

SEEKING JUSTICE IS A MYTH, OR REALITY?

RITIK RAJ

The judicial system of the nation demands the much-required overhauling and over the due course of time an urgent revival. It is something upon which everyone tends to lean upon during the times of difficulties and seeks urgent attention to make it optimal and much more upright in the dispensation of justice.

Within the realm of our personal consideration, we have to make out something fruitful for ourselves, in the longer run. The statistical data and the reliable government reports speaks tremendous about the state-of-affairs, which prevails with in judiciary. And Indian population as a society. India ranks 68 in the overall Rule of law Index as per the India Justice Report-2019. On account of the large population that we have as a state, it is still a distant dream to achieve, an ideally “just, fair and reasonable” judiciary to serve our population. People from all walks of life, have at some point or the other, the urgent need to seek reliability upon the judiciary. The kind of response that the judiciary in return shows and signify to us is what we focus and concentrate upon.

The apex court of the nation, globally known as The Supreme Court of India is often regarded as the most powerful top court in the global context. It took up its role as the “guardian of human rights and liberty” in a new democratic India and has also exercised its powers to deliver several significant verdicts upholding the fundamental rights of citizens against the state’s arbitrary, unjust and unfair acts of state. This court has always been pro-active and much conscious given the context of “constitutional dynamism” which helped the constitution grow and strengthen in social realm and its ever-changing circumstances.

The Supreme Court of India, might certainly have a past worth glorifying, but its widely recognised reputation cannot remain for long, if it keeps selling its history as remedy for the damages done and harm caused by it and other institutions in the contemporary situations.

Various government reports and surveys by organisations and trusts does a commendable job in highlighting the gaps and areas that requires urgent reforms within our Justice Delivery System. According to these reports, two-third of our prison inmates are undertrial prisoners and over four crore cases are pending in several courts across the country. Given the extent of complexities and inherent problems which subsists in judiciary, the achievable task of ideal judicial system still remains a distant dream. We all are indeed aware of the fact that the infrastructure deficient courts and over burdened judicial proceedings are the much inherent problems to be resolved and get rid of in the normal course of solving problems.

The situation on ground is such that, the surveys and various authentic reports, ranks India as 69th in the Rule of Law index, 51th in terms of democratic norms and 142nd in World Press Freedom report.

The whole realm of Judicial System, which we think of seeking justice from, is itself so rigged and complex that people from certain background and with limited resources can only dream of achieving it. Thus, we come to conclude that, while we are always hopeful but still the achievable task of ideal situation is a distant dream to achieve and aspire for. The question is, do we despair or remain hopeful? The later one seems more reliable. As someone very eminent as a person and visionary has very rightly put it, that, “hope is the bird which sings, when the dawn is still dark”¹

The quality of legal aid delivery is a serious concern. Monitoring committees, expected to review legal aid cases, have been constituted in most LSI. A standard operating procedure which clearly lays down the scope of the committee and the process to monitor legal aid services would improve the functioning of these

¹ The Pioneer, Dehradun.

committees. Also, capacity building of legal aid providers through periodic training and mentoring as well as making them accountable through review mechanisms and feedback from the client's family and the concerned judge will go a long way in improving the quality of legal aid services.

The report examines two important elements of legal aid delivery: **early access to legal aid and ensuring quality legal representation**. These elements have taken centre stage internationally in the last decade.²

The Legal Services Authorities Act, 1987 mandates the constitution of LSI in every sub-division, district, state, High Court and Supreme Court, with a central body at the helm. These LSI are mandated to provide free and competent legal services to the weaker sections of society, in order to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Section 12 of the LSA Act lays down the criteria for eligibility for legal aid services. In particular, Section 12(g) entitles all persons in custody to legal aid irrespective of their income. By virtue of this section, a person is entitled to legal aid if s/he is in custody. **The term "custody" can be construed to mean all nature of detention, including in police stations and jails.**

The standards have been divided into four themes, namely:

- a) First Access to Legal Aid: Police Station or Court?
- b) Prison Legal Aid Clinics: Effective Link?
- c) Application to Appointment: Timely Access to Legal Aid? and
- d) Legal Aid Watch: Effective Monitoring?

All these elements are governed by different provisions and look at different elements of legal aid delivery. The first two themes look at access to legal aid at police stations, courts, and prisons. The third looks at the time it takes to actually receive legal services and eventually the last theme addresses how the quality of the representation is monitored.³

The legal aid machinery in India includes legal services institutions (LSI) at the national, state, district and sub-divisional/taluka level. Each state is also mandated to constitute an LSI at the High Court level. Finally, a Supreme Court Legal Services Committee is set up to deal with legal aid cases at the Supreme Court.

The judicial system of the nation demands the much-required overhauling and over the due course of time an urgent revival, it is something upon which everyone tends to lean upon during the time of difficulties and seeks urgent attention to make it optimal and much more upright in the dispensation of justice.

² Status report of prisoners, HOPE BEHIND THE BARS?

³ Page no. 17, STATUS REPORT ON LEGAL AID FOR PERSONS IN CUSTODY