



RIGHT TO JUSTICE

Justice Delayed is
Justice Denied

Right to
Legal Aid

5

SOURCE OF RIGHT TO JUSTICE

- Article 39-A of the Indian Constitution that directs the State - to secure equal justice and free legal aid for the citizens.
- Securing justice - social, economic and political to all citizens is one of the key mandates of the Indian Constitution



Justice Delayed
Is
Justice Denied



Why Has This
Delay Happened



CAUSES OF DELAY

- Delay in disposition of cases
- Strength of Judges are inadequate according to population and bunch of cases.
- The infrastructure of the lower courts is very disappointing
- Competency of the Other Staff in Court
- Investigative agencies generally delay

DELAY IN DISPOSITION OF CASES

- Due to huge pendency, the cases take years for its final disposal, which would normally take few months time
- It means negating the accessibility of justice in true terms to the common man
- Decision must be delivered within a reasonable time.
- Totally unfair if a suspected criminal waits for trial for years and is ultimately found innocent.
- Victim will not be satisfied if there is no punishment to the criminal for so long.
- Speedy justice could ensure effective maintenance of Law and order.

STRENGTH OF JUDGES ARE INADEQUATE ACCORDING TO POPULATION AND BUNCH OF CASES.

- Pending cases in the Supreme Court number 30,000
- Pending cases in high courts over 33.79 lakh
- Pending cases in subordinate courts over 2.35 crore.
- This is due to shortage of judges
- Ratio of judges to population is 10.5 to one million, the lowest in the world

THE INFRASTRUCTURE OF THE LOWER COURTS IS VERY DISAPPOINTING

- Lower courts are not having good infrastructure.
- The lower Courts have no convenient building or physical facilities.
- In some courts security systems is also not good.
- Financial aid should be provided to Bar Associations.
- Good working condition leads to excellence of service and qualitative justice to the litigating public.

COMPETENCY OF THE OTHER STAFF IN COURT

- The administrative and clerical staff should be competent.
- Clerical staff must be free from all type of corruption.
- Lack of adequate & efficient staff.

INVESTIGATIVE AGENCIES GENERALLY DELAY

- Investigating agency failed to submit charge sheet within statutory period
- Investigation of crime is generally heard that the accused gets bail
- The lethargic police investigation is also a ground of slow process of law.

CONSEQUENCES OF DELAY AND DENIAL

- Leads to increasing "Out of Court settlements"
- Leading to the loss of trust in our Judicial System.
- Shows our criminal justice system is sick.

Cases of Delay and Denial



UPHAAR CINEMA CASE



UPHAAR CINEMA CASE



UPHAAR CINEMA CASE

- It took six years to prove 59 people died due to criminal negligence on the part of the cinema management
- Nobody would have died had the cinema followed safety rules.
- Indian justice move at the pace of our national vehicle - the bullock cart.
- It took six years for justice to be done
- If appeal is done it would take more years.

UPHAAR CINEMA CASE

उपहार सिनेमा कांड में

सात साल बाद इंसाफ

दिल्ली के पीड़ित परिवारों में इससे घोर निराशा

ओमकार चौधरी

समय-समय पर अदालतों से देरी से मिलने वाले न्याय पर सवाल उठाए जाते रहे हैं। कहते हैं, देरी से मिलने वाला इंसाफ न्याय नहीं मिलने के समान है। ऐसे एक-दो नहीं, अनेक चर्चित केस रहे, जिनमें अंतिम फैसला आने में बीस-बीस साल तक लगा गए। ऐसे कई मामलों में तो कुछ अनिष्टों और पीड़ित सुनवाई के दौरान ही चल बसे। दिल्ली, कानपुर सहित कई शहरों में 1984 में हिनदा गांधी की हत्या के बाद सिख विरोधी छद्म भड़क उठे थे। करीब तीन हजार बेकसूर सिख मौत के बाद उबार दिए गए लेकिन उनमें से बहुत से मामलों में आज तक कोई फैसला नहीं आया है। भोपाल गैस त्रासदी के पीड़ितों को आज तक न्याय नहीं हुआ उन्हें जो मुआवजा मिला, वह भी कंड के मुंड में जौरे के ही समान है। उस ब्रह्महत्या में अनेक लोग मारे गए और बहुत से अंगंग हो गए। बाबरी मस्जिद मामले की सुनवाई भी लंबी खिंचोती जा रही है। ऐसे ही अनेक मामले हैं, जिनमें जल्दी फैसले नहीं आते। इस कारण कई बार लोगों का न्याय व्यवस्था से घिसझता होता दिखाता है। यह तो विधि एवं न्याय प्रणाली की ही रिपोर्ट बताती है कि इस समय देश की विभिन्न अदालतों में दो करोड़ से अधिक मुकदमों लिखित पड़े हैं। हर साल डेढ़ करोड़ से अधिक मामले दर्ज होते हैं। लगभग इतने ही मामलों का निपटारा होता है। इसके बावजूद हर साल दो करोड़ से अधिक मुकदमों का लिखित रह जाना खेददायक है। कहीं जलों और

