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Hardships of Legal Illiteracy and the Need for Pro-Bono work in Law

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The people of India get independence in 1947 and the Indian constitution came into force on 26th January 1950 the constitution gives so many rights like fundamental rights and constitutional rights to its people so they can live happily in a safe atmosphere. But the problem that exists is that so many people in India are still unaware of their rights and thus they face problems in many spheres of their life from getting equal treatment to a life of dignity and also face hurdles in getting justice and the main cause behind this is the legal illiteracy which needs to be solved by the initiatives of the government, philanthropists, institutions like law colleges and different organizations working for the public welfare. Apart from all these, till the majority population gets legal literacy the self-motivated initiatives by lawyers and law firms are also required to deliver justice to all those who don't know any legal procedures or can't afford their fees and belong to the marginalized section of the society and that can happen when they allot their time for the Pro-Bono work after understanding the sufferings of downtrodden victims face for getting the justice and rights.

Keywords: *legal illiteracy, marginalized, legal rights, pro-bono.*

INTRODUCTION

According to the report published by the National Survey of India, the Literacy Rate of India in 2022 is 77.7%¹ but how much percentage among them is legally literate and even at least know their rights and duties prescribed by the constitution? In this world of modernization, we all are aware of the importance of literacy and also know the consequences of illiteracy and like it's a well-known fact that one suffers in every field of their life if one is illiterate or uneducated and commonly if someone is not able to read or write then they are considered illiterate and here I will define legal illiterate as someone who is not able to understand or know about their fundamental rights and constitutional duties and not able to interpret even good and bad according to law.

In this country, even people who are generally graduates are not legally literate so leave about low-strata people but then also, till now the scope of legal literacy doesn't spread and everyone is not fully aware of the consequences they have to face if they are not legally literate. People get exploited in govt offices or banks or by fraudsters, etc. only because they don't know anything about their rights but the good news is that this problem is now getting recognition and a few steps are being taken for legal literacy and to make policies India's Ministry of Justice states that 'The legal literacy and legal awareness program is for the empowerment of the poor and disadvantaged sections of society so they can seek and demand the service of justice and it also seeks to improve the institutional capacities of key justice service providers to enable them to effectively serve the poor and disadvantaged.'

HARDSHIPS OF LEGAL ILLITERACY

When citizens of a country don't know their legal rights, and duties and are not eager to know much about the law of the land then this doesn't only cost them but also that country's development and social condition gets affected in the long run like public institutions lost the

¹ Sanjay Sharma, 'International Literacy Day 2022 theme, significance & history' (*Times of India*, 8 September 2022) <<https://timesofindia.indiatimes.com/education/news/international-literacy-day-2022-theme-significance-history/articleshow/94065106.cms?from=mdr#:~:text=According%20to%20the%20report%20published,rate%20in%202011%20was%2073%25>> accessed 18 February 2023

significance, corruption, nudity, crime, and suppression of common people become common. Along with these following things happen:

Injustice to people: When a person is not legally literate then they have to face injustice as they are unaware of the programs and provisions of govt and as a result, they never raise their voice against these things and these people get suppressed easily.

Unjustified traditions continue: Legal illiteracy of people affects the society at large and thus in society some traditions remain to continue because first of all, they don't know about the law and also they are not able to judge those things and decide whether those things should continue like dowry, polygamy, suppression of girl child, etc.

No accountability of officials: If in a society, their members are not legally literate then those instances when officials don't respond to common people's needs and demands are not uncommon and in India also we can easily see the instances in police stations and banks and blocks, etc. when people are praying to the officials to get their work done.

Corruption surges: Where people are not legally literate then in those places high corruption is very common as officials threaten people from the law which is there for those people only and not those corrupt employees. India is ranked 85th among the 180 countries with a score of 40 out of 100 in Transparency International's Corruption Index, 2022² and this shows our current condition and the need to improve the situation by empowering people with awareness.

