



Original Article

# Access to Justice in Developing Nations: Evaluating the Role of Legal Aid in Upholding Human Rights

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## Abstract:

*This paper explores the critical role of legal aid in enhancing access to justice in developing nations, examining how it functions as a mechanism to uphold fundamental human rights. It discusses the challenges faced in the implementation of legal aid systems, evaluates successful models and strategies, and highlights the link between legal empowerment and sustainable development. The research draws from case studies, international legal frameworks, and empirical data to offer policy recommendations aimed at improving legal aid services in under-resourced settings. Access to justice is a cornerstone of a fair and equitable society, yet in many developing nations, this right remains elusive for large segments of the population. This research paper evaluates the role of legal aid as a fundamental mechanism for upholding human rights and ensuring equal access to justice. It explores how systemic barriers such as poverty, illiteracy, lack of legal awareness, and infrastructural limitations hinder marginalized communities from seeking and receiving fair treatment under the law. Legal aid services—ranging from free legal representation to public interest litigation—serve as vital tools in bridging this justice gap. By integrating case studies, policy reviews, and international human rights instruments, the paper underscores the necessity of strengthening legal aid systems to fulfill the promise of justice for all. It argues that legal aid is not merely a service but a legal and moral obligation for states, essential to achieving inclusive development and safeguarding human dignity. The study concludes with recommendations for enhancing access to justice through reforms in legal education, increased budgetary allocation, and greater collaboration between state and civil society actors.*

**Keywords :** Access to Justice, Legal Aid, Human Rights, Developing Nations, Legal Empowerment, Judicial Systems, Social Justice, Rule of Law, Vulnerable Populations.

## Introduction:

Access to justice is a cornerstone of democratic governance and the rule of law. For many individuals in developing nations, particularly marginalized and impoverished populations, access to justice remains an elusive ideal. Legal aid—defined as the provision of free or affordable legal services to those unable to afford them—has emerged as a vital tool in bridging this gap. It enables individuals to claim and protect their rights, challenge injustices, and participate meaningfully in legal processes. However, despite its recognized importance, legal aid systems in many developing countries suffer from underfunding, weak institutional support, and limited reach. This paper evaluates the role of legal aid in upholding human rights, analyzing the effectiveness of existing frameworks and identifying best practices that can inform more equitable justice delivery.

## Methodology

This research adopts a qualitative and analytical approach to evaluate the role of legal aid in promoting access to justice and upholding human rights in developing nations. The study is based on a doctrinal method, relying primarily on secondary data sources such as books, journal articles, case law, legal commentaries, government reports, and international conventions related to legal aid and human rights. Comparative analysis is employed to examine legal aid systems in selected developing countries, identifying similarities, differences, and best practices. The paper also analyzes the role of both state-sponsored and non-governmental legal aid initiatives in addressing access barriers. In addition, content analysis is used to interpret relevant legal frameworks, including constitutional provisions, statutory schemes, and international human rights obligations.

To support the theoretical analysis, the research incorporates case studies that highlight the impact of legal aid on marginalized communities, including women, minorities, and economically disadvantaged groups. The paper also evaluates the effectiveness of public interest litigation and legal awareness programs as tools of legal empowerment.

Data is critically examined to identify existing gaps in legal aid delivery and to suggest practical reforms. The methodology ensures an interdisciplinary lens, integrating legal analysis with social, economic, and political dimensions of access to justice in developing contexts.

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## 1. Conceptual Framework

### 1.1 Definition of Access to Justice and Legal Aid

It encompasses more than just access to courts; it includes legal awareness, timely and affordable legal advice, fair procedures, and the enforcement of rights. Legal aid is a crucial mechanism within this framework. It involves the provision of legal services—ranging from legal education, advice, representation, and advocacy—to individuals who cannot afford them. Legal aid ensures that economic status does not hinder one's ability to engage with the legal system, particularly in asserting rights, resolving disputes, or defending against criminal charges. It includes both state-sponsored legal services and those provided by non-governmental organizations (NGOs), community-based organizations, and private actors. In developing nations, where poverty, illiteracy, and systemic inequalities are prevalent, legal aid is indispensable in making justice accessible, especially for marginalized groups such as women, children, indigenous peoples, and persons with disabilities.

