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Q2

Who are entitled to receive free legal aid? Assess the role of the National Legal Services Authority (NALSA) in rendering free legal aid in India.

UPSC Civil Services Mains 2023 · GS II · 10 marks · Governance and Policy

Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Core demand of the question

- State who are entitled to receive free legal aid in India
- Assess the role of the National Legal Services Authority (NALSA) in rendering that aid

Revision summary

Article 39A and the **Legal Services Authorities Act, 1987**, create the right to free legal aid.

Section 12 names SC/ST persons, women, children, persons in custody, workmen, persons with disability, disaster victims, and the income-poor.

NALSA heads the statutory system of State authorities, court committees, clinics and Lok Adalats.

The system is wide in design and still thin in quality of trial representation.

Assessment therefore credits outreach and asks for better fees, first-hearing counsel, and published coverage data.

Introduction

Free legal aid is a constitutional promise under **Article 39A** and a statutory right under the **Legal Services Authorities Act, 1987**. Entitlement is defined by that Act and by NALSA's regulations, and an assessment must weigh both outreach and the quality of the aid actually delivered.

Body

Who is entitled

- **Article 39A** directs the State to provide equal justice and free legal aid so that opportunity for securing justice is not denied by reason of economic or other disability.
- **Section 12** of the **Legal Services Authorities Act, 1987**, lists eligible persons, including a member of a Scheduled Caste or Scheduled Tribe, a victim of trafficking or beggar, a woman or a child, a person with disability, an industrial workman, a person in custody, and a person whose income is below the notified ceiling.
- Victims of mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster are also covered.
- The income ceiling is notified by the Central or State Authority and is higher for cases in the Supreme Court than for cases in other courts.

- Entitlement is to legal services before courts, tribunals and authorities, including advice, drafting and representation, not only to a one-time pamphlet.

Role of NALSA

- NALSA is the apex statutory body under the 1987 Act; it frames policies, funds State Legal Services Authorities, and issues scheme regulations such as the NALSA (Free and Competent Legal Services) Regulations.
- It organises Lok Adalats, including National Lok Adalats, which dispose of compoundable and pre-litigation disputes without a full trial.
- It has issued victim-compensation and specialised schemes for workers in the unorganised sector, for persons in mental-health facilities, and for victims of trafficking.
- Legal aid clinics in law colleges, front offices in courts, and para-legal volunteers extend the first point of contact beyond the High Court bar.
- The **Supreme Court Legal Services Committee** and the High Court committees work under the same statutory umbrella for aid in the higher courts.

Assessment

- NALSA has made legal aid a visible national programme rather than an ad hoc charity of individual lawyers.
- **Quality remains uneven:** honorarium is low, panel lawyers are often junior, and many entitled persons still meet the police and the trial court without a lawyer at the first hearing.
- Awareness of **Section 12** categories is weak in rural police stations and in undertrial wards, so entitlement on paper does not always become a vakalatnama on time.
- Lok Adalats clear volume, but they cannot replace trial aid in serious criminal and constitutional cases.

Recommendations

- Raise and index panel fees, and audit disposal quality, not only the number of Lok Adalat awards.
- Place a legal-aid lawyer at first production before the magistrate, in line with the spirit of Hussainara Khatoon and later legal-aid jurisprudence.
- Publish State-wise data on women, SC/ST, and custody cases actually represented, so NALSA can be judged by coverage of **Section 12** groups, not by camp photographs.

Flow diagram

Article 39A -> Legal Services Authorities Act 1987
Legal Services Authorities Act 1987 -> Section 12 entitled groups
Legal Services Authorities Act 1987 -> NALSA and SLSAs
NALSA and SLSAs -> Counsel Lok Adalat clinics
Counsel Lok Adalat clinics -> Access to justice

Conclusion

Women, children, SC/ST persons, persons in custody, industrial workmen, persons with disability, disaster victims, and the income-poor are entitled to free legal aid under **Article 39A** and **Section 12** of the 1987 Act. NALSA has built the national machinery, yet competent representation at the first hearing is still the test it has not fully met.

Facts & figures

Article 39A

Directive Principle inserted by the 42nd Amendment, requiring equal justice and free legal aid.

Legal Services Authorities Act, 1987

Statutory basis for NALSA, State Authorities, Taluk Committees and Lok Adalats.

Section 12

Lists persons entitled to legal services, including women, children, SC/ST, custody, disability and income criteria.

Hussainara Khatoon v. State of Bihar

Supreme Court linked speedy trial and legal aid for undertrials to Article 21.

National Lok Adalat

Periodic nationwide Lok Adalat sittings organised under the NALSA system to settle pending and pre-litigation cases.

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