date.