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CONCEPTUALIZATION OF LEGAL AID UNDER RIGHT TO FAIR TRIAL IN PAKISTAN

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ABSTRACT

Legal aid enables public funds to cover legal expenses in some situations where people in need of legal services are unable to pay. Theoretically, legal aid is not only a concern of the notion of access to justice and democratic governance, but also a concern of Human Rights due to recognition of the qualified right to legal assistance in descriptions of fair trial in international instruments. The State of Pakistan has recognised the right to fair trial at constitutional level and free legal aid and assistance at the statutory level. The most recent development in this context is the enactment of Legal Aid and Justice Authority Act, 2020. Through the use of qualitative research method, an effort has been made in this study to examine and identify the legal issues, problems, and complexities that are present in the current laws governing legal aid and assistance in Pakistan.

INTRODUCTION

Legal aid, in its most literal sense, refers to assistance furnished to poorer

segments of society in order to protect their legal and constitutional rights and entitlements. Legal aid enables public funds to cover legal expenses in some situations where people in need of legal services are unable to pay (A Dictionary of Law, 2018). The section 2(i) of the Legal Aid and Justice Authority Act, 2020 defines legal aid as “the provision of assistance, to a person who is unable to afford legal assistance, representation and access to justice”. However, this is not just a concern for those who are struggling financially. The United Nations Development Programme (UNDP) claims that one of the most crucial impediments to guaranteeing everyone's access to justice is the unavailability of adequate legal aid systems. Additionally, UNDP has discovered that when some citizens are denied access to justice, democratic governance is at risk. (UNDP, 2004).

Moreover, legal aid is also a concern of Human Rights due to recognition of the qualified right to legal assistance in descriptions of fair trial in international instruments including the “International Covenant on Civil and Political Rights”, and the “European Convention for the Protection of Human Rights and Fundamental Freedoms”. To guarantee the efficacious accessibility of legal representation and, consequently, the accused's right to a fair trial, access to legal aid is necessary. For many accused people, the right to counsel loses all meaning without access to legal aid because it may make it impossible for them to hire an attorney to defend themselves against the charges they are facing. (Flynn et. Al , 2016) Ideally, it is the duty of the state to dispense equal access, efficiency, speed, and affordability of justice to all of its citizens. However, due to the significance of the right to a fair trial and, consequently, to legal representation, both States and governments as well as local, national, and international NGOs must make extensive and coordinated efforts to provide legal assistance. (Shehzad, 2015) The state's obligation includes prosecuting the accused persons and aiding indigent deserving litigants, as well as delivering legal aid to upright people seeking exoneration and guarding vulnerable individuals, erroneously prosecuted and victimised in civil or criminal proceedings.

The State of Pakistan has bestowed Right to Fair Trial to all its citizens which make it imperative to analyse the legal mechanism for provision of legal assistance keeping in view the standards at international level. Through the use of qualitative research method, an effort has been made in this study to examine and identify the legal issues, problems, and complexities that are present in the current laws governing legal aid and assistance in Pakistan. The second part of this study discusses the international jurisprudence regarding provision of legal aid and assistance through examination of international covenants, treaties and decisions by international human rights courts and committees. The third part analyses the statutory and regulatory efforts dedicated to provision of free legal aid and assistance with a particular

emphasis on the Legal Aid and Justice Authority Act, 2020. The weaknesses identified in the said Act and certain recommendations to uplift the Legal Assistance mechanism in Pakistan are put forwarded in fourth and fifth parts, respectively.