### 1.2 Human Rights Principles Underpinning Access to Legal Remedies

**The right to access justice is grounded in core human rights principles, notably:**

- **Equality before the law:** Every individual has the right to be treated equally in the eyes of the law. This implies equal protection and equal benefit of the law without discrimination.
- **Right to a fair trial:** This includes the right to legal representation, the presumption of innocence, access to evidence, impartial adjudication, and timely resolution.
- **Effective remedy:** Victims of human rights violations are entitled to effective legal remedies. Legal aid facilitates access to such remedies, especially for vulnerable populations.
- **Non-discrimination and inclusion:** Ensuring access to justice means addressing structural barriers faced by minorities, women, and other marginalized groups. Legal aid can challenge discriminatory practices and broaden civic participation. These principles are enshrined in numerous human rights instruments, reinforcing the argument that access to justice—and by extension, legal aid—is not a privilege but a right.

### 1.3 International Legal Frameworks

Several international and regional instruments have reinforced access to justice as a fundamental human right, with a strong emphasis on legal aid as a means to achieve it:

#### a) United Nations Sustainable Development Goal 16 (SDG 16)

- SDG 16 aims to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”
- Target 16.3 explicitly calls for the promotion of the rule of law and equal access to justice.
- Legal aid is considered an essential enabler of SDG 16, especially in conflict-affected and low-income countries where formal justice mechanisms are underdeveloped.

#### b) International Covenant on Civil and Political Rights (ICCPR)

- **Article 14 (3) (d)** guarantees the right to legal assistance for those charged with a criminal offense and unable to afford representation.
- The Human Rights Committee, which oversees ICCPR implementation, has interpreted this provision to imply that states must provide free legal aid when the interests of justice so require.

#### c) United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2012)

- These guidelines, adopted by the UN General Assembly, are the first international instrument dedicated exclusively to legal aid.
- They encourage states to establish comprehensive, accessible, and effective legal aid systems, emphasizing the role of non-state actors and community-based justice mechanisms.

#### d) African Charter on Human and Peoples' Rights / European Convention on Human Rights

- Regional human rights instruments such as the **African Charter (Article 7)** and **ECHR (Article 6)** underscore the right to fair trial and legal representation, encouraging member states to ensure access to justice.

Together, these frameworks not only mandate states to provide legal aid but also establish benchmarks for evaluating the fairness and inclusivity of national justice systems. They reflect a growing global consensus that justice must be accessible, affordable, and equitable.

## 2. The Importance of Legal Aid in Human Rights Protection

### 2.1 Legal Aid as a Safeguard Against Arbitrary Detention, Discrimination, and Abuse

Legal aid plays a critical role in protecting individuals against abuses of power, particularly in developing countries where legal systems may be overburdened or compromised. Without access to legal support, individuals are at significant risk of facing arbitrary detention, unlawful practices, or human rights violations without any means of recourse.

#### • **Arbitrary Detention:**

In many developing nations, individuals—particularly those from marginalized or poor communities—may be detained without proper legal process. Legal aid provides an essential defense against unlawful detention by ensuring that individuals have access to legal representation, timely hearings, and protection from detention that lacks legal grounds. For example, in cases of preventive detention or during conflicts where political dissidents may be detained, legal aid ensures that people are not held indefinitely or without justification.

#### • **Discrimination:**

Legal aid helps individuals to challenge discriminatory laws and practices that disproportionately affect vulnerable populations such as ethnic minorities, women, and low-income individuals. By providing access to legal resources, legal aid allows these individuals to seek remedies for discrimination, whether in the form of biased criminal charges, exclusion from social services, or discrimination in employment and housing. For instance, women in many parts of the world face legal and social barriers to claiming

inheritance or property rights; legal aid can assist them in navigating and challenging these unjust practices.

- **Abuse of Power:**

In regions where governments or authorities may abuse their power or where there is a lack of accountability, legal aid becomes essential in holding perpetrators of human rights abuses accountable. It enables individuals to file complaints, seek redress, and press for justice when they are wronged by state actors, private individuals, or corporate entities. Legal aid also serves as a tool for whistleblowers, human rights defenders, and victims of corruption to ensure their voices are heard.