JESSICA LAL HORRIFIC MURDER



JESSICA LAL HORRIFIC MURDER

- She was shot dead in a Delhi bar in full view of several people.
- On the basis of their statements that the police built their case against Manu Sharma.
- He fled the crime scene.
- Remained on the run for days.
- Witnesses to the murder suddenly became unable to identify him as the killer.
- He is already out on bail

**How This Delay
Could
Be Tackled**



REMEDIES TO OVERCOME DELAY (SUGGESTIONS)

- Need to improve the basic infrastructure and management of resources
- Urgent requirement of Independent Investigative Agency
- Establish more courts and to increase number of judges according to population.
- Establish a body at national level composed of Judges, Lawyers and Legal academics, which should be charged with a duty to conduct examinations for recruitment to IJS
- Establishing special courts to deal with cases of corruption and cyber crimes.
- Civil and Criminal procedure codes and the laws of evidence have to be substantially revised to meet the requirements of modern judicial administration

CONCLUSION

- Should not resort in extra-ordinary hurry-up of cases by whatever means.
- Justice hurried is justice buried is equally true.
- Sufficient, reasonable and due hearing of every cases with consideration of its circumstances is the necessary requirement of natural justice and balance of convenience.
- Efforts required by Indian Judiciary to provide timely and speedy justice.

Legal Aid



SOURCES OF RIGHT TO LEGAL AID

- Art.39 A of the Constitution of India says provide free legal aid to those who cannot access justice due to economic and other disabilities.
- Sec. 304, Criminal Procedure Code says If the accused does not have Sufficient means to engage a lawyer, the court must provide one for the defense of the accused at the expense of the state.
- In Khatri II Vs. State of Bihar, 1981 SCC (Cri) 228 it was said The constitutional duty to provide legal aid arises from the time the accused is produced before the magistrate for the first time and continues when ever he is produced for remand.



WHO IS ENTITLED TO FREE LEGAL AID

- A member of scheduled castes or tribes.
- Poor person with an annual income of not more than Rs. 50000 for cases in supreme court and Rs. 25000 in other courts.
- A victim of trafficking in human being or beggar
- Disabled, including mentally disabled
- A woman or child
- A victim of mass disaster, ethnic violence, caste atrocity, flood, drought etc.
- An industrial workman
- In custody, including protective custody
- Facing a charge which might result in imprisonment
- In case of great public importance



DUTIES OF THE AIDED PERSON

- Comply with directions given by the Secretary of the Legal Services Authority.
- Attend the office of the committee or courts as well as of the advocates assigned, as when required.
- Furnish true and full information to the advocate rendering legal service.
- Not pay any fee or expenses to the advocate rendering legal service.

STEPS INVOLVED IN THE PROCESS

- The eligibility criteria and the merits of the case are examined.
- If the application for legal aid is rejected, reasons shall be duly recorded and also informed to the applicant.
- The applicant has the right to appeal before the chairman for a decision against such rejection.

HOW TO APPROACH?



- A written application can be made to the concerned authority.
- When a person cannot read and write, the legal services authority will record his/ her statement along with thumb impression. Such a statement is treated as application.
- The person who claims legal aid has to file an affidavit of his income.

WHOM TO APPROACH FOR FREE LEGAL AID

The person who needs free legal aid can approach the legal services authority at any level :