Provision of Legal Aid Under Intentional Law

International human rights standards unambiguously recognise affordable and prompt justice, besides the right to a fair trial, as indispensable components of human development. The right to a fair trial includes, inter alia, the right to equal protection under law and the right to a legal defence. Due to the right to legal representation in criminal trials, tens of thousands of people are represented and defended in places where they would not have been otherwise. (Rice, 2009). The right to criminal defence is a foundational international right that empowers a person, charged with a criminal offence, to legal assistance. As a result, the right to criminal defence ought to be assured without discrimination, especially for such accused persons, who cannot access or afford criminal legal representation due to vulnerability or a lack of sufficient means. The United Nations General Assembly has declared that “legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law” and that “it is a foundation for the enjoyment of other rights, including the right to a fair trial, as a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process”. (United Nations, 2012)

Therefore, assuring the right to defence as recognised in international treaties and national constitutions requires legal aid from the government. Thus provision of legal assistance ought to be seen as the responsibility of the state. The UN Principles and Guidelines persuade Member States, “consistent with their national legislation, to adopt and strengthen measures to ensure that effective legal aid is provided”, to “consider, where appropriate, enacting specific legislation and regulations” and “to allocate the necessary financial resources for the establishment of a comprehensive legal aid system”. (United Nations, 2012)

International Covenant on Civil and Political Rights 1966 (ICCPR)

States parties to the ICCPR have a clear and unambiguous responsibility to supply free legal assistance in criminal trials in order to guarantee a fair trial. As per its Article 14, paragraph 3 (d), "In the determination of any criminal charge against him, everyone shall be entitled to [...]to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him in any case where the interests of

justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it". The Human Rights Committee declared that "particularly in capital cases, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings". (Aliboeva, 2005)

European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) 1950

Access to free legal aid is pledged under the right to fair trial in Article 6. Specifically, as per Article 6(3)(c) "Everyone charged with a criminal offence has the..... minimum right to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require..." As declared by the European Court of Human Rights (ECtHR) in its decisions, there are two requirements that are evaluated collectively that affect the right to publicly funded legal aid for criminal cases (ECtHR/COE 2020) First, the applicant must demonstrate a paucity of adequate financial resources ("means test"). The ECtHR ruled that evidence of a lack of financial resources need not be conclusive but rather must show signs that the applicant is not well off. (Pakelli, 1983) Second, only when it is in the "interest of justice" must publicly funded legal aid be provided ("merits test") (Quaranta, 1991).

The totality of the case's facts should be taken into contemplation for the ascertainment of the "interest of justice", yet particular attention should be focused on the seriousness of the offence charged with and harshness of the sentence to be imposed. (ECtHR/COE 2020) Quaranta case also established the general principle that a defendant who is in a risk of awarding imprisonment should be furnished with free legal representation. Furthermore, the complex nature of the case and the accused person's personal circumstances should be considered, particularly his language skills and knowledge of the legal system. (Twalib, 1998) When determining the "interest of justice" the relevant authority ought to consider the possibility of any plausible damage in relation to the applicant in the case legal aid is not granted, instead of assessing any "actual damage" in retrospect. (Artico, 1980)

Regarding the stage of criminal process where the Right to Legal aid accrues the ECtHR has interpreted broadly and found these fair trial rights to apply pre-trial at investigation stage. (Imbrioscia, 1993) But the Salduz case from 2008 went a step further by stating that accused persons should have access to legal counsel both prior to and during the course of the police interrogation. The ECtHR held that "in order for the right to a fair trial to remain sufficiently 'practical and effective' ... [art 6] requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police ...

[t]he rights of the defence will in principle be irretrievably prejudiced when incriminating statements made during police interrogation without access to a lawyer are used for a conviction". (Salduz, 2008)

Model Law on Legal Aid in Criminal Justice Systems, 2017

This Model Law was created as a specialised tool to help states develop and implement legal assistance legislation. It offers a blueprint for developing a comprehensive legal aid mechanism with the intention of supporting rather than taking the place of the current system of national legislative drafting. It is based on the Principles and Guidelines of the United Nations and its application is restricted to the provision of legal assistance in criminal matters. The Model Law aims to establish minimum requirements, while states may broaden the scope of eligibility or cover topics not specifically addressed in it by extending the stipulated rights or other provisions. Finally, the Model Law acknowledges that creating a comprehensive legal aid system requires more than simply passing laws. (UNODC, 2017)

