



Legal Aid in Pakistan

**Justice Ali Baqar Najafi
Judge Lahore High Court,
Lahore-Pakistan.**

What is “Legal Aid”

The legal assistance and support provided to indigent litigants for accessing the mainstream legal system.



Sources of Legal Aid



Legal aid is provided free of cost by a lawyer either in an individual or organisational capacity through a legal aid firm, department, or Non-Governmental Organisation (NGO).

Position in Pakistan

- A considerable section of the population is unable to access the formal legal system mainly
 - for want of financial resources
 - lack of awareness of the law and legal rights.

Constitution of Pakistan, 1973

- Inexpensive and expeditious justice. Article 37 (d)
- Right to Fair Trial as a fundamental right. Article 10(a)
- Equality before the law. Article 25

Access to Justice as a Fundamental Right

Right of "access to justice to all" is a well recognized inviolable right enshrined in Article 9 of the Constitution and is equally found in the doctrine of "due process of law".

"Sh. Riaz-ul-Haq v. Federation of Pakistan"

(PLD 2013 Supreme Court 501)

Access to Justice: Further Extended

It is "an integral part of the rule of law in constitutional democracies and is a hallmark of civilized society"

"Ishtiaq Ahmed v. Hon'ble Competent Authority"

(2016 SCMR 943)

Bar Council Legal Aid Committees

- Section 13(l-a) of the Legal Practitioners and Bar Council Act, 1973 deals with the provision of legal aid.
- Pakistan Bar Council Free Legal Aid Committees Rules, 1999.
- The Free Legal Aid Committees at the
- Center,
- Provinces
- Districts levels.

Public Defender's System

- The Public Defenders & Free Legal Aid Ordinance, 2009
- The Ordinance provided for setting up a Public Defender's System.
- Lapsed

District Legal Empowerment Committees

- The District Legal Empowerment Committees (Constitution & Functions) Rules, 2011
- District judge as chairman
- District co-ordination officer, superintendent jail and members from civil society

Civil & Criminal Procedure Codes

- The Civil and Criminal Procedure Codes also contain provisions dealing with legal aid.
- Order 33 of Code of Civil Procedure, Pauper suits
- Section 340 of Code of Criminal Procedure, 1898 (Cr.P.C) provides for counsel at State expense.

Destitute Litigant Fund

- The Destitute Litigant Fund Rules, 1974 provides for legal assistance in constitutional matters to destitute litigants.
- The rules define a destitute person as 'one who has no means to pay the court fee or other charges in respect of a writ petition.
- This assistance is provided on the application of the concerned party to the Deputy Registrar (Judicial) or other authorised person in this regard.

Destitute Litigant Fund

- The Deputy Registrar (or the authorized person) has to conduct an inquiry into the matter to establish whether the person comes within the definition of 'destitute' or not.
- Under the Rules, the government allocates funds for each High Court.

Issues and Challenges

- Issue of sufficient and continued funding
- Lack of proper mechanism for legal aid
- Reliance is placed on the voluntary services of lawyers
- Lack of coordination and cooperation between providers
- Lack of monitoring and reporting mechanisms
- Lack of awareness amongst the public and lawyers

Thanks