■ National Level -State Level -District Level or Taluq

विधिक सेवा प्राधिकरण अधिनियम, 1987

- समाज के कमजोर वर्गों को, यह सुनिश्चित करने के लिए कि आर्थिक या अन्य निर्धनता के कारण कोई नागरिक न्याय प्राप्त कर पाने के अवसर से वंचित न रह जाए, निःशुल्क और सक्षम विधिक सेवा उपलब्ध कराने के लिए विधिक सेवा प्राधिकरण का गठन किया गया है। जो विधिक सहायता के अभाव, समान अवसर के आधार पर न्याय प्रदान करने व लोक अदालतों द्वारा मामलों का निपटारा करेगा। जिसके अनुसार हर तालुका, जिला न्यायालय, उच्च न्यायालय और उच्चतम न्यायालय में विधिक सेवा समितियों का गठन किया गया है। जिसमें प्रत्येक व्यक्ति को, जिसे कोई मामला फाईल करना है या किसी मामले में बचाव करना है, इस अधिनियम के अधीन विधिक सेवा का हकदार सभी स्तरों पर होगा, यदि ऐसा व्यक्ति :-
- (1) अनुसूचित जाति या अनुसूचित जनजाति का सदस्य है,
- (2) संविधान के अनु. 23 में यथानिर्दिष्ट मानव दुर्व्यवहार या बेगार का सताया हुआ है,
- (3) स्त्री या बालक है,
- (4) मानसिक रूप से अस्वस्थ या अन्यथा असमर्थ है,
- (5) अनुपेक्षित अभाव जैसे बहुविनाश, जातीय हिंसा, जातीय अत्याचार, बाढ़, सूखा, भूकम्प या औद्योगिक विनाश की दशाओं के अधीन सताया हुआ व्यक्ति है,
- (6) कोई औद्योगिक कर्मकार है,
- (7) ऐसा व्यक्ति है, जो आर्थिक रूप से कमजोर की श्रेणी में आता है।
- संसदीय कोर्ट, तालुका, जिला न्यायालय, उच्च न्यायालय, उच्चतम न्यायालय में प्रार्थना-पत्र देने पर संबंधित विधिक सहायता समिति उसके मामले में वकील नियुक्त कर निःशुल्क कानूनी सहायता देगी।
- स्त्रोत: अधिनियम व राज्य मानव अधिकार आयोग द्वारा प्रकाशित - राज्य की जनोपयोगी योजनाएँ बुकलेट नम्बर 10 / 2006 से



WHOM TO APPROACH FOR FREE LEGAL AID

Request can be made to

- The Senior Civil Judge nominated as Chairperson of the Mandal or Taluq Legal Service Authority.
- The Secretary, District Legal Services Authority at District Level
- The Secretary, Human Court Legal Services Committee at the State Level
- Supreme Court Legal Services Committee at higher Level
- The Member Secretary of the State Level Services Authority
- The Magistrate before whom She/he is produced
- The Custodial Authorities, if under Detention.

SERVICES OFFERED BY THE LEGAL SERVICES AUTHORITY

- Payment of court and other process fee
- Charges for preparing, drafting, and filing of any legal proceeding.
- Charges of a legal petitioner or legal advisor
- Cost of obtaining decrees, judgement, orders or other any documents in a legal proceeding.
- Cost of paper work including printing and translation etc.



CASES FOR WHICH LEGAL AID IS NOT AVAILABLE

- Cases in respect of defamation, malicious prosecution, contempt of court, perjury etc.
- Proceedings relating to election;
- Cases where the fine imposed is not more than Rs.50/-;
- Economic offences and offences against social laws;
- Cases where the person seeking legal aid is not directly concerned with the proceedings and whose interests will not be affected, if not represented properly

WHEN CAN LEGAL SERVICES BE REJECTED

- If the applicant has adequate means to access to justice.
- If he does not fulfill the eligibility criteria.
- Has no merits in his application requiring legal action.



Fundamental Duties Art 51-A

- The Commission under the guidance of the Hon'ble Chairperson is making the common people aware about the duties mentioned in Art. 51(A) of the Constitution.
- Justice N.K Jain has made the Performa of these duties and distributed. So many institutions have reprinted and distributed in public to create awareness as many people are not aware of their duties.
- He is motivating students of various schools, colleges and other institutions. Students of these institutions are reciting the oath of article 51(A) of Constitution of India under the guidance of R.S.H.R.C.

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How the Duties can Minimize The Delay in Justice

- Duties and rights are related to each other.
- Duties of a person is Rights of other.
- If duties are discharged in best possible way with full devotion then Delay can be reduced & controlled.
- If parties, Advocates, Staff perform their duties properly then unnecessary delay could be tackled.
- Judicial System and procedure can't do anything until duties are discharged

Legal Awareness Programmes

- For the awareness of the human rights in public at large, Justice Jain has wrote about 31 booklets of various legal issues. Out of these booklets 18 booklets have been published by the R.S.H.R.C. Many other organizations, District Legal Aid Authorities, Departments, Schools, Colleges etc. has also published some booklets like Women, Children, Dalits, Arrest, HIV/AIDS, Human Rights etc. by the permission of the Commission. They have distributed these booklets in 80000 in numbers.
- Some of these booklets are available on Commission's website www.rshrc.nic.in and justicenagendrakjain.com. English translation of Some booklets are also available on a German website herenow4u.de.
- These books are:

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31 booklet have been written by Justice Nagendra Jain (Chairperson RSHRC, Jaipur) on different legal and important issues



- माननीय न्यायमूर्ति श्री एन.के. जैन, अध्यक्ष, राजस्थान राज्य मानव अधिकार आयोग, (पूर्व न्यायाधिवक्ता मद्रास एवं कर्नाटक उच्च न्यायालय)ने विविध विषयों पर लेख/लघु पुस्तिकाएँ आदि लिखी हैं। जिनका प्रकाशन भी किया गया है। इन लेखों/लघु पुस्तिकाओं में से कुछ निम्न हैं—
1. सन्ध्या/सन्ध्याखना (हिन्दी व अंग्रेजी में) www.herenow4u.de (Eng.)
 2. भारतीय संस्कृति में अहिंसा व मानव अधिकार (हिन्दी व अंग्रेजी में)
 3. अप्रुवत व मानवाधिकार
 4. खेल, खिलाड़ी व खेल भावना
 5. बालकों के अधिकार। (युन: प्रकाशित)
 6. अन्तर्राष्ट्रीय मानवाधिकार दिवस 10 दिसम्बर। (युन: प्रकाशित)
 7. एच.आई.वी. एड्स एवं मानवाधिकार। (युन: प्रकाशित)
 8. मानवाधिकार और जैन धर्म। (हिन्दी व अंग्रेजी में)
 9. आयोग की कार्यविधि, शक्तियाँ एवं परिणामों की निरूपण प्रक्रिया।
 10. आयोग द्वारा जारी दिशा-निर्देश एवं अन्य गतिविधियाँ।
 11. भारतीय संविधान की अनुच्छेद-21 'प्राण और वैदिक स्वतंत्रता का संरक्षण'।
 12. महिलाओं के अधिकार- संबंधित अधिनियमों की संक्षिप्त जानकारी। (युन: प्रकाशित, युन: प्रकाशित 2008)
 13. दलितों के अधिकार। (युन: प्रकाशित)
 14. मानव अधिकार और राज्य की जनोपयोगी योजनाएँ।
 15. गिरफ्तारी (ARREST) (युन: प्रकाशित)
 16. विधायक स्थानीय क्षेत्र विकास योजना।
 17. जेल, कारावास से संबंधित प्राधान्य व गतिविधियाँ।
 18. आयोग के महत्वपूर्ण कार्यकलाप दिशा-निर्देश एवं अन्य गतिविधियाँ 2007
 19. आयोग के महत्वपूर्ण कार्यकलाप दिशा-निर्देश एवं अन्य गतिविधियाँ (युन: प्रकाशित-2008)
 20. Judicial Values & Ethics for Judicial Officers. www.rshrc.nic.in
 21. Advantage to Litigant Public by Brihat Lok Adalat.
 22. Alternative Dispute Resolution, Conciliation & Mediation (ADR).
 23. Institutional Arbitration Intellectual & Information Technology (IPR & IT).
 24. Cyber Law.
 25. Copy-right Law.
 26. e-governance and Court Automation.
 27. Article-14 Right to Equality.
 28. Gender Justice in Employment & in Profession, Empowerment of Women.
 29. Law of Precedent, Reference to Art. 141.
 30. Directive Principal of State Policies.
 31. Public Interest Litigations & others.

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[illegible]

संयोजक समिति द्वारा अधिकृत व्यक्तियों

आयोग की सूची में कुछ मुद्रित को पूर्ण नहीं है। उनका 62 संख्याओं द्वारा राजजागरूकता एवं संरक्षण कार्यक्रम में अपने-अपनेको छोड़ते हुए मुद्रित को अन्य बताया। इसी कारणों से वर्ष 2009-2010 में वर्ष 1 की बहुत ही संख्याओं द्वारा आयोग को ज्ञान जलन-जागरूकता को कार्यक्रम को बढ़ती हुई सुचित किया गया है। जिनमें से कुछ निम्नलिखित है :-