The Model Law is made to deal with some of the difficulties that legislators encounter when creating legal aid legislation. Some of the Model Law's provisions are presented as options to facilitate their adaptation to national legislation. Furthermore, it is accompanied by commentary, which explains the legal basis for every provision and provides as much valuable information upon every relevant issue as possible. The Model Law takes a broad view of legal aid.. It encompasses legal representation along with the provision of legal advice, assistance, and information to the most disadvantaged members of society, who are the primary recipients of legal aid, by a wide range of service providers. (Mattar, 2017)

Legal Aid in Pakistan

Constitutional Basis of the Right to Free Legal Aid

The Islamic Republic of Pakistan's 1973 Constitution (the Constitution) charges the State with the duty of delivering affordable, prompt, and impartial justice. The Constitution through its various articles, make sure the foundation of the legal aid mechanism, even though no specific and clear-cut expression on the subject matter is found. Article 4(1) pledges the "protection of law and to be treated only in accordance with the law". Article 10(1) declares that any person under arrest "shall not be denied the right to consult and be defended by a legal practitioner of his choice". Article 10A assures the "Right to Fair Trial" as a basic human right "for the determination of his civil rights and obligations or in any criminal charge". Article 25 specifies that "all citizens are equal before law and are entitled to equal protection of the law". Article 37

(d) calls for the State to provide “inexpensive and expeditious justice” for the purpose of “promotion of social justice and eradication of social evils”. These five references in Pakistan's Constitution demonstrate that access to justice and Fair Trial are fundamental rights, which include provision of free legal aid to the deserved persons and that the state is obligated to ensure these rights to each individual.

Statutory and Regulatory Evolution

The legislative initiatives for free legal aid in Pakistan is discussed in somewhat a chronological order as below:

Destitute Litigant Fund Rules, 1974

These rules establish the right to legal aid in constitutional matters to destitute litigant, “one who has no means to pay the court fee or other charges in respect of a writ petition”. Anyone may apply for assistance under the rules to the “Deputy Registrar (Judicial)” or another authorised person, who must make an investigation before accepting the application. According to the rules, an applicant requesting aid from the fund must submit a copy of the intended writ petition, along with an appendix of his moveable or immovable properties and an estimate of its value, as well as any other source of income. If the inquiry officer is dissatisfied with the evidence, he or she may request a report from the concerned “Collector” regarding the applicant's claim that he or she is destitute. According to the Rules, each High Court must be allocated sufficient funding by the government for the object of providing aid to the poor.

Women in Distress and Detention Fund Act, 1996

This Fund was created with the goal to furnish financial and legal support to the women in distress and detention including a female or class of females in need of financial support to attenuate her or their miseries on account of detention, litigation or similar connected matters. The rules for this fund were formulated in 1999. Strikingly, the said fund remained dormant over the years, apparently due to the changing status of the human rights wing, that was first designated as a federal ministry and then transformed into a wing of the Ministry of Law, Justice, and Human Rights. Later, on December 2, 2015, the government once more transformed the wing into a ministry in light of its significance. The money was moved from the Ministry of Law & Justice to the newly established independent Ministry of Human Rights in 2007. The said Act was later amended by the parliament in December 2011 to render it functional in the ministry of human rights. Nevertheless, the fund remained inactive over time, and deserving people continued to suffer from poverty

because not a single rupee was used for their care. (Ahmadani, 2017). At present, The said Act is repealed under Legal Aid and Justice Authority Act 2020 and the said fund is merged into the LA&JA Fund.