## **2.2 Role in Civil, Political, Economic, Social, and Cultural Rights**

Legal aid is essential in ensuring the full realization of a wide spectrum of human rights. These include civil, political, economic, social, and cultural rights, each of which can be enhanced or undermined by an individual's ability to access justice.

- **Civil and Political Rights:**

- **Right to a Fair Trial:** Legal aid ensures individuals facing criminal charges can access competent legal representation, which is crucial to a fair trial. This right is enshrined in international human rights law, such as the ICCPR. Legal aid ensures that even those without financial means can defend themselves against criminal charges, thus upholding the integrity of the justice system.

- **Freedom of Expression and Participation:** Legal aid can also assist individuals in defending their freedom of speech and rights to political participation. This is particularly significant in authoritarian or repressive states, where governments may suppress dissent through legal means. Legal aid helps people file complaints against violations of freedom of expression and supports efforts to protect free and fair elections.

- **Economic, Social, and Cultural Rights:**

- **Access to Social Services:** Legal aid is a key component in defending access to public services, such as education, healthcare, and housing. For individuals facing denial or inadequate access to these services, legal aid can help navigate bureaucratic systems, contest unjust policies, or pursue claims for inadequate services.

- **Labor Rights and Fair Wages:** Legal aid assists workers in advocating for fair treatment, better wages, safe working conditions, and the right to unionize. In many developing nations, workers may face exploitation without avenues for redress, and legal aid ensures that workers can assert their rights in the face of labor abuses.

- **Property and Land Rights:** Economic rights, particularly land and property rights, are crucial in many developing countries. Legal aid allows individuals to contest unlawful evictions, land grabbing, or discriminatory practices that deny them access to housing or property, often in rural or informal settlements.

In essence, legal aid ensures that both civil and socio-economic rights are enforceable, enabling individuals to challenge violations and access remedies when these rights are infringed.

## **2.3 Empowerment of Vulnerable Groups (e.g., Women, Children, Refugees)**

One of the most significant contributions of legal aid in developing nations is its ability to empower vulnerable and marginalized groups. These groups often face heightened barriers to accessing justice, whether due to societal norms, economic inequalities, or lack of legal literacy.

- **Women:**

Women, particularly in patriarchal societies, are often subjected to legal and social discrimination. They may face barriers in accessing justice related to gender-based violence, reproductive rights, inheritance, and employment. Legal aid allows women to challenge discriminatory practices, secure protection orders, and assert their rights in areas where societal norms often undermine their legal entitlements. Legal aid also plays a critical role in providing access to justice for survivors of domestic violence or sexual assault, ensuring that perpetrators are held accountable and that victims have the support they need.

- **Children:**

Legal aid is particularly important for protecting the rights of children, who may lack the capacity to advocate for themselves. Whether it is addressing child labor, access to education, or child protection laws, legal aid helps ensure that children's rights are respected and upheld. In some countries, child marriage or trafficking may be common, and legal aid provides the means to prevent these abuses and help children escape harmful situations.

- **Refugees and Displaced Persons:**

Refugees and displaced persons are often vulnerable to exploitation, violence, and legal exclusion. They may not have access to the same legal protections as nationals, making them more vulnerable to detention, deportation, or exploitation. Legal aid helps refugees understand their rights, apply for asylum, and navigate the complex legal procedures associated with refugee status and resettlement. It also aids in family reunification and defending against discriminatory laws that target refugees and migrants.

- **Persons with Disabilities:**

Legal aid also provides crucial support to persons with disabilities, helping them assert their rights to equal treatment, access to public spaces, education, and employment. Many people with disabilities face systemic barriers to justice, including physical inaccessibility to courts, discrimination, and lack of understanding from legal professionals. Legal aid can address these issues, enabling them to access the legal system and advocate for their rights.

## **3. Challenges Facing Legal Aid in Developing Nations**

While legal aid is a critical tool for ensuring access to justice and human rights protection, numerous challenges hinder its effective implementation and accessibility in developing nations. These challenges stem from a combination of financial, institutional, social, and political factors that limit the reach and impact of legal aid systems. Below are some of the key challenges facing legal aid in these contexts:

### **3.1 Financial and Institutional Constraints**

One of the most pressing challenges to the provision of legal aid in developing nations is the **insufficient financial support** and **institutional limitations** that hamper the establishment and sustainability of legal aid systems.