63. जयपुर शिरोयंत्राधिकार लीज, जयपुर
64. महेश्वरी सीनियर सेकेंडरी स्कूल, जयपुर
65. कन्वन्सर सुनिटी एण्ड ट्रस्ट सीसायरी, जयपुर
66. Zuntech Consulting Pvt. Ltd. Bangalore/ Delhi
67. राजगरी हास्पिटल, जयपुर
68. श्रीमती ललिताना देवी रामचन्द्र कासलीवाल बेरिटेबल ट्रस्ट, जयपुर
69. धाम, एण्ड कम्पनी, जयपुर
70. विमुक्ति संस्थान, जयपुर
71. भारतीय दिगम्बर तीर्थ क्षेत्र समिती, मुम्बई
72. श्री देवा दीपक, सवित्र लोकायुक्त सचिवालय, हिमाचल प्रदेश
73. जयपुर नगर निगम
74. अखिल भारतीय पञ्चदीक्षाल जैन महारत्ना सचिवा, मधुवा
75. भारतवर्षीय दिगम्बर जैन तीर्थक्षेत्र समिती, सी.टी. टाक, मुम्बई
76. राजस्थान जैन सभा, जीहरी बाजार, जयपुर
77. हेलप् एज (इण्डिया) जयहार नगर, जयपुर (हिन्दी/अंग्रेजी)
78. रामबल सेवा संस्थान, रतनगढ़ पुर
79. सदा श्री गणेशाय नमः राजगरीय महिला उच्च प्राथमिक विद्यालय, रतनगढ़
80. भारतीय दिगम्बर जैन धर्म संस्थान) मधुवा, नई दिल्ली
81. कमिश्नर मुख्यालय, नगर निगम, जयपुर
82. यतायाल पुलिस, जयपुर
83. विन अर्ध रिपार्स इन लोकल डेवलपमेंट WORLD जयपुर
84. श्री माधवी दिगम्बर जैन हाई स्कूल स्कुल एलुनी एंसासियेनस, जयपुर (हिन्दी/अंग्रेजी)
85. M.D. Group of Education, Sikandara, Agra (English/Hindi)
86. सेवा कलन महाविद्यालय, जयपुर
87. भारतवर्षीय दिगम्बर जैन तीर्थक्षेत्र समिती, राजस्थान अंघल, जयपुर
88. निदेशक, प्राथमिक शिक्षा राजस्थान, बीकानेर
89. The Little Pixies School, Vidyt Nagar, Jaipur
90. दलित अधिकार केंद्र, राजस्थान, जयपुर
91. सी कॉलेज, मुनिहसिटी अंघल राजस्थान
92. देवा और व्यापार बीकानेर से प्रकाशित महिला पत्रिका
93. निदेशक, राजस्थान पुलिस एक्सेडरी, मेहक नगर, जयपुर
94. दिगम्बर जैन अशिराज क्षेत्र श्रीनहावी जी, करौली
95. Children's Educational Society, Bhillwara
96. नौ मासुरी बूज यारिस सेवा सोदन, बडोरा (भरतपुर)
97. विद्या ट्रस्ट, न.टी. नगर, रथान नगर, जयपुर (गुजराती)
98. राजस्थान राज्य सहकारी मुद्रणालय, जयपुर (गुजराती)

[illegible]

It shall be the duty of every citizen of India:

- to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- to cherish and follow the noble ideals, which inspired our national struggle for freedom;
- to uphold and protect the sovereignty, unity and integrity of India;
- to defend the country and render national service when called upon to do so;
- to promote harmony and the spirit of common brotherhood amongst all the peoples of India transcending religious, linguistic, and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- to value and preserve the rich heritage of our composite culture;
- to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures;
- to develop the scientific temper, humanism and the spirit of inquiry and reform;
- to safeguard public property and to abjure violence;
- to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.

"BE AWARE OF YOUR RIGHTS AND DISCHARGE DUTY WITH DEVOTION."
Chairperson : Justice N.K. Jain (Former Chief Justice -Madras and Karnataka High Court)

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Students reciting the oath of section 51(A) of Constitution of India under the guidelines of RSHRC.



- In addition to that in legal literacy and awareness program, chairman motivated students and even general public to recite the pledge as mentioned in article 51(A) of Constitution of India. It is good sign that so many schools have started taking prayer as per instructions of different concerned authorities as per the request of the commission. Some of them are as follows:-

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बियानी गर्ल्स कॉलेज विद्याधर नगर, जयपुर में राजस्थान राज्य मानवाधिकार आयोग के निर्देश पर छात्राओं को भारत के संविधान के अनुच्छेद 51ए का संकल्प दिलाते कॉलेज के वाइज प्रिंसीपल पी.सी. जांगिड।

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Students of some institutions reciting the Oath as per Article 51(A) of Constitution of India under the guidelines of RSHRC.

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Pankaj Sevtia

B.B.A. L.L.B. (Hons.) 2nd year

NATIONAL LAW
UNIVERSITY, CUTTACK

Mob- 9799027475

E-Mail Id- pankajnluo@gmail.com

Siddharth Paliwal

B.B.A. L.L.B. (Hons.) 2nd year

NATIONAL LAW
UNIVERSITY, CUTTACK

Mob. 07742268364

siddharthpaliwal09@gmail.com