Pakistan Bar Council Free Legal Aid Rules, 1999

The first mention of legal aid services can be found in Section 13 (1-a) of the “Legal Practitioners and Bar Council Act, 1973”. The “Pakistan Bar Council Free Legal Aid Scheme, 1988” was initiated under this mandate but remained dis functional (Siddique, 2015). However, the said section became functional in 1999 when the said rules were notified. The rules provided the furnishing of legal aid services to “poor”, “destitute”, “orphan”, “widow”, “indigent” and “deserving”. The criteria to be a deserving person was set as “a person who is entitled to Zakat or his financial position and income resources are not sufficient to bear the expenses for engaging an Advocate to prosecute, defend and protect his legal rights in genuine litigation.” The categories of cases wherein such legal aid services may be provided included: “Accidents, Succession Certificate, Family Laws, Ejectment, Illegal Detention, Abuse of power and authority by the police, law enforcing agency and Executive, Neglect of duties by Government departments, Local Councils/bodies and local authority/agency, Public interest litigation and such other cases or category of cases as may be approved from time to time by the Central Committee.”

The rules came up with central, provincial and district level Free Legal Aid Committees for furnishing free legal aid services in the Supreme Court, High Court, and Court functioning at the District level respectively. Each Committee is required to keep two different kinds of lawyer panels. These comprise pro bono attorneys providing services for a fee or a portion of a fee, as well as attorneys who volunteer their services without charging a fee. Every member of the Pakistan and Provincial Bar Councils is required by the rules to represent at least one client in need of free legal assistance in a year as allocated by these Committees. Any advocate may be asked by a committee to handle one case for free each year. The grants from Pakistan Bar Council and the government and voluntary contributions from bar councils, attorneys, and trust, institution, foundation, organisation, or person, is source of finance for these Free Legal Aid Committees.

Public Defender and Legal Aid Office Ordinance, 2009

The aforementioned Ordinance was passed in July 2009 to offer free legal aid to those indigent individuals who might be convicted of an offence or accused of one but lacked the financial resources to hire an advocate to represent them in court or during a police investigation. The goal of the ordinance was to

create and keep up a public defender and legal aid centre in order to advance justice all over Pakistan by offering high-quality and benevolent legal services, defending human rights, and commending as a partner in justice for a fair and reasonable justice system. The Offices set up under the Ordinance included “Chief Public Defender” as the head, “Additional Chief Public Defenders”, “District Public Defenders” and the “Public Defenders” at tehsil levels.

The determination of indigency required just an affidavit by the applicant as a sufficient proof of his indigency and no additional enquiry was to be needed in respect of determination of indigency. Whenever the applicant was in police custody or in prison such an affidavit was dispensed with. The said officers were obliged to represent indigent persons in the court, Such representation might be at any stage of the case, commencing from the remand stage in police custody and up to as late as final decision of a criminal case at the directions of the government or any court without any formal request by such person. However, this ordinance was unable to become a law and lapsed. It was re-promulgated in October 2009, having completed its life, is no longer in the field. The Provincial Assembly of Punjab previously passed the Punjab Public Defender Service Act in 2007. This also had a poor outcome because the required legal aid system was not put in place and repealed in 2011.

District Legal Empowerment Committees (Constitution & Functions) Rules, 2011

These rules are framed in accordance with section 9 of the “Law and Justice Commission of Pakistan Ordinance, 1979” for furnishing legal aid or assistance to deserving litigants. The District Legal Empowerment Committees (DLECs) were formed to the aforementioned end. Legal Aid was defined in any Rules for the first time, but at the same time it was not an appropriate definition. DLECs furnish legal aid to deserving litigants not being able to procure legal representation for safeguarding their authentic legal rights or interest in litigation, due to their meagre financial means. These Rules offer a thorough and open process for maintaining, disbursing, and allocating funds. Legal aid covers any professional fees or honoraria paid to attorneys as well as court costs, copying fees, processing fees, and any other costs deemed necessary by the committee.

A deserving litigant himself, or Superintendent Jail or court can send on applications of the deserving litigants, whether facing trial or convicted prisoners, or constrained in prison in connection with civil litigation subsequent to a requisite verification of his being a deserving litigant. If the Chairperson believes it is appropriate, he or she can refer the application to another person for verification and reporting on the applicant's financial situation. A person, however, does not have the right to legal assistance if a

legal officer has previously been assigned in the same case pursuant to any other law currently in force. Nevertheless, only such legal practitioners with a standing of 5 years or greater will be hired by the DLEC for aid, and the DLEC will pay a modest amount of up to Rs. 20,000/-.