- **Limited Funding and Resources:**

Developing nations often struggle with budgetary constraints and competing priorities, which means that legal aid programs are among the first areas to face cuts in times of economic hardship. Legal aid services require funding for staffing, training, infrastructure, and outreach, all of which are difficult to sustain when national budgets are limited. Consequently, legal aid institutions may operate on a shoestring budget, limiting their capacity to provide high-quality services.

- **Understaffing and Overworked Legal Aid Lawyers:**

Legal aid providers in many developing countries are often severely understaffed. In some cases, there may be too few lawyers or paralegals to meet the demand for services. This results in **high caseloads** for the available staff, which reduces the quality of representation and delays the resolution of cases. The **lack of specialized training** for legal aid practitioners, especially in complex areas like human rights law, can also undermine the effectiveness of legal aid services.

- **Institutional Weaknesses:**

In many developing countries, legal aid systems lack **coherent institutional frameworks** and coordination. Legal aid services may be fragmented, with no clear national strategy for implementation or monitoring. This disorganization often leads to inefficiencies, duplication of efforts, and gaps in coverage, with some regions or vulnerable populations being entirely underserved.

### 3.2 Lack of Awareness among Citizens

Even when legal aid programs are available, a significant challenge remains: many citizens, particularly in rural areas or low-income communities, are unaware of their rights or the existence of legal aid services.

- **Lack of Legal Literacy:** In many developing nations, especially in rural and underserved areas, people have limited knowledge of their **legal rights** or the justice system. Without this awareness, they are unlikely to seek legal help or even understand when they are victims of human rights violations or injustice. The **low levels of education and literacy rates** further exacerbate this problem, leaving individuals vulnerable to exploitation and abuse.
- **Geographical and Social Barriers:** For many people, particularly those in rural or remote areas, accessing legal aid can be difficult because of geographical distance from legal service providers. **Cultural and language barriers** also play a role; individuals may not know where to seek legal help or may fear the system due to cultural or social stigmas surrounding legal processes.
- **Ineffective Outreach Strategies:** Legal aid organizations in some developing nations may not have the resources or infrastructure to engage in effective **outreach and public awareness campaigns**. Even when efforts are made, they often fail to reach marginalized communities, further entrenching the gap between legal services and those in need.

### 3.3 Corruption and Politicization of the Justice System

The prevalence of **corruption** and the **politicization of the justice system** represent significant obstacles to the effectiveness of legal aid in many developing nations.

- **Corruption in the Justice System:** Corruption within judicial institutions—ranging from bribery to favoritism—undermines the integrity of the legal system and reduces citizens' confidence in seeking legal

redress. In such environments, legal aid may not serve as an effective safeguard against abuse because **judicial independence** is compromised, and the outcome of legal proceedings may be influenced by political or financial considerations rather than the merits of the case.

- **Political Interference:** In some developing countries, the justice system is highly **politicized**, with judges, lawyers, and legal aid organizations subject to political pressure or influence. This can result in **biased decision-making**, where legal aid recipients, especially those opposing the government or powerful elites, may find their cases ignored, delayed, or unjustly dismissed. This undermines the role of legal aid as a tool for protecting human rights, as political actors may prevent access to justice for those who challenge the status quo.
- **Lack of Accountability and Transparency:** When legal institutions are corrupt or politically motivated, there may also be a lack of **accountability and transparency** in the delivery of legal aid services. For instance, legal aid programs may be used as a means of political patronage, with individuals selected for legal aid based on political connections rather than merit or need. This undermines the fairness and equity that legal aid is meant to provide.