Rule of Muscle and Money Power: Legal illiteracy in long run creates a situation when common people became extremely vulnerable and gradually the rule of law reaches a stage when it gets limited only to books and courtrooms and in society, the muscle and money power start controlling things and this thing is also something we can see in some areas in India itself where people are illiterate from generations and they don't have any idea about law then there a rule

² Transparency International, 'Corruption Perceptions Index 2022' (*CPI Report*, 2022)
<https://images.transparencycdn.org/images/Report_CPI2022_English.pdf> accessed 20 February 2023

of some sections of people start and then law enforcement in those areas became extremely difficult.

Punishment to the victim: This point is crucial as we all know that "*Ignorantia fact excusat, Ignorantia juris non-excusat*" means that "*Ignorance of fact is an excuse but Ignorance of the law is not an excuse*" but if the common folks don't know the law so is it justice to punish them for not being aware of law like there are many things like polygamy, child marriages or intercourse with a person aged less than 18 because she or he married him or her, as they are not aware of the law, thus for this principle to be applied in society legal literacy, should be promoted.

Violation of human rights: If people are not legally literate then their basic human rights like a life of dignity and wage according to work, etc. get violated, and since they don't know anything so they have to go through all these things.

WAYS TO EASE THESE HARDSHIPS

For tackling these hurdles legal literacy and public awareness programs through social media and local media are the best way to deal but this thing will take years to get reflected in society also our infrastructure is a hurdle in this so, therefore, building infrastructure for legal education in panchayats and different public institutions and recruitment of legal professionals for this is required and adding legal education to the school curriculum as a mandatory subject can make a big difference in society and the next generation will not suffer the same as previously.

After this, the Pro Bono work by lawyers, law students, and cooperative societies is the best thing we can arrange to make a big difference in society in less time and to bring justice to everyone currently, and towards achieving this objective the pro-bono committee formation is happening and the ministry of law and justice is promoting it but the participation of students in these committees for any fixed period should be mandatory.

For the development of this Pro-Bono field in law funding to the lawyers or organizations working for this should be done so more and more people can do this and a proper management policy for this is the need also when the funding will be provided then not only more people

will engage in this but the quality service providers will engage and in result, this will bring justice to the needy and will improve the situation very efficiently.

WHAT IS PRO-BONO WORK?

Pro-Bono comes from the Latin expression '*Pro-Bono Publico*' which means '*For the public good*'. In law, Pro-Bono work means professional services will be provided by lawyers or organizations at very low fees or free, for the public good and to bring justice to everyone and each section of society. Some fees for things like documents fee or registration fees etc. will be charged only.

ARTICLES 14, 22 (2), AND 39A OF THE INDIAN CONSTITUTION

In our Indian constitution, we have article 14³ which outlaws discrimination in a general way and guarantees equality before the law and equal protection of the laws to all persons this tries to achieve 'equality of status' for all the people and here also the underlying principle of '*Intelligible differentia*' which means '*Intelligent reason for classification*' plays a role to achieve the objective of equality and it states that the right to equality doesn't mean to be same treatment for all but the equal treatment to the aspects which are similar and different treatment to the aspects which are different because all humans are not similar in every aspect.

To classify we should take care that the differentiation we are doing at that time should have a rational relation to the desired result which meant that the different classification should be done among people based on the objective to be achieved because then only we can address all people and will be able to make policies for the upliftment of differently-abled people, women, senior citizens or from any other marginalized group like tribals, etc.

At the same time, equal representation will be ensured & Article 22 (2)⁴ states that no person who is arrested should be detained for more than 24 hours without being produced before a magistrate or judicial authority and getting the detention authorized from there and it helps people from the wrongful detention and also in the **State of Punjab v Ajaib Singh**⁵ when this

³ Constitution of India 1950, art 14

⁴ Constitution of India 1950, art 22(2)

⁵ *State of Punjab v Ajaib Singh & Anr* (1952) AIR 10 SCR 254

right was infringed then the compensation was provided and it was held that the cases of arrest without warrant require greater protection and production of accused within 24 hrs. is required otherwise it will be an unlawful arrest.