Code of Civil Procedure, 1908

In civil cases, Order XXXIII allows a litigant who is determined to be pauper to file a lawsuit without paying the court fee. According to Black's Law Dictionary "a pauper, is a person so poor that he must be supported at public expense; also a suitor who, on account of poverty, is allowed to sue or defend without being chargeable with costs." Explanation to said Order clarifies that "a person is a Pauper when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or where no such fee is prescribed when he is not entitled to property worth one thousand rupees other than his necessary wearing apparel and the subject matter of the suit."

High Court Rules Concerning Legal Aid

As per Section 340 of the Code of Criminal Procedure, 1898 (CrPC) a person facing a trial may as a right be represented by counsel in criminal cases. The High Court Rules (Volume V, Ch. 4-E) bestow legal representation from public funds where the accused person cannot engage counsel for his defence due to poverty, accused of crimes subject to the death penalty. The High Court decide, itself in its original criminal jurisdiction and on a certificate by the respective Session Judge in cases of enhancement of a lesser punishment to capital one, confirmation of capital punishment and an appeal in a murder case against acquittal. The legal practitioner so hired shall be paid a minimum of Rs.2000/- and for subsequent days, not more than Rs.200/- per day. Payment should be made through the "Provincial Law Secretary" upon production of a certificate signed by the "Deputy Registrar (Judicial)" stating the total amount of fees awarded to the lawyer by the judges who heard the case.

Latest Legislation: Legal Aid and Justice Authority Act, 2020

This Act is the most recent piece of legislation that governs how legal aid is provided in Pakistan. According to this Act, the whole legal, financial and other assistance for the purpose of safeguarding access to justice to the poor and vulnerable is to be conducted through the Legal Aid and Justice Authority (LA&JA) and its offices, in criminal cases. The Board of Governors is given complete authority under this legal aid regulation, and it will follow any directives the government may every now and then issue in regard to matters of policy. The Board is responsible for deciding the eligibility criteria,

formulation of rules, creation and implementation of a reliable system for delivering, regulating, and assessing legal aid accompanied by legal enlightenment and research. The said Act calls for the Board to take initiatives to educate local residents about legal rights via media, publications and seminars. The LA&JA is obligated to furnish a report of its activities for the whole financial year to the Government.

Powers and Functions of the Authority

The LA&JA must work in concert and partnership with other people, governmental and non-governmental organisations, departments, authorities, and universities involved in advancing the cause of providing legal aid to the underprivileged members of society. According to section 8 of the Act, the LA&JA will primarily serve as a supervisory body and perform these functions:

- (a) form policies, principles, and guidelines for legal aid, including specification of qualifications for receiving such aid;
- (b) create and implement a reliable system for delivering, regulating, and assessing legal aid;
- (c) encourage the promotion of initiatives aimed at raising public awareness of Pakistan's legal aid system;
- (d) carry out and advance research in the domain of need of legal aid for the underserved;
- (e) propose for the enforcement of the right to a fair trial and due process of law before the government or any other agency;
- (g) create panels of advocates and volunteers, and add or remove any advocate or volunteer who has failed in his duty from those panels
- (h) create and impose a structure for legal aid fees for panel members and advocates.
- (i) promote the use of mediation, arbitration, and conciliation to resolve disputes;

Board

The Board is accountable for the overall management and administration of the LA&JA's operations, and the authority to act on its behalf. The Board of

Governors comprised of following fifteen members:

- a) The federal minister for Human Rights, also as Chairman
- b) The Attorney General for Pakistan
- c) Two members from Majlise Shura i.e one from the Senate and one from National Assembly
- d) Five Advocate Generals, one from each Province and one from Islamabad Capital Territory
- e) Three federal secretaries from ministries of Human Rights, Finance and Law and Justice
- f) one prominent female social worker
- g) Vice Chairman Pakistan Bar Council
- h) Director General LA&JA, also as Secretary