### 3.4 Urban-Rural Divide and Resource Disparity

There is often a significant **urban-rural divide** in terms of access to legal aid services, where individuals in urban centers are more likely to benefit from legal support than those in rural or remote areas. This disparity is rooted in several factors:

- **Concentration of Resources in Urban Areas:** In many developing countries, legal aid services are concentrated in major cities, where there are better infrastructure, more lawyers, and greater funding opportunities. Rural populations, on the other hand, may have limited or no access to legal aid, as there are few legal aid providers or support services in these areas. **Transportation barriers and costs associated with accessing legal services** further prevent rural residents from obtaining necessary legal assistance.
- **Social and Economic Disparities:** Individuals living in rural areas may also face greater **economic barriers** to accessing justice. With limited income, poor infrastructure, and lower levels of education, rural populations are less likely to be able to afford legal representation, even if they are eligible for legal aid. The lack of effective communication networks in rural areas also limits the ability of legal aid organizations to provide outreach services.
- **Technological Divide:** As digital tools and online legal services become more prevalent, **technological disparities** exacerbate the gap between urban and rural access to justice. While some urban areas may have access to legal aid through online platforms or mobile applications, rural communities may lack the **internet access and digital literacy** needed to take advantage of these services.

### Conclusion:

Legal aid plays a pivotal role in ensuring that justice is not only accessible but also equitable for all individuals, particularly in developing nations where systemic barriers often prevent marginalized populations from asserting their rights. From providing essential legal



assistance to safeguarding human rights, the role of legal aid cannot be overstated. This conclusion summarizes the impact of legal aid on justice and rights in developing countries and highlights the path forward to build inclusive, rights-based legal systems.

### 7.1 Recap of Legal Aid's Impact on Justice and Rights

Over the course of this research, we have explored the significant impact that legal aid systems have on advancing justice and protecting human rights in developing nations. Legal aid serves as a critical mechanism for **ensuring access to justice**, particularly for vulnerable and marginalized groups who face discrimination, exclusion, or poverty.

The impact of legal aid can be understood in several key ways:

- **Protecting Human Rights:** Legal aid provides individuals with the tools to **assert their human rights**, whether it concerns **freedom from discrimination, the right to a fair trial, the right to adequate housing, or protection from abuse**. In countries with weak rule of law or where justice systems are often inaccessible, legal aid ensures that individuals can challenge violations of their rights and seek remedy through legal channels.
- **Supporting the Rule of Law:** Legal aid contributes to strengthening the **rule of law** by ensuring that the justice system is not a tool only for the privileged but is accessible to all. When individuals can access justice through legal aid, it fosters greater **trust in legal institutions** and encourages broader **compliance with the law**.
- **Empowering Marginalized Groups:** Legal aid has been particularly transformative for **women, children, refugees, ethnic minorities, and indigenous communities**, who often face systemic discrimination. Through legal assistance, these groups can challenge social and legal injustices, assert their rights, and participate more fully in society. For instance, legal aid has been essential in cases involving **gender-based violence, land rights, and labor rights**, empowering vulnerable populations to stand up for themselves.
- **Reducing Inequality:** By providing legal assistance to those who cannot afford to pay for legal representation, legal aid helps reduce **inequalities** within the justice system. Without legal aid, the poor and marginalized would often be excluded from legal remedies, perpetuating cycles of injustice and poverty. Thus, legal aid ensures that justice is not a privilege of the wealthy but a universal right.

### 7.2 The Path Forward for Inclusive, Rights-Based Legal Systems

While legal aid has made substantial strides in many developing nations, challenges remain, and there is still much to be done to create truly **inclusive and rights-based legal systems**. The path forward must focus on the continued strengthening of legal aid systems, ensuring that they are **accessible, sustainable, and capable of addressing evolving societal needs**. Key actions for this future include:

- **Prioritizing Legal Aid in Policy and Governance:** Governments need to recognize **legal aid** as a critical element of **good governance and human rights protection**. By increasing **budgetary allocations**, enhancing political will, and embedding legal aid within national justice strategies, governments can

ensure that legal aid is not a peripheral concern but a central part of the justice system. This will help to **normalize** access to justice as a right rather than a privilege.

- **Expanding Access Through Technology and Innovation:** Technology offers transformative potential to overcome barriers such as **geographical remoteness, financial constraints, and lack of legal awareness**. Expanding the use of **mobile legal clinics, legal helplines, and online legal platforms** will allow legal aid providers to reach underserved populations, particularly in rural or hard-to-reach areas. Additionally, **community paralegal networks** should be strengthened to further bridge the gap between formal legal institutions and local communities.
- **Strengthening Legal Education and Training:** A robust legal education system that incorporates human rights principles is essential.

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The authors declare that there are no conflicts of interest regarding the publication of this paper

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