In **C.B.I v Anupam J. Kulkarni**⁶ it was held that the magistrate could authorize the detention for 15 days if he deems it fit and reasonable, and for the period beyond of 15 days, an advisory board has to report sufficient cause for the extension of such detention prior to the expiration period mentioned in clause 4 of article 22⁷ which is three months currently so from these articles and cases the thing could be inferred is that we need to take measures to ensure equality before the law since it is still not accessible to every section of society and also the suppression through the unlawful detention is not uncommon so these cases shows that how if a person gets trapped in such a situation and if he gets the legal assistance then there is no problem but if he doesn't get it timely then if he will be aware of these rights and limitations of law then he or she will not be get threatened by anyone and this will empower our people and then they will question the wrongs of the society courageously.

Now the problem of lack of legal assistance comes into the picture as we also see that as a result of legal illiteracy and lack of good legal assistance many people have to face unfair trials and manipulations of evidence can be seen and because of this people have to spend many years in imprisonment only because of the very slow trial process and lack of quality representation of any one party despite of that we have the "Doctrine of Fair Trial" and a feature of this doctrine is the "Doctrine of Speedy Trial" and these are there so that the trial could be held fast and also the fair opportunity could be given to parties and the concept of these doctrines comes from the Article 21⁸ of the constitution of India (it protects life and personal liberty). In the **Husainara Khatoon v the State of Bihar**⁹, the supreme court stated that the expeditious trial is a vital component of Article 21 and also the state's constitutional body must set up procedures that will ensure speedy trial for the accused which establishes the Doctrine of Speedy Trial and gives

⁶ CBI, *Special Investigation Cell-I v Anupam Kulkarni* (1992) AIR 1768

⁷ Constitution of India 1950, art 22(4)

⁸ Constitution of India 1950, art 21

⁹ *Husainara Khatoon & Ors v Home Secretary, State of Bihar* AIR (1979) SC 1369

every citizen a right for it and same like this in the **Moti Lal Saraf v Union of India, 2007 (1) SCC Cri,180**¹⁰, the supreme court held that the concept of fair trails flows directly from the Article 21 of the Constitution of India.¹¹

In addition, Article 39A¹² of the Indian constitution deals with the provisions of equal justice and free legal aid and also directs the state to provide free legal aid to poor and weaker sections of society, to promote justice based on equal opportunity. These are the constitutional grounds that compel the govt to ensure equality and fair and speedy trials and legal assistance and even every citizen at least morally to do something for equality in society in terms of getting justice and spreading legal knowledge so people could be safe from exploitation or at least could recognize their rights and they don't have to tolerate the oppression of any institution or individual.

Now along with national laws, there is international law which is there for compelling govts. of every country to contribute to those things, and like this, internationally we have UN Sustainable Development Goal 16¹³ which calls for peaceful and inclusive societies based on respect for human rights, protection of the most vulnerable, the rule of law, providing access to justice for all, and building effective, accountable, and inclusive institutions at all levels.

But the Sustainable Development Goals are not binding then the question arises that if it's not binding then why should India to try to achieve these so India should because its a signatory to the 2030 Agenda for Sustainable Development and also achieving these goals is beneficial for India's goodwill and also India should fulfill these because these goals are grounded in international law and made consistent with existing commitments expressed in various

¹⁰ *Moti Lal Saraf v Union of India* (2007) 1 SCC (CRI) 180

¹¹ National Judicial Academy, 'Right of Fair Trial' (NJA)

<https://nja.gov.in/Concluded_Programmes/201920/P1163_PPTs/1.Right%20to%20Fair%20Trial_Handout.pdf>
> accessed 17 February 2023

¹² Constitution of India 1950, art 39A

¹³ Sustainable Development Goals, 'Goal 16: Promote just, peaceful and inclusive societies' (UN)

<<https://www.un.org/sustainabledevelopment/peace-justice/#:~:text=Goal%2016%20is%20about%20promoting,inclusive%20institutions%20at%20all%20levels>>
> accessed 17 February 2023

international legal instruments and the Article 51¹⁴ of the constitution from the Directive Principles of State Policy (DPSP) clearly states that the state should foster respect for international law and treaty obligations and should promote international peace and security and maintain just and honorable relations between nations and should encourage settlement of international disputes by arbitration thus from here it can be clearly inferred the need of achieving those goals because those goals are inclusive in other international commitments which should be followed according to art. 51 but for achieving these first the govt needs to make internal laws for executing the laws related to it because, in the *Jolly George Verghese v Bank of Cochin*¹⁵, it was held by Supreme Court that the remedy for the breach of International law can't be found in Municipal courts and for the enforceability of international law it must take the form of Municipal Law and this explains the need for the local rule for executing international laws and in this field, India is doing great and even India release reports of its states and rank them for achieving these goals.

These provisions show the concern of policy and lawmakers both nationally and internationally towards making justice accessible for everyone and because of this in India, Govt took various steps for this like establishment of the National Legal Service Authority (NALSA) at the national level, State Legal Service Authority (SALSA) at the state level, and District Legal Service Authority (DALSA) at the district level which is there for providing free legal assistance to the people who gets qualify for this. Also, the ministry of justice with the collaboration of many Non-governmental organizations (NGOs) releases various apps and websites like Nayaya Bandhu or UMANG service portal, etc. for both lawyers and legal aid seekers.

NEED OF PRO-BONO WORK IN LAW

Today in modern days we face problems like communalism, everyday violence, corruption, climate change, etc. and these things affect each person in our society but the effects of these on the poor and marginalized section are much greater than other sections as they even lack those

¹⁴ Constitution of India 1950, art 51

¹⁵ *Jolly George Verghese & Anr v The Bank of Cochin* (1980) SCR (2) 913

resources like housing, hygiene, livelihood, the life of dignity and accessible justice which can comfort and protect them from those problems.

Since we are talking about law and justice so we know that in the legal field lawyers are a privileged section of society because they know the intricacies of law and are professionals in this field therefore, they can provide to those who didn't get justice because of several reasons like illiteracy, cultural barriers, institutional reasons, and no access to legal assistance. But, At current times over 1.4 million advocates exist in India and are enrolled nationwide¹⁶ still they aren't doing much and also there are vast reasons for this that why they aren't doing much and one of them is that the Pro-Bono is not even necessary or compulsory and instead giving their time for this they can earn much from other things.

After knowing that almost 80% of our country's citizens which is over 1.3 billion people qualify for free legal assistance or legal aid¹⁷ we start to criticize the system and govt policies for this but we don't make our vision vast to see the causes and possible solutions. And the best solution for the current situation is that we need to promote Pro-Bono work in the law field through participation or by sponsoring also we have to establish Pro-Bono clubs and need to ensure that the ad-hock work of lawyers happens systematically. We even need to work with marginalized, street workers or women and all those who aren't even able to approach the court for justice. Also, there are not thousands but lakhs of cases when even after facing a lot of hurdles some people go to court but then also accused gets acquitted because the victim didn't have a competent lawyer to argue and present their matter and this violates even the human rights of victims.

We need pro-Bono to work more and more to give a voice to the legal system we need it so anyone doesn't get deprived of justice because they weren't able to afford a lawyer. We need it

¹⁶ Amal Kumar Ganguli, 'Overview of the Legal Profession in India' (*International Association of Lawyers*) <<https://www.uianet.org/en/actions/overview-legal-profession-india#:~:text=The%20Indian%20legal%20profession%20is,1.4%20million%20enrolled%20advocates%20nationwide>> accessed 16 February 2023

¹⁷ Trust Trusts, 'India Justice Report: Ranking States on Police, Judiciary, Prisons and Legal Aid' (*TATA Trusts*, 2020) 90 <<https://www.tatatrusters.org/Upload/pdf/ijr-2020-overall-report-january-26.pdf>> accessed 17 February 2023

because we have to protect the basic human rights of everyone and the justice they deserve as a human and we can't even imagine a situation when the marginalized section of society doesn't get justice and they have to see their molesters (or anyone harmed or did wrong with them) moving freely in front of them, because of this mental trauma they have to go through is just unexplainable.

We need Pro-Bono because we have to give a ray of hope to that section of society who lost their faith in justice and themselves because of the system and now those people started believing that they don't deserve justice and that justice is only for those who have money and power. And being in the law field every lawyer needs to recognize that they are capable to see the problems of society and solve those at least to some extent and can bring others' beliefs back into our judiciary system.

Also when the Pro-Bono clubs that are established in law schools nowadays need to be compulsory for all the students for at least for few weeks because if people will not get exposed to the problems of the lower strata of society then why they'll like to get involved in these things if they can earn much from other clients, surely the exposure of all students to this field will attract more students and then in future they'll allot their time for pro-bono apart from other clients and office work. Also, by popularizing it by making it compulsory, we can attract people who will be scholars, social activists, and lawyers in the future, and later when they all will work together for this cause then we can imagine the amount of change that will come in society as Pro-Bono work is not only required in court cases but is also a requirement in every sphere where the poor and marginalized are getting exploited like in govt offices, banks & even schools.

We also need the Pro-Bono work to make every individual in society aware that how many rights they have as a citizen of India also we'll tell them about their duties as citizens and when people will know their rights and duties then this will decrease crime rates and unnecessary chaos of the society. Also when a person works in the law field then for lawyers it is very hectic and causes mental pressure and that's why they don't get much time for their pleasure and happiness so for some people Pro Bono work could be that source of happiness which will motivate them a lot to work in this field because they'll be able to see the change in the society

they're making and when they work Pro-Bono they get involved in the society and their work becomes very significant for the society which is also beneficial for the lawyers as then they not feel isolated when they reach the top of their career.

Although Pro-Bono work is needed much in society then also it should be kept in mind that incompetent people should not directly jump into this independently first, they should get trained under a competent lawyer, and then like many other fields of law they should take the work in their hands if they're competent enough and thus one should take care of their competency and the level of work they are taking in their hands because many losses their cases because they were not represented by a competent person for that particular matter.

CONCLUSION

The hardships faced by people who are not even aware of their legal and constitutional rights which is causing problem in society because of this they have to face suppression and as they also don't know about their legal and constitutional duties thus crimes are happening more and legal literacy can solve the many problems. Also, the awareness program or any policy designed for this purpose should be more inclusive because even the people who are graduated in different fields are even not aware of basic laws and rights, and awareness about the law and the legal thing is very less in society which is not a good sign for a developing country and a civilized society.

Thus, legal literacy and awareness through campaigns, promotions, and ads are required, and proper policy making and designing of basic laws in such a book which could be included in children's syllabus should be done also, we need to find the ways to make children study them as a compulsory subject without letting this feels as an extra burden on them. Overall these ways will bring the result in the long run but currently, initiatives like Pro Bono work by lawyers, institutions, and non-governmental organizations (NGOs) are required to make a society where no one is deprived of justice and also even for Pro Bono work only those professionals should come who are competent and others should get training to get the required skills so no one became a victim of injustice just because they didn't have the money and resources to hire a

competent professional and thus by this way we will fulfill our moral and humanitarian responsibility along with executing the DPSPs, Fundamental and Constitutional rights and achieving Internationally set sustainable development goals.