Meetings of the Board

The Act specifies the mechanism for calling a Board of Governors' meeting of LA&JA. The Chairperson is responsible for scheduling meetings at the times and locations he deems necessary for the Board to perform its duties effectively. The Chairperson shall preside over all meetings and during his absence, any other minister assigned by the government will fill in. The process in connection with any Board meeting may be prescribed by the Chairperson. An ex-officio member may designate a representative not below BPS-20 to represent him or her if he or she is unable to attend a Board meeting. The meeting will have a quorum of seven members. A majority of the members present and voting will decide on every issue brought up at any Board meeting.

Who Can Request Legal Aid?

There is no mention of eligibility criteria for legal aid in the Act. However "applicant" is defined as any person charged with a criminal offence and makes a request for legal aid or a request is made on his behalf or is of unsound mind or lunatic or minor. The criteria for receiving legal aid is non-affordability of legal assistance, representation and access to justice. It is expected that the Government will make rules under this Act wherein the detailed eligibility criteria will be set out. As per section 9(5) while establishing the requirements for and providing legal, financial, or other assistance, priority shall be given to underprivileged women and children, especially in matters involving sexual offences.

How to Request Legal Aid

All requests for legal aid must be made to the Authority and accompanied by

the required documentation and an affidavit signed by the applicant. However exception in this regard has been created for minors or lunatics or persons of unsound mind. The Authority must make a decision on the applicant's application within seven days of receiving it. The Authority may, in appropriate circumstances, inquire into the applicant's means as it deems necessary and may give orders to any officer to do so in order to assess the applicant's financial situation. The applicant will be given access to the aforementioned report and will be permitted, if he so chooses, to offer his observations on it.

Revocation of legal aid

The Authority may revoke the legal, financial, or other assistance and take action to recover any amount unjustly released to the applicant if it determines after evaluating the applicant's financial situation that the applicant was not qualified to receive it because false information was provided in applications, affidavits, or other documents.

Panel of Advocates, Volunteers and Free Representation Unit

The LA&JA will appoint panels of advocates, volunteers, and the Free Representation Unit for each district or, if need be, for any tehsil to provide legal, financial, or other assistance on a pro-bono or fee basis. Although the criteria of eligibility is yet to be promulgated under the rules. As per section 2(g) Free Representation Unit means “a special unit comprising advocates and volunteers to provide legal or other social services on pro bono basis either on case to case basis or in respect of a group or set or type of cases other than the panel”. As per section 2(o) volunteer means “any person other than an advocate who may provide legal or other services on pro bono or fee basis to the applicant.”

Monitoring

The LA&JA is also responsible for monitoring, assessing, and evaluating the standard of services furnished by each advocate, volunteer, and Free Representation Unit. They must keep accurate records of the cases that are entrusted to them and must inform the LA&JA in the manner and at the time that may be required. The Government is required to stipulate a code of conduct for panel advocates, volunteers and the Free Representation Unit. The LA&JA is empowered to suspend or remove the advocates and volunteers from the panel or from the Free Representation Unit, subject to hearing, in case of guilty of breach of code of conduct, or dereliction of his duty.

Payment of Fee

The LA&JA is obliged to make prompt payments of professional fee, other out of pocket expenses and travelling allowances to the advocate, volunteer and the Free Representation Unit. On the other hand, in case costs are awarded pro the applicant, such costs shall be paid to the Authority being its property. However, any out-of-pocket expenses will be refund to the applicant from such costs.

Legal Aid and Justice Authority Fund

The said fund is to be created for utilization by the LA&JA to meet expenses in connection with its functions for the provision of legal aid, inclusive of payments for bail amounts, fines or penalties of the applicants, fees to advocates or volunteers, salaries and other remuneration to the officers and consultants of the Authority. The Women in Distress and detention Fund Act 1996 is repealed under this Act and the said fund is merged into the LA&JA Fund. The authorised financial resources of the Fund includes:

- (a) grants from the Governments;
- (b) assistance and aid from authorities or organisations at the national and international levels;
- (c) contributions from state bodies, corporations, non-profit organisations, and private citizens
- (d) incomes and earnings from the Authority's movable and immovable properties acquired or leased; and
- (e) incomes from the investments.

Shortcomings in Legal Aid and Justice Authority Act

Although the said Act is a significant step toward the legal empowerment of the weak and disadvantaged, it is not without criticism. The Act has numerous flaws that affect the functioning of the legal aid mechanism as a whole. The following gaps in the said Act merit mentioning after careful examination:

- a) The cases in which legal aid may be offered are not specified by the Act.
- b) Another reason for the delay in achieving the ends of justice can be attributed to the application review process. This is because the Board members who will be reviewing the applications are frequently very busy. The applicant consequently does not receive justice when it is most needed.
- c) This Act may suffer the similar fate as other statutes of Pakistan because the Act does not guarantee the accountability of the Board members. It will be

regarded as merely aspirational government work, and this Act will assist the government in speaking up in national and international conferences, but the tragedy of the poor will remain essentially unaffected.

d) The procedure for choosing applications is vague in this Act, i.e., the grounds for consideration, the evaluation criteria, and, most importantly, the required members to give permission.

e) The eligibility criteria for advocates, volunteers and members of Free Representation Unit has not been specified.

f) Because the Board members belong to the upper classes, they frequently fall short to recognise the complexity of these people's misery and are unable to understand their problems.

g) Despite the fact that the Act emphasises the importance of sensitising people about the legal assistance mechanism through publications, seminars, and media, the services are not widely available due to insufficient publicity.

h) Because of its highly bureaucratic system, the entire procedure for obtaining legal assistance under this Act is fraught with difficulties.

i) The entire effort to set up the legal assistance system and facilities throughout the country may be deemed and indicated as an effort in absurdity until a time frame is set and realistic efforts for the collaboration of execution and implementation of the legal assistance are put in place.

RECOMMENDATIONS

The Legal Assistance mechanism operated by Pakistan's current laws would be a great success, provided that the below mentioned steps are taken by the government:

a) The headquarters of the LA&JA should have adequate logistical capacity, including staff, to oversee and coordinate a nationwide network.

b) The LA&JA offices at district level ought to be situated in the same establishment of the Court of District and Sessions Judge to facilitate the communication by the aid seekers.

c) The Board member's regular meetings should be rigorously enforced and supervised.

d) Government legal assistance should be made more widely known throughout the nation using a variety of channels, including print and

electronic media, seminars, and symposiums.

e) The Board members may include more representation from the civil society instead of government officials.

f) The committees at the national, provincial and district levels should be constituted to decentralized the decision making process.

g) The minimum criteria for advocates should be 5 years experience in the relevant field whereas volunteers should be selected from enrolled students of local universities, campuses and colleges.

h) A course may be designed to sensitize future advocates about the importance of legal assistance and pro bono legal services and taught at LLB programme.

CONCLUSION

The notion of right to fair trial envisaged by International covenants, domestic constitutions and legislations coupled with its enforcement through international human rights courts and committees and domestic courts has culminated in significant developments that seek to ensure that free legal aid is recognised as an indispensable limb of the right to a fair trial. Accordingly, provision of legal aid ought to be seen as the responsibility of the state. The State of Pakistan being cognizant of its social and legal obligations has recognised the right to fair trial at constitutional level and that of free legal aid and assistance at the statutory level. The aforementioned discussion identifies a number of actors who are accountable for providing legal aid, but even so, the majority of poor litigants and some other social groups in Pakistan lack access to the justice system. The need of hour is to take steps further to ensure the practical realization of these initiatives to ensure level playing field to the poor and vulnerable segments of the society